4–28–99
Vol. 64 No. 81
Pages 22779–23006

# federal register

Wednesday
April 28, 1999

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**RESERVATIONS:** 202–523–4538

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

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 98–CE–98–AD; Amendment 39–11142; AD 99–09–09]**

**RIN 2120–AA64**

## Airworthiness Directives; Alexander Schleicher Segelflugzeugbau Model ASH 26E Sailplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that applies to all Alexander Schleicher Segelflugzeugbau (Alexander Schleicher) Model ASH 26E sailplanes. This AD requires inspecting the red silicone tube of the rotor interior air cooling system (just in front of the carburetor ) for oil leaks and the heat damping layer of the lower exhaust damper fairing for oil contamination, and replacing the applicable parts where oil leakage or contamination is found. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by this AD are intended to detect and correct any oil-contaminated exhaust damper fairing caused by oil leakage in the red silicone tube of the rotor interior air cooling system, which could result in an exhaust fire and/or an explosion.

**DATES:** Effective June 7, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 7, 1999.

**ADDRESSES:** Service information that applies to this AD may be obtained from Alexander Schleicher GmbH & Co., Segelflugzeugbau, Postfach 60, 36163 Poppenhausen, Germany; telephone: ++49 (0) 6658–890; facsimile: ++49 (0) 6658–8923. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–98–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; facsimile: (816) 426–2169.

**SUPPLEMENTARY INFORMATION:**

### Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Alexander Schleicher Model ASH 26E sailplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on January 5, 1999 (64 FR 445). The NPRM proposed to require inspecting the red silicone tube of the rotor interior air cooling system (just in front of the carburetor) for oil leaks and the heat damping layer of the lower exhaust damper fairing for oil contamination, and replacing the applicable parts where oil leakage or contamination is found.

Accomplishment of the proposed inspection as specified in the NPRM would be required in accordance with Alexander Schleicher Technical Note No. 6, dated August 10, 1998. The possible replacements as specified in the NPRM would be required to be accomplished in accordance with the applicable maintenance manual or other applicable FAA-approved document.

The NPRM was the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

### The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

### Compliance Time of This AD

This unsafe condition is not a result of the number of times the sailplane is operated. The chance of this situation occurring is the same for a sailplane with 10 hours time-in-service (TIS) as it would be for a sailplane with 500 hours TIS. For this reason, the FAA has determined that a compliance based on calendar time will be utilized in this AD in order to assure that the unsafe condition is addressed on all sailplanes in a reasonable time period.

### Differences Between the German AD, the Technical Note, and This AD

Both Alexander Schleicher Technical Note No. 6, dated August 10, 1998, and German AD 98–347, dated September 10, 1998, specify the initial inspection prior to further flight.

The FAA does not have justification through its regulatory process to require the inspection prior to further flight. To assure that no affected sailplane is inadvertently grounded, the FAA is utilizing a compliance time of 1 calendar month for the initial inspection.

### Cost Impact

The FAA estimates that 8 sailplanes in the U.S. registry will be affected by this AD, that it will take approximately 1 workhour per sailplane to accomplish the inspection, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of the inspection on U.S. operators is estimated to be $480, or $60 per sailplane.

These figures only take into account the costs of the inspection and do not take into account the costs associated with any parts replacement that will be necessary if oil leakage or contamination is found. The FAA has no way of determining the number of

sailplanes that will need parts replacement because of oil leakage or contamination.

### Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final 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, Incorporation by reference, Safety.

### Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**99–09–09 Alexander Schleicher Segelflugzeugbau:** Amendment 39–11142; Docket No. 98–CE–98–AD.

*Applicability:* Model ASH 26E sailplanes, all serial numbers, certificated in any category.

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

*Compliance:* Required as indicated in the body of this AD, unless already accomplished.

To detect and correct any oil-contaminated exhaust damper fairing caused by oil leakage in the red silicone tube of the rotor interior air cooling system, which could result in an exhaust fire and/or an explosion, accomplish the following:

(a) Within the next calendar month after the effective date of this AD, inspect the red silicone tube of the rotor interior air cooling system (just in front of the carburetor ) for oil leaks and the heat damping layer of the lower exhaust damper fairing for oil contamination, in accordance with the Action section of Alexander Schleicher Technical Note No. 6, dated August 10, 1998. Prior to further flight, replace the applicable parts where oil leakage or contamination is found, in accordance with the applicable maintenance manual or other applicable FAA-approved document.

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

(c) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(d) Questions or technical information related to Alexander Schleicher Technical Note No. 6, dated August 10, 1998, should be directed to Alexander Schleicher GmbH & Co., Segelflugzeugbau, Postfach 60, 36163 Poppenhausen, Germany; telephone: ++49 (0) 6658–890; facsimile: ++49 (0) 6658–8923. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(e) The inspection required by this AD shall be done in accordance with Alexander Schleicher Technical Note No. 6, dated August 10, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Alexander Schleicher GmbH & Co., Segelflugzeugbau, Postfach 60, 36163 Poppenhausen, Germany. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**Note 3:** The subject of this AD is addressed in German AD 98–347, dated September 10, 1998.

(f) This amendment becomes effective on June 7, 1999.

Issued in Kansas City, Missouri, on April 15, 1999.

**Michael Gallagher,**

*Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 99–10169 Filed 4–27–99; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 99–CE–11–AD; Amendment 39–11148; AD 99–09–15]**

**RIN 2120–AA64**

## Airworthiness Directive; Raytheon Aircraft Company Beech Models A36, B36TC, 58, 58A, C90A, B200, B300, and 1900D Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that applies to certain Raytheon Aircraft Company (Raytheon) Beech Models A36, B36TC, 58, 58A, C90A, B200, B300, and 1900D airplanes. This AD requires inspecting for interference or inadequate clearance between the flight control mechanism and any component located forward of the instrument panel. If interference or inadequate clearance is found, this AD requires securing all components so that they are clear of the flight control mechanism. This AD is the result of an incident where the electrical/avionics wires made contact with and restricted the control system of the affected airplanes. The actions specified by this AD are intended to prevent any component or wiring from interfering with the flight control mechanism caused by inadequate clearance, which could result in reduced or loss of aileron and/or elevator control.

**DATES:** Effective May 18, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 18, 1999.

Comments for inclusion in the Rules Docket must be received on or before June 18, 1999.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Region Counsel, Attention: Rules Docket No. 99–CE–11–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Service information that applies to this AD may be obtained from the Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085; telephone: (800) 429–5472 or (316) 676–3140. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–11–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Mr. Todd Dixon, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4152; facsimile: (316) 946–4407.

**SUPPLEMENTARY INFORMATION:**

## Discussion

The FAA has received a report of an incident where a Raytheon Beech Model 1900D airplane temporarily lost aileron and elevator control when the control column restricted. After applying pressure several times to the control wheel, the airplane pilot was able to free the system and regain full control. Upon investigation of the incident, maintenance personnel found that the electrical/avionics wiring that is located forward of the instrument panel was entangled in the flight control system ''T'' column. To correct the problem, the wiring was secured away from the control column assembly.

## Relevant Service Information

Raytheon has issued Mandatory Service Bulletin SB 27–3232, Issued: March, 1999, which specifies procedures for inspecting for interference and inadequate clearance between the flight control mechanism and any component located forward of the instrument panel.

Raytheon has also issued Safety Communique No. 149, dated August 1998; and Safety Communique No. 149, Rev. 1, dated November 1998. These service documents pertain to the flight control clearance condition and contain basically the same information as Mandatory Service Bulletin SB 27–3232, Issued: March, 1999.

## The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents described above, including the relevant service information, the FAA has determined that AD action should be taken to prevent any components or wiring from interfering with the flight control mechanism caused by inadequate clearance, which could result in reduced or loss of aileron and/or elevator control.

## Explanation of the Provisions of the AD

Since an unsafe condition has been identified that is likely to exist or develop in other Raytheon Beech Models A36, B36TC, 58, 58A, C90A, B200, B300, and 1900D airplanes of the same type design, the FAA is issuing an AD. This AD requires inspecting for interference or inadequate clearance between the flight control mechanism and any component located forward of the instrument panel. If interference or inadequate clearance is found, this AD requires securing all components so that they are clear of the flight control mechanism. Accomplishment of the required actions specified in this AD is required in accordance with Raytheon Mandatory Service Bulletin SB 27–3232, Issued: March, 1999.

## Determination of the Effective Date of the AD

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

## Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 99–CE–11–AD.'' The postcard will be date stamped and returned to the commenter.

## Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

Federal Aviation Regulations (14 CFR part 39) as follows:

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**99–09–15 Raytheon Aircraft Company** (All type certificates of the affected airplanes previously held by the Beech Aircraft Corporation): Amendment 39–11148; Docket No. 99–CE–11–AD.

*Applicability:* The following Beech airplane models and serial numbers, certificated in any category:

| Model | Serial Nos. |
|---|---|
| A36 | E–3058 through E–3156, E–3158 through E–3170, E–3172 through E–3177, E–3180 through E–3185, E–3187 through E–3198, E–3200, and E–3202. |
| B36TC | EA–594 through EA–610, EA–613, EA–615, EA–616, EA–618, EA–619, and EA–621. |
| 58 and 58A | TH–1806 through TH–1840, TH–1842 through TH–1854, TH–1856, TH–1860 through TH–1867, and TH–1870. |
| C90A | LJ–1459 through LJ–1504, LJ–1506 through LJ–1523, and LJ–1525 through LJ–1530. |
| B200 | BB–1551 through BB–1591, BB–1593 through BB–1622, and BB–1624 through BB–1627. |
| B300 | FL–152 through FL–179, FL–181 through FL–187, FL–189, FL–190, FL–192, FL–194, FL–196 through FL–205, FL–207, FL–210, and FL–211. |
| 1900D | UE–1 through UE–319, UE–321, UE–323 through UE–328, UE–330 and UE–332. |

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

*Compliance:* Required as indicated in the body of this AD, unless already accomplished.

To prevent any components or wiring from interfering with the flight control mechanism caused by inadequate clearance, which could result in reduced or loss of aileron and/or elevator control, accomplish the following:

(a) Within the next 25 hours time-in-service after the effective date of this AD, inspect for interference or inadequate clearance between the flight control mechanism and any component located forward of the instrument panel. Perform this action in accordance with the Accomplishment Instructions in Raytheon Mandatory Service Bulletin SB 27–3232, Issued: March, 1999.

(b) If interference or inadequate clearance is found during the inspection required by paragraph (a) of this AD, prior to further flight, secure all components clear of the flight control mechanism as specified in the service bulletin.

(c) If the actions required in paragraphs (a) and (b) of this AD have been accomplished in accordance with Raytheon Safety Communiqué No. 149, Rev. 1, dated November 1998, or Raytheon Safety Communiqué No. 149, dated August 1998, then no further action is required by this AD.

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

(e) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

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

(f) The inspection and modification required by this AD shall be done in accordance with Raytheon Mandatory Service Bulletin SB 27–3232, Issued: March, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on May 18, 1999.

Issued in Kansas City, Missouri, on April 19, 1999.

**James E. Jackson,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 99–10314 Filed 4–27–99; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 98–SW–54–AD; Amendment 39–11150; AD 99–09–16]**

**RIN 2120–AA64**

## Airworthiness Directives; Eurocopter France (Eurocopter) Model SE 3130, SE 313B, SA 3180, SA 318B, and SA 318C Helicopters

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment supersedes an existing airworthiness directive (AD), applicable to Eurocopter Model SE 3130, SE 313B, SA 3180, SA 318B, and SA 318C helicopters, that currently requires a visual inspection of the main rotor blade reinforcement strips for debonding between the reinforcement strips of the blade; and a visual inspection of the main rotor blade (blade) skin for cracks or corrosion, and replacement of the blade with an airworthy blade if certain debonding or a crack or corrosion is found. This amendment requires additional inspections using a tapping method, redefines the area to be inspected, and increases the repetitive inspection interval. This amendment is prompted by an in-flight failure of a main rotor blade on a Eurocopter SE 3130 helicopter. The actions specified by this AD are intended to detect bonding separation, cracks, or corrosion in the area of the blade root reinforcement

strip, and to prevent failure of a blade and subsequent loss of control of the helicopter.

**DATES:** Effective May 13, 1999. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 13, 1999.

Comments for inclusion in the Rules Docket must be received on or before June 28, 1999.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–54–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

The service information referenced in this AD may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Richard Monschke, Aerospace Engineer, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5116, fax (817) 222–5961.

**SUPPLEMENTARY INFORMATION:** On November 14, 1997 the FAA issued AD 97–24–04, Amendment 39–10211 (62 FR 62239, November 21, 1997), to require a visual inspection of each main rotor blade reinforcement strip for debonding between the reinforcement strips of a blade; and a visual inspection of the blade skin for cracks or corrosion, and replacement of the blade with an airworthy blade if certain debonding or a crack or corrosion is found. That action was prompted by an accident in which a blade separated in flight due to fatigue cracks in the blade that initiated from skin debonding or corrosion. That condition, if not corrected, could result in failure of a blade in flight and subsequent loss of control of the helicopter.

Since the issuance of that AD, Eurocopter has issued Eurocopter Service Bulletin No. 05.91, Revision No. 1, dated September 28, 1998, which provides more detailed procedures for performing the inspections required in the AD by requiring a tapping test and increases the repetitive inspection intervals from 25 hours time-in-service (TIS) to 100 hours TIS or 6 calendar months, whichever occurs first.

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

Since an unsafe condition has been identified that is likely to exist or develop on other Eurocopter Model SE 3130, SE 313B, SA 3180, SA 318B, and SA 318C helicopters of the same type design, this AD supersedes AD 97–24–04 to require, before further flight, and thereafter, at intervals not to exceed 100 hours time-in-service or 6 calendar months, whichever occurs first, an inspection of each blade spar skin and blade root reinforcement area for bonding separations, cracks, or corrosion, and replacement with an airworthy blade if any bonding separation, crack, or corrosion is found. The actions are required to be accomplished in accordance with the service bulletin described previously. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the controllability and structural integrity of the helicopter. Therefore the inspection and replacement, if necessary, is required prior to further flight and this AD must be issued immediately.

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

The FAA estimates that 14 helicopters will be affected by this proposed AD, that it will take approximately 1.5 work hours to accomplish the inspections and 16 work hours to replace a blade, if necessary, and that the average labor rate is $60 per work hour. Required parts will cost approximately $40,000 per replacement blade. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $88,220, assuming 5 inspections per helicopter, per year, and 2 main rotor blade replacements for the entire fleet.

**Comments Invited**

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–SW–54–AD.'' The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

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

### List of Subjects in 14 CFR Part 39

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

### Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–10211 (62 FR 62239, November 21, 1997), and by adding a new airworthiness directive (AD), Amendment 39–11150, to read as follows:

**AD 99–09–16 Eurocopter France:** Amendment 39–11150. Docket No. 98–SW–54–AD. Supersedes AD 97–24–04, Amendment 39–10211, Docket No. 97–SW–22–AD.

*Applicability:* Model SE 3130, SE 313B, SA 3180, SA 318B, and SA 318C helicopters with main rotor blades, part number (P/N) 3130S11–10000-all part numbers, 3130S11–20000-all part numbers, or 3130S11–30000-all part numbers, installed, certificated in any category.

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

*Compliance:* Required as indicated, unless accomplished previously.

To prevent failure of a main rotor blade (blade) in flight and subsequent loss of control of the helicopter, accomplish the following:

(a) Before further flight, and thereafter at intervals not to exceed 100 hours time-in-service (TIS) or 6 calendar months, whichever occurs first, inspect each blade spar skin and blade root reinforcement strip area for bonding separations, cracks, or corrosion in accordance with paragraphs 2.A. and 2.B. of the Accomplishment Instructions of Eurocopter Service Bulletin No. 05.91 Revision No. 1, dated September 28, 1998 (SB). Notification to Eurocopter La Courneuve, Department E/SRPT is not required.

(1) For the hatched areas (15 x 95mm and 8 x 95mm) on the upper and lower surfaces of each blade, if bonding separation is found, replace the blade with an airworthy blade prior to further flight (see Figure 1 of the SB).

(2) Bonding separation in the non-hatched area (8 x 95mm) of the upper and lower surfaces of each blade is permissible but must be inspected using the tapping method at intervals not to exceed 25 hours TIS in order to monitor possible propagation. If the bonding separation reaches the hatched area, the blade must be replaced with an airworthy blade before further flight (see Figure 1 of the SB).

(b) Before further flight, and thereafter at intervals not to exceed 100 hours TIS or 6 calendar months, whichever occurs first, visually inspect for bonding separation, a crack, or corrosion on the upper and lower skin in the 100 x 95mm blade root area (see Figure 1 of the SB). If a bonding separation in the hatched area, a crack, or corrosion is detected, replace the blade with an airworthy blade prior to further flight.

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

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

(d) Special flight permits will not be issued.

(e) The inspection and replacement, if necessary, shall be done in accordance with the Accomplishment Instructions of Eurocopter Service Bulletin No. 05.91 Revision No. 1, dated September 28, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on May 13, 1999.

**Note 3:** The subject of this AD is addressed in Direction Generale de L'Aviation Civile (France) AD 97–135–055(A) R1, dated July 15, 1998 and AD 97–135–055(A)R2, dated December 16, 1998.

Issued in Fort Worth, Texas, on April 16, 1999.

**Henry A. Armstrong,**

*Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 99–10349 Filed 4–27–99; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF DEFENSE

## Office of the Secretary

## 32 CFR Part 311

## OSD Privacy Program

**AGENCY:** Department of Defense.

**ACTION:** Final rule.

**SUMMARY:** This rule updates and implements procedures of the Privacy Act Program in the Office of the Secretary of Defense (OSD) and organizations provided Privacy Act administrative support by Washington Headquarters Services (WHS).

**DATES:** This rule is effective February 4, 1999. Comments must be received by June 28, 1999.

**ADDRESSES:** Forward comments to: DoD, WHS(C&D)D&R(records), 1155 Defense Pentagon, Washington, DC 20301–1155.

**FOR FURTHER INFORMATION CONTACT:** David Bosworth, 703–588–0159.

**SUPPLEMENTARY INFORMATION:**

### Executive Order 12866, "Regulatory Planning and Review"

It has been determined that 32 CFR part 311 is not a significant regulatory action. The rule does not:

(1) Have an annual effect to the economy of $100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

**Public Law 96–354, "Regulatory Flexibility Act" (5 U.S.C. 601)**

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

**Public Law 96–511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)**

It has been certified that this part does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

**List of Subjects in 32 CFR Part 311**

Privacy.

Accordingly, 32 CFR part 311 is revised to read as follows:

## PART 311—OSD PRIVACY PROGRAM

Sec.
311.1 Purpose.
311.2 Applicability and scope.
311.3 Definitions.
311.4 Policy.
311.5 Responsibilities.
311.6 Procedures.
311.7 Information requirements.

**Authority:** Pub. L. 93–579, 88 Stat. 1986 (5 U.S.C. 552a).

### § 311.1 Purpose.

This part updates and implements basic policies and procedures outlined in 5 U.S.C. 552a, OMB Circular A–130,[1] and DoD 5400.11–R[2] and provides guidance and procedures for use in establishing the Privacy Program in the Office of the Secretary of Defense (OSD) and those organizations assigned to OSD for administrative support.

### § 311.2 Applicability and scope.

This part:

(a) Applies to the OSD, the Chairman of the Joint Chiefs of Staff, Uniformed Services University of the Health Sciences (USUHS) and other activities assigned to OSD for administrative support hereafter referred to collectively as ''OSD Components.''

(b) Covers record systems maintained by OSD Components and governs the maintenance, access, change, and release of information contained in OSD Component record systems, from which information about an individual is retrieved by a personal identifier.

### § 311.3 Definitions.

*Access.* Any individual's review of a record or a copy of a record or parts of a system of records.

*Disclosure.* The transfer of any personal information from a system of records by any means of oral, written, electronic, mechanical, or other communication, to any person, private entity, or Government agency, other than the subject of the record, the subject's designated agent, or the subject's guardian.

*Individual.* A living citizen of the United States or an alien lawfully admitted to the United States for permanent residence. The legal guardian of an individual has the same rights as the individual and may act on his or her behalf.

*Individual access.* Access to personal information pertaining to the individual, by the individual, his or her designated agent or legal guardian.

*Maintain.* Includes maintenance, collection, use or dissemination.

*Personal information.* Information about an individual that is intimate or private, as distinguished from information related solely to the individual's official functions or public life.

### § 311.4 Policy.

(a) It is DoD policy to safeguard personal information contained in any system of records maintained by any DoD Component and to permit any individual to know what existing records pertain to him or her in any OSD Component covered by this part.

(b) Each office maintaining records and information about individuals shall ensure that their privacy is protected from unauthorized disclosure of personal information. These offices shall permit individuals to have access to, and to have a copy made of all, or any portion of records about them, except as provided in Chapters 3 and 5, DoD 5400.11–R, and to have an opportunity to request that such records be amended as provided by the Privacy Act of 1974 and Chapter 3 of DoD 5400.11–R. Individuals requesting access to their records shall receive concurrent consideration under 5 U.S.C. 552a and the Freedom of Information Act, as amended, if appropriate.

(c) Heads of OSD Components shall maintain any necessary record of a personal nature that is individually identifiable in a manner that complies with the law and DoD policy. Any information collected must be as accurate, relevant, timely, and complete as is reasonable to ensure fairness to the individual. Adequate safeguards must be provided to prevent misuse or unauthorized release of such information.

### § 311.5 Responsibilities.

(a) The Director of Administration and Management, Office of the Secretary of Defense (DA&M, OSD) shall:

(1) Direct and administer the DoD Privacy Program for OSD Components.

(2) Establish standards and procedures to ensure implementation of and compliance with the Privacy Act of 1974, OMB Circular No. A–130, and DoD 5400.11–R.

(3) Designate the Director for Freedom of Information and Security Review as the point of contact for individuals requesting information of access to records and copies about themselves.

(4) Serve as the appellate authority within OSD when a requester appeals a denial for access to records under the Privacy Act.

(5) Serve as the appellate authority within OSD when a requester appeals a denial for amendment of a record or initiates legal action to correct a record.

(6) Evaluate and decide, in coordination with The General Counsel of the Department of Defense (GC, DoD), appeals resulting from denials of access or amendments to records by the OSD Components.

(7) Designate the Directives and Records Division, Correspondence and Directives Directorate, Washington Headquarters Services (WHS) as the office responsible for all aspects of the Privacy Act, except that portion about receiving and acting on public requests for personal records. As such, the Directives and Records Division shall:

(i) Exercise oversight and administrative control of the Privacy Act Program in OSD and those organizations assigned to OSD for administrative support.

(ii) Provide guidance and training to organizational entities as required by 5 U.S.C. 552a and OMB Circular A–130.

(iii) Collect and consolidate data from OSD Components, and submit an annual report to the Defense Privacy Office, as required by 5 U.S.C. 552a, OMB Circular A–130, and DoD 5400.11–R.

(iv) Coordinate and consolidate information for reporting all record systems, as well as changes to approved systems, to the OMB, the Congress, and the Federal Register, as required by 5 U.S.C. 552a, OMB Circular A–130, and DoD 5400.11–R.

(v) Collect information from OSD Components, and prepare consolidated reports required by 5 U.S.C. 552a and DoD 5400.11–R.

(b) The Director for Freedom of Information and Security Review shall:

(1) Forward requests for information or access to records to the appropriate OSD Component having primary

[1] Copies may be obtained by contacting EOP Publications, 725 16th Street, NW., NEOB, Washington, DC 20503.

[2] Copies may be obtained via internet at http://web7.whs.osd.mil/corres.htm.

responsibility for any pertinent system of records under 5 U.S.C. 552a, or to OSD Components, under the Freedom of Information Act, as amended.

(2) Maintain deadlines to ensure that responses are made within the time limits prescribed in DoD 5400.7–R,[3] DoD Instruction 5400.10,[4] and this part.

(3) Collect fees charged and assessed for reproducing requested materials.

(4) Refer all matters about amendments of records and general and specific exemptions under the 5 U.S.C. 552a to the proper OSD Components.

(c) The General Counsel of the Department of Defense shall:

(1) Coordinate all OSD final denials of appeals for amending records, and review actions to confirm denial of access to records, as appropriate.

(2) Provide advice and assistance to the DA&M, OSD in the discharge of appellate and review responsibilities, and to the DFOISR on all access matters.

(3) Provide advice and assistance to OSD Components on legal matters pertaining to the Privacy Act of 1974.

(d) The Heads of the OSD Components shall:

(1) Designate an individual as the point of contact for Privacy Act matters; designate an official to deny initial requests for access to an individual's records or changes to records; and advise both DA&M, OSD and DFOISR of names of officials so designated.

(2) Report any new record system, or changes to an existing system, to the Chief, Directives and Records Division, WHS, at least 90 days before the intended use of the system.

(3) Review all contracts that provide for maintaining records systems, by or on behalf of his or her office, to ensure within his or her authority, that language is included that provides that such systems shall be maintained in a manner consistent with 5 U.S.C. 552a.

(4) Revise procurement guidance to ensure that any contract providing for the maintenance of a records system, by or on behalf of his or her office, includes language that ensures that such system shall be maintained in accordance with 5 U.S.C. 552a.

(5) Revise computer and telecommunications procurement policies to ensure that agencies review all proposed contracts for equipment and services to comply with 5 U.S.C. 552a.

(6) Coordinate with Automatic Data Processing (ADP) and word processing managers providing services to ensure that an adequate risk analysis is conducted to comply with DoD 5400.11–R.

(7) Review all Directives that require forms or other methods used to collect information about individuals to ensure that they are in compliance with 5 U.S.C. 552a.

(8) Establish administrative systems in OSD Component organizations to comply with the procedures listed in this part and DoD 5400.11–R.

(9) Coordinate with the GC, DoD on all proposed denials of access to records.

(10) Provide justification to the DFOISR when access to a record is denied in whole or in part.

(11) Provide the record to the DFOISR when the initial denial of a request for access to such record has been appealed by the requester, or at the time of initial denial when appeal seems likely.

(12) Maintain an accurate account of the actions resulting in a denial for access to a record or for the correction of a record. This account should be maintained so that it can be readily certified as the complete record of proceedings if litigation occurs.

(13) Ensure that all personnel who either have access to the system of records, or who are engaged in developing or supervising procedures for handling records in the system, are aware of their responsibilities for protecting personal information as established in the Privacy Act and DoD 5400.11–R.

(14) Forward all requests for access to records received directly from an individual to the DFOISR for appropriate suspense control and recording.

(15) Provide DFOISR with a copy of the requested record when the request is granted.

(e) The requester who desires to submit a request is responsible for:

(1) Determining whether to submit the request in writing or in person. A requester who seeks access to records pertaining to himself or herself which are filed by his or her name or personal identifier:

(i) May make such a request in person to the custodian of the records. If the requester is not satisfied with the response, however, in order to invoke any provision of 5 U.S.C. 552a, DoD 5400.11–R, or this part, the requester must file a request in writing as provided in § 311.6(b)(10). The requester must provide proof of identify by showing drivers license or similar credentials.

(ii) Describing the record sought, and providing sufficient information to enable the material to be located (e.g., identification of system of records, approximate date it was initiated, originating organization, and type of document).

(iii) Complying with procedures provided in DoD 5400.11–R for inspecting and/or obtaining copies of requested records.

(iv) Submitting a written request to amend the record to the system manager or to the office designated in the system notice.

### § 311.6 Procedures.

(a) *Publication of notice in the* **Federal Register.** (1) A notice shall be published in the **Federal Register** of any record system meeting the definition of a system of records in DoD 5400.11–R.

(2) Regarding new or revised records systems, each OSD Component shall provide the Chief, Directives and Records Division with 90 days advance notice of any anticipated new or revised system of records. This material shall be submitted to the OMB and to Congress at least 60 days before use and to the Federal Register at least 30 days before being put into use, to provide an opportunity for interested persons to submit written data, views, or arguments to the OSD Components. Instructions on content and preparation are outlined in DoD 5400.11–R.

(b) *Access to information on records systems.* (1) Upon request, and as provided by the Privacy Act, records shall be disclosed only to the individual they pertain to and under whose individual name or identifier they are filed, unless exempted by provisions stated in DoD 5400.11–R.

(2) There is not requirement under 5 U.S.C. 552a that a record be created or that an individual be given access to records that are not in a group of records that meet this definition of a system of records in 5 U.S.C. 552a.

(3) Granting access to a record containing personal information shall not be conditioned upon any requirement that the individual state a reason or otherwise justify the need to gain access.

(4) No verification of identity shall be required of an individual seeking access to records that are otherwise available to the public.

(5) Individuals shall not be denied access to a record in a system of records about themselves because those records are exempted from disclosure under DoD 5400.7–R. Individuals may only be denied access to a record in a system of records about themselves when those records are exempted from the access provisions of the Privacy Act under DoD 5400.11–R, Chapter 5.

(6) Individuals shall not be denied access to their records for refusing to disclose their Social Security Numbers

[3] See footnote 2 to § 311.1.

[4] See footnote 2 to § 311.1.

(SSNs), unless disclosure of the SSN is required by statute, by regulation adopted before January 1, 1975, or if the record's filing identifier and only means of retrieval is by SSN.

(7) Individuals may request access to their records, in person or by mail, in accordance with the procedures outlined in paragraph (b)(8) of this section.

(8) Information necessary to identify a record is: the individual's name, date of birth, place of birth, identification of the records system as listed in the **Federal Register**, or sufficient information to identify the type of records being sought, and the approximate date the records might have been created. Any individual making a request for access to records in person shall come to the Directorate for Freedom of Information and Security Review (DFOISR), Room 2C757, Pentagon, Washington, DC 20301–1155; and shall provide personal identification acceptable to the Director, DFOISR, to verify the individual's identity (e.g., driver's license, other licenses, permits, or passes used for routine identification purposes).

(9) If an individual wishes to be accompanied by a third party when seeking access to records or wishes to have the record released directly to a third party, the individual may be required to furnish a signed access authorization granting the third party access.

(10) Any individual submitting a request by mail for access to information shall address such request to the Directorate for Freedom of Information and Security Review, Pentagon, Room 2C757, Washington, DC 20301–1155. To verify the identity of the individual, the request shall include either a signed notarized statement or an unsworn declaration in the format specified by 28 U.S.C. 1746.

(11) The following procedures shall apply to requests for access to records or information complied for law enforcement purposes:

(i) Individuals requesting access to records or information about themselves and complied for law enforcement purposes are processed under DoD 5400.11–R and DoD 5400.7–R to give them the greater degree of access.

(ii) Individual requests for access to records or information about themselves and compiled for law enforcement purposes (and in the custody of law enforcement activities) that have been incorporated into the records system, exempted from the access provisions of 5 U.S.C. 552a, will be processed in accordance with subsection C1.5.13 and Chapter 5, DoD 5400.7–R. Individuals shall not be denied access to records solely because they are in the exempt system, but they will have the same access that they would receive under DoD 5400.7–R. (Also see subsection A.10., Chapter 3, DoD 5400.11–R).)

(iii) Requests by the individuals for access to records or information about themselves and compiled for law enforcement purposes that are in records systems exempted from access provisions will be processed under subsection C.1., Chapter 5 of DoD 5400.11–R or DoD 5400.7–R, depending upon which regulation gives the greater degree of access. (See also subsection A. 10., Chapter 3, DoD 5400.1–R)

(iv) Individual requests for access to records or information about themselves and complied for law enforcement purposes exempted from access under Section B, Chapter 5 of DoD 54.11–R, that are temporarily in the hands of a non-law enforcement element for adjudicative or personnal actions, shall be referred to the originating agency. The requester will be informed in writing of these referrals.

(12) The following procedures shall apply to requests for illegible, incomplete, or partially exempt records:

(i) An individual shall not be denied access to a record or a copy of a record solely because the physical condition or format of the record does not make it readily available (e.g., deteriorated state or on magnetic tape). The document will be prepared as an extract, or it will be exactly recopied.

(ii) If a portion of the record contains information that is exempt from access, an extract or summary containing all of the information in the record that is releasable shall be prepared.

(iii) When the physical condition to the record makes it necessary to prepare an extract for release, the extract shall be prepared so that the requester will understand it.

(iv) The requester shall be informed of all deletions or changes to records.

(13) Medical records shall be disclosed to the individual they pertain to, unless a determination is made in consultation with a medical doctor, that the disclosure could have adverse effects on the individual's physical or mental health. Such information may be transmitted to a medical doctor named by the individual concerned. If the named medical doctor declines to provide the record to the individual, the OSD Components shall take positive action to ensure that the requested records are provided the individual.

(14) The individual may be charged reproduction fees for copies or records as outlined in DoD 5400.11–R.

(c) *Requested to amend personal information in records systems and disputes*. (1) The Head of an OSD Component, or the designated official, shall allow individuals to request amendment to their records to the extent that such records are not accurate, relevant, timely, or complete. Requests should be as brief and as simple as possible and should contain, as a minimum, identifying information to locate the record, as description of the items to be amended, and the reason for a change. A request shall not be rejected nor required to be resubmitted unless additional information is essential to process the request. Requesters shall be required to provide verification of their identify as stated in paragraph (b)(8) of this section, to ensure that they are seeking to amend records about themselves, and not, inadvertently or intentially, the records of others.

(1) The appropriate system manager shall mail a written acknowledgement to an individual's request to amend a record within 10 days after receipt, excluding Saturdays, Sundays, and legal public holidays. Such acknowledgement shall identify the request and may, if necessary, request any additional information needed to make a determination. No acknowledgment is necessary if the request can be reviewed, processed, and if the individual can be notified of compliance or denial within the 10–day period. Whenever practical, the decision shall be made within 30 working days. For requests presented in person, written acknowledgment may be provided at the time the request is presented.

(3) The Head of an OSD Component, or designated official, shall promptly take one of the following actions on requests to amend the records:

(i) If the OSD Component official agrees with any portion or all of an individual's request, he or she will proceed to amend the records in accordance with existing statutes, requlations, or administrative procedures, and inform the requester of the action taken. The OSD Component official shall also notify all previous holders of the record that the amendment has been made, and shall explain the substance of the correction.

(ii) If the OSD Component official disagrees with all or any portion of a request, the individual shall be informed promptly of the refusal to amend a record, the reason for the refusal, and the procedure established by OSD for an appeal as outlined in paragraph (c)(6) of this section.

(iii) If the request for an amendment pertains to a record controlled and maintained by another Federal Agency,

the request shall be referred to the appropriate Agency, and the requester advised of this:

(4) The following procedures shall be used when reviewing records under dispute:

(i) In response to a request for an amendment to records, officials shall determine whether the requester has adequately supported their claim that the record is inaccurate, irrelevant, untimely, or incomplete.

(ii) The Head of an OSD Component, or designated official, shall limit the review of a record of those items of information that clearly bear on any determination to amend the records and shall ensure that all those elements are present before determination is made.

(5) If the Head of an OSD Component, or designated official, after an initial review of a request to amend a record, disagrees with all or any portion of a record, he or she shall:

(i) Advise the individual of the denial and the reason for it.

(ii) Inform the individual that he or she may appeal the denial.

(iii) Describe the procedures for appealing the denial including the name and address of the official to whom the appeal should be directed. The procedures should be as brief and simple as possible.

(iv) Furnish a copy of the justification of any denial to amend a record to the DA&M, OSD.

(6) If an individual disagrees with the initial OSD determination, he or she may file an appeal. The request should be sent to the Director of Administration and Management, Office of the Secretary of Defense (DA&M, OSD), 1950 Defense Pentagon, Washington, D.C. 20301–1950, if the record is created and maintained by an OSD Component.

(7) If, after review, the DA&M, OSD further refuses to amend the record as requested, he shall advise the individual:

(i) Of the refusal and the reason and authority for the denial.

(ii) Of his or her right to file a statement of the reason for disagreeing with the DA&M's decision.

(iii) Of the procedures for filing a statement of disagreements.

(iv) That the statement filed shall be made available to anyone the record is dislosed to, together with a brief statement, at the discretion of the OSD Component, summarizing its reasons for refusing to amend the records.

(v) That prior recipients of copies of disputed records by provided by a copy of any statement of dispute to the extent that an accounting of disclosure is maintained.

(vi) Of his or her right to seek judicial review of the DA&M's refusal to amend a record.

(8) If, after the review, the DA&M, OSD, determines that the record should be amended in accordance with the individual's request, the OSD Component shall amend the record, advise the individual, and inform previous recipients where an accounting of disclosure has been maintained.

(9) All appeals should be processed within 30 days (excluding Saturdays, Sundays, and legal public holidays) after receipt by the proper office. If the DA&M determines that a fair and equitable review cannot be made within that time, the individual shall be informed in writing of the reasons for the delay and of the approximate date the review is expected to be completed.

(d) *Disclosure of disputed information.* (1) If the DA&M, OSD, has refused to amend a record and the individual has filed a statement under paragraph (c)(7) of this section, the OSD Component shall clearly annotate the disputed record so that it is apparent to any person to whom the record is disclosed that a statement has been filed. Where feasible, the notation itself shall be integral to the record. Where an accounting of a disclosure has been made, the OSD Component shall advise previous recipients that the record has been disputed and shall provide a copy of the individual's statement.

(i) This statement shall be maintained to permit ready retrieval whenever the disputed portion of the record is to be disclosed.

(ii) When information that is the subject of a statement of dispute is subsequently disclosed, the OSD Component's designated official shall note which information is disputed and provide a copy of the individual's statement.

(2) The OSD Component shall include a brief summary of its reasons for not making a correction when disclosing disputed information. Such statement shall normally be limited to the reasons given to the individual for not amending the record.

(3) Copies of the OSD Component's summary will be treated as part of the individual's record; however, it will not be subject to the amendment procedure outlined in paragraph (c)(3)(iii) of this section.

(e) *Penalties*—(1) *Civil action.* (i) An individual may file a civil suit against the United States and may recover damages, for:

(A) Refusal to amend a record.

(B) Improper denial of the access to a record.

(C) Failure to maintain an accurate, relevant, timely, and complete record that is used to make determinations adverse to the individual.

(ii) An individual may also file a suit against the United States for failure to implement a provision of the Privacy Act when such failure leads to an adverse determination.

(iii) If the individual's suit is upheld, the court may direct the United States to pay the court costs and attorney's fees.

(2) *Criminal action.* (i) Criminal penalties may be imposed against an OSD officer or employee for certain offenses listed in section (i) of the Privacy Act, as follows: willful unauthorized disclosure of protected information in the records; failure to publish a notice of the existence of a record system in the **Federal Register**; requesting or gaining access to the individual's record under false pretenses.

(ii) An OSD officer or employee may be fine up to $5,000 for a violation as outlined in paragraph (e)(2)(i) of this section.

(3) *Litigation status sheet.* Whenever a complaint citing 5 U.S.C. 552a is filed in a U.S. District Court against the Department of Defense, a DoD component, or any DoD employee, the responsible system manager shall promptly notify the Defense Privacy Office. The litigation status sheet in DoD 5400.II–R provides a standard format for this notification. (The initial litigation status sheet shall, as a minimum, provide the information required by items 1. through 6.) A revised litigation status sheet shall be provided at each stage of the litigation. When a court renders a formal opinion or judgment, copies of the judgment or opinion shall be provided to the Defense Privacy Office with the litigation status sheet reporting that judgment or opinion.

(f) *Computer matching programs.* Paragraph B of Chapter 11 of DoD 5400.11–R prescribes that all requests for participation in a matching program (either as a matching agency or a source agency) be submitted to the Defense Privacy Office for review and compliance. OSD Components shall submit these request through the Directives and Records Division.

### § 311.7 Information requirements.

The Defense Privacy Office shall establish requirements and deadlines for DoD privacy reports. These reports shall be licensed in accordance with DoD Directive 8910.1.[5]

[5] See footnote 2 to § 311.1.

Dated: April 22, 1999.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 99–10570 Filed 4–27–99; 8:45 am]

BILLING CODE 5001–10–M

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[VA024–5042; FRL–6318–5]**

## Approval and Promulgation of Air Quality Implementation Plans; Virginia; Reasonably Available Control Technology for Major Sources of Nitrogen Oxides

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. This revision establishes and requires the implementation of reasonably available control technology (RACT) on major sources of nitrogen oxides ($NO_X$) in the Virginia portion of the Metropolitan Washington D.C. serious ozone nonattainment area. The intended effect of this action is to grant conditional limited approval of Virginia's regulations to impose RACT on major sources of $NO_X$.

**EFFECTIVE DATE:** This final rule is effective on May 28, 1999.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, 23219.

**FOR FURTHER INFORMATION CONTACT:** Kristeen Gaffney, (215) 814–2092. Or by e-mail at gaffney.kristeen@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** On January 26, 1999 (64 FR 3891), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia. The NPR proposed conditional limited approval of Virginia's $NO_X$ RACT regulations for the Virginia portion of the Metropolitan Washington D.C. serious ozone nonattainment area. No comments were received on the proposal.

### I. Background

The Clean Air Act requires states to submit rules to implement RACT on major sources of $NO_X$ in ozone nonattainment areas designated as moderate or above and throughout the Ozone Transport Region. The definition of major source is determined by the classification of the nonattainment area and whether or not it is located in the Ozone Transport Region. A portion of Virginia is part of the Metropolitan Washington D.C. serious ozone nonattainment area and that same portion of Virginia is in the Ozone Transport Region. Therefore, sources in the Virginia portion of the Washington D.C. nonattainment area which emit or have the potential to emit 50 tons or more of $NO_X$ per year are considered major and are subject to the $NO_X$ RACT requirements of the Act.

On November 9, 1992, the Virginia Department of Environmental Quality (VADEQ) submitted a revision to its SIP consisting of adopted regulations to impose $NO_X$ RACT on major sources in the nonattainment area, known in state regulations as the Northern Virginia Emissions Control Area. The VADEQ supplemented its November 1992 submittal on December 11, 1992. On August 11, 1998, the VADEQ made another submittal to EPA withdrawing certain provisions of the November 9, 1992 submittal, and forwarding revisions that corrected typographical errors and recodified and renumbered one of the relevant regulations, Appendix T (now 9 VAC 5–40–311).

The November 9, 1992 submittal consisted of revisions to Virginia Regulation 120–01, Part IV, Emission Standards for General Process Operations (Rule 4–4) and Appendix T, entitled ''Reasonably Available Control Technology Guidelines for Stationary Sources of Nitrogen Oxides''. Rule 4–4 was amended to insert a new section, 120–04–0408, entitled ''Standard for nitrogen oxides''. To accommodate the insertion of section 120–04–0408, the revision also renumbered the previously existing sections 120–04–0408 through 120–04–0418, inclusive, as sections 120–04–0409 through 120–04–0419, inclusive. On April 11, 1998, the VADEQ submitted a revised version of Appendix T to correct a technical error in the *Virginia Register* version of the final rule dated November 30, 1992. This error was corrected by Virginia in the *Virginia Register* on June 23, 1997. On April 11, 1998, the Commonwealth submitted the corrected version of Appendix T. In addition to the typographical correction, the Commonwealth also recodified Appendix T and renumbered it as 9 VAC 5–40–311.

Virginia's rule 120–04–0408 requires certain sources to comply with the applicable emission limits established in Appendix T (now known as 9 VAC 5–40–311); or to apply for an alternative emission limit through a source-specific RACT determination process. The emission limits of section C of 9 VAC 5–40–311 do not cover all categories of $NO_X$ sources. Section C specifically enacts emission limits for boilers/steam generating units, process heaters and gas turbines. Other source categories, such as incinerators, reciprocating internal combustion engines, cement manufacturing and iron/steel manufacturing are not covered in 9 VAC 5–40–311. Therefore, not all potential major $NO_X$ sources are subject to specific, presumptive ''up-front'' (i.e. immediately ascertainable) emission limits. Instead, the regulations establish a process for the Commonwealth to review and approve individual RACT emission limitations proposed by the sources, which are then to be submitted to EPA as SIP revisions. Additionally, subsection 120–04–0408(B) of Virginia's rule allows sources subject to the presumptive limits in Appendix T (now known as 9 VAC 5–40–311) to propose alternative RACT on a case-by-case basis provided they submit the proposal by January 1, 1994. The proposal must include technical and economic support documentation for the proposed RACT and include a schedule for compliance as expeditiously as practical but no later than May 31, 1995.

The Clean Air Act requires states to implement RACT on all major stationary sources. Process-oriented generic regulations, such as those submitted by Virginia, which do not include specific and ascertainable emission limits for all major sources, do not by themselves provide standards for EPA to approve or disapprove as satisfying the definition of RACT. Therefore, the Act's RACT requirements are satisfied only after the specific limits imposed by the Commonwealth on its major sources have been submitted to EPA as SIP revisions and approved by EPA as RACT for the subject sources.

In a November 7, 1996 policy memo from Sally Shaver, Director, Air Quality Strategies and Standards Division of the Office of Air Quality Planning and Standards, EPA issued guidance for approving state generic RACT regulations, like Virginia's, provided certain criteria are met. This guidance does not exempt any major source from RACT requirements but instead

provides for a *de minimis* deferral of RACT only for the purposes of approving the state's generic RACT regulation. The *de minimis* deferral level is determined by using the 1990 $NO_X$ emissions, excluding the utility boiler $NO_X$ emissions. The remaining 1990 non-utility boiler emissions are then compared with the amount of non-utility $NO_X$ emissions that have yet to have RACT approved into the SIP. Generally, EPA expects that all utility boiler RACTs will be approved prior to application of this *de minimis* deferral policy and possible conversion of the generic RACT conditional approval to full approval. EPA does not expect to defer more than 5 percent of the emissions calculated in this manner in order to fully approve Virginia's generic $NO_X$ RACT regulation. In accordance with the November 1996 policy, EPA is requiring that all utility boiler RACT determinations be approved by EPA and all but a *de minimis* level of non-utility boiler RACT determinations be approved into the SIP before the limited approval can be converted to full approval. Full approval of a generic RACT regulation under this policy does not change the Commonwealth's statutory obligation to implement RACT for all major sources. No major $NO_X$ source is being exempted from RACT requirements through this policy or today's rulemaking.

Because EPA has not received SIP revisions from the Commonwealth for all source-specific RACT determinations, EPA can at best, according to the November 7, 1996 policy memorandum, grant conditional limited approval of Virginia's $NO_X$ RACT generic rule. In a letter to EPA dated April 11, 1998, the VADEQ committed to submit, as SIP revisions, RACT determinations for all sources either not subject to the presumptive emission limits in Appendix T or electing alternative source-specific RACT requirements. The VADEQ committed to submit these RACT determinations within 12 months of EPA's final conditional limited approval of its generic rule.

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information (1) that are generated or developed before the commencement of a voluntary environmental assessment; (2) that are prepared independently of the assessment process; (3) that demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) that are required by law.

On January 12, 1997, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege Law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by federal law to maintain program delegation, authorization or approval,'' since Virginia must ''enforce federally authorized environmental programs in a manner that is no less stringent than their federal counterparts. . . .'' The opinion concludes that ''[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by federal law to maintain program delegation, authorization or approval.''

Virginia's Immunity Law, Va. Code Sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by Federal law,'' any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1997 opinion states that the quoted language renders this statute inapplicable to enforcement of any federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with federal law, which is one of the criteria for immunity.''

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on federal enforcement authorities, EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by this, or any, state audit privilege or immunity law.

## II. Terms of and Rationale for Conditional Limited Approval

EPA is conditionally approving Virginia's $NO_X$ RACT regulations based upon VADEQ's April 11, 1998 commitment to submit, as SIP revisions, RACT determinations for all currently known major sources subject to source-specific $NO_X$ RACT requirements. In accordance with section 110(k)(4) the Act (and consistent with the VADEQ's commitment letter of April 11, 1998), these RACT determinations must be submitted by May 30, 2000.

EPA is also granting limited approval of Virginia's $NO_X$ RACT regulations, rule 120–08–0408, and the provisions of 9 VAC 5–40–311 (formerly Appendix T) as submitted by the VADEQ. The current Virginia SIP does not contain a general requirement that all major sources of $NO_X$ in the nonattainment area must implement RACT. While EPA does not believe that the Virginia $NO_X$ RACT regulations fully satisfy the requirements of the Act because of the generic provisions allowing for source-specific determinations, EPA is limitedly approving portions of Virginia's $NO_X$ RACT regulations on the basis that they strengthen the SIP. The purpose of the limited approval of the requirement to implement RACT and the presumptive emission limits on certain categories of sources is because they strengthen the Virginia SIP by adding RACT standards for sources of $NO_X$ in the Virginia portion of the Metropolitan Washington D.C. ozone nonattainment area where none existed before.

Other specific requirements of Virginia's $NO_X$ RACT requirements and the rationale for EPA's action are explained in the Notice of Proposed Rulemaking and will not be restated here. No public comments were

received on the Notice of Proposed Rulemaking.

## III. Final Action

EPA is granting conditional limited approval of the Commonwealth's November 9, 1992 $NO_X$ RACT SIP submittal, as modified on December 11, 1992 and April 11, 1998. EPA's conditional approval is based upon the April 11, 1998 commitment made by VADEQ to submit, within 12 months of EPA's final rulemaking of this $NO_X$ RACT SIP, source-specific RACT determinations for all currently known major sources subject to source-specific $NO_X$ RACT requirements. EPA is also granting limited approval because adding RACT standards for major sources of $NO_X$ in the Northern Virginia Emissions Control Area where none existed before strengthens the SIP.

To fulfill the conditions of this approval, the Commonwealth must, by May 30, 2000: (1) Certify that it has submitted, as SIP revisions, RACT proposals for all sources subject to source-specific $NO_X$ RACT requirements; or (2) demonstrate that the emissions from any remaining subject sources represent a de minimis level of emissions (as described above). Once EPA has determined that the Commonwealth has satisfied this condition, EPA shall remove the conditional nature of its approval and the Virginia $NO_X$ RACT regulations will, at that time, retain limited approval status. Should the Commonwealth fail to meet the conditions specified above, the final conditional limited approval of the $NO_X$ RACT regulations SIP revision shall convert to a disapproval.

## IV. Administrative Requirements

### *A. Executive Order 12866*

The Office of Management and Budget (OMB) has exempted this regulatory action from review under E.O. 12866, entitled ''Regulatory Planning and Review.''

### *B. Executive Order 12875*

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If EPA complies by consulting, E.O. requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

### *C. Executive Order 13045*

E.O. 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that the EPA determines (1) is ''economically significant,'' as defined under E.O. 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final rule is not subject to E.O. 13045 because it is not an economically significant regulatory action as defined by E.O. 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

### *D. Executive Order 13084*

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

### *E. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals and conditional approvals of SIP submittals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

If the conditional approval is converted to a disapproval under section 110(k), based on the State's failure to meet the commitment, it will not affect any existing state requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, I certify that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it substitute a new federal requirement.

### *F. Unfunded Mandates*

Under Section 202 of the Unfunded Mandates Reform Act of 1995

(''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

*G. Submission to Congress and the Comptroller General*

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

*H. Petitions for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action to conditionally limitedly approve Virginia's $NO_X$ RACT regulations must be filed in the United States Court of Appeals for the appropriate circuit by June 28, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

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

Dated: March 24, 1999.

**W. Michael McCabe,**

*Regional Administrator, Region III.*

40 CFR part 52 is amended as follows:

## PART 52—[AMENDED]

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

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

## Subpart VV—Virginia

2. Section 52.2420 is amended by adding paragraphs (c)(131) and (c)(132) to read as follows:

### § 52.2420 Identification of plan.

* * * * *

(c) * * *

(131) Limited approval of revisions to the Virginia State Implementation Plan submitted on November 9, 1992 by the Virginia Department of Environmental Quality:

(i) Incorporation by reference.

(A) Letters of November 9, 1992 and December 11, 1992 from the Virginia Department of Environmental Quality transmitting Virginia rule 120–04–0408 to implement major source $NO_X$ RACT requirements in the Northern Virginia Emissions Control Area.

(B) Virginia regulation 120–04–0408, ''Standard for Nitrogen Oxides'', pertaining to major source $NO_X$ RACT requirements, effective on January 1, 1993.

(C) Renumbering of previously SIP approved sections in rule 120–04: –0408 and –0409 to 120–04–0409 and –0410, respectively and previously SIP approved sections –0412 through –0418 to –0413 through –0419, respectively, effective January 1, 1993.

(ii) Additional Material—Remainder of November 9, 1992 submittal and supplemental information submitted by the Virginia Department of Environmental Quality on December 11, 1992 and August 11, 1998 pertaining to 120–04–0408.

(132) Limited approval of revisions to the Virginia State Implementation Plan submitted on November 9, 1992 and August 11, 1998 by the Virginia Department of Environmental Quality:

(i) Incorporation by reference.

(A) Letters of November 9, 1992, December 11, 1992 and August 11, 1998 from the Virginia Department of Environmental Quality transmitting Virginia regulation 9 VAC 5–40–311 (formerly Appendix T) establishing RACT requirements on major sources in the Northern Virginia Emissions Control Area.

(B) Addition of Virginia regulation 9 VAC 5–40–311, sections A, B, C.1, C.2, C.3.b, and C.3.d–g and Errata pages, establishing RACT requirements for major sources of $NO_X$ in the Northern Virginia Emissions Control Area, effective on July 1, 1997.

(ii) Additional Material—Remainder of November 9, 1992 submittal and supplemental information submitted by the Virginia Department of Environmental Quality on December 11, 1992 and August 11, 1998 pertaining to VAC 5–40–311.

3. Section 52.2450 is amended by adding paragraph (f) to read as follows:

### § 52.2450 Conditional approval.

* * * * *

(f) Revisions to the Virginia State Implementation Plan, pertaining to $NO_X$ RACT requirements on major sources in the Northern Virginia Emissions Control Area, Virginia regulations 120–04–0408 and 9 VAC 5–40–311, submitted on November 9, 1992, December 11, 1992, and August 11, 1998 by the Virginia Department of Environmental Quality are conditionally approved. Virginia must meet the following conditions by no later than May 30, 2000, in accordance with criteria defined in the EPA Memorandum dated November 7, 1996 from the Director of the Air Quality Strategies and Standards Division of the Office of Air Quality Planning and Standards, entitled ''Approval Options for Generic RACT Rules Submitted to Meet the Non-CTG VOC RACT Requirement and Certain $NO_X$ RACT Requirements.'' This memorandum is available at the office of the U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103. These conditions are:

(1) The VADEQ must certify, in writing, that it has submitted, as SIP revisions, RACT determinations for all sources subject to source-specific $NO_X$ RACT requirements; or

(2) The VADEQ must demonstrate that the emissions from any remaining subject sources represent a de minimis level of emissions.

[FR Doc. 99–9603 Filed 4–27–99; 8:45 am]

BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

**[OPP–300821; FRL–6068–7]**

**RIN 2070–AB78**

## Beauveria bassiana (ATCC #74040); Exemption from the Requirement of a Tolerance

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This rule establishes an exemption from the requirement of a tolerance for residues of the *Beauveria bassiana* (ATCC #74040) in or on all food commodities when applied or used as ground and aerial foliar sprays for use only on terrestrial crops. TROY Biosciences, Incorporated, 2620 North 37th Drive, Phoenix, Arizona 85009, submitted an amended petition PP 5F4483 to EPA under the Federal Food, Drug and Cosmetic Act as amended by the Food Quality Protection Act of 1996 (Pub. L. 104–170) requesting the exemption from tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *Beauveria bassiana* (ATCC #74040) in or on all food commodities.

**DATES:** This regulation is effective April 28, 1999. Objections and requests for hearings must be received by EPA on or before June 28, 1999.

**ADDRESSES:** Written objections and hearing requests, identified by the docket control number [OPP–300821], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (''Tolerance Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300821], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket number [OPP–300821]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

**FOR FURTHER INFORMATION CONTACT:** By mail: Shanaz Bacchus, c/o Product Manager (PM) 90, Biopesticides and Pollution Prevention Division (7511C), Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. Office location, telephone number and e-mail address: Rm. 902W34, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 308–8097; e-mail: bacchus.shanaz@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of June 10, 1998, 63 FR 31771) (FRL–5793–4), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) announcing the filing of a pesticide tolerance petition by TROY Biosciences, Incorporated, 2620 North 37th Drive, Phoenix, Arizona 85009. This notice included a summary of the petition prepared by the petitioner and this summary contained conclusions and arguments to support its conclusion that the petition complied with the Food Quality Protection Act (FQPA) of 1996.

The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of the microbial insecticidal agent *Beauveria bassiana* (ATCC #74040) in or on all food commodities.

A comment was received in response to the notice of filing regarding the potential for *Beauveria bassiana* (*B. bassiana*) to colonize corn and infect lungs of wild rodents and nasal passages of humans. The comment also referred to the potentially hazardous effects of beauvericin, a metabolite associated with this microbial pesticide. While *Beauveria bassiana* may infect corn, the acute oral toxicity/pathogenicity studies indicate no undue risk to humans, children and infants from dietary exposure. The data submitted in support of guideline requirements for plants suggest that other plants, including corn, are not likely to be at risk if the pesticide is used as labeled. Also, the acute oral and pulmonary toxicity/pathogenicity studies of the technical grade active ingredient indicate that it is neither toxic nor pathogenic to mammals or humans. The registrant has provided analytical methods and quality assurance procedures to control beauvericin, a potential metabolite, within regulatory levels. The data which were submitted for this petition were evaluated by the Agency and are sufficient to support the exemption from the requirement of a tolerance in or on all food commodities. A summary discussion of the reviews of the data submitted in support of this petition follows.

### I. Risk Assessment and Statutory Findings

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(c)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue...'' Additionally, section 408 (b)(2)(D) requires that the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

## II. Toxicological Profile

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed most of the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Results of the following studies support the lack of toxicity/pathogenicity of the Technical Grade Active Ingredient (TGAI), *Beauveria bassiana* (ATCC #74040).

### *A. Product Chemistry*

The data submitted for product identity of the active ingredient, *Beauveria bassiana* (ATCC #74040), and end use product, are sufficient to support the request for the proposed exemption from the requirement of a tolerance. The active ingredient is a naturally-occurring fungus which can be found in the United States and in the environment worldwide.

The registrant proposed sufficient quality assurance methods to control unintentional ingredients and contaminants in the proposed products within regulatory levels. Batches containing human pathogens are to be destroyed. Beauvericin levels in the technical grade active ingredient are not likely to exceed 60 ppm. The registrant has voluntarily withdrawn the registration of an old formulation, which had potential aflatoxin contamination present in an inert ingredient. The proposed new formulation has met the Agency's guideline requirements for microbial pesticides for food use.

### *B. Toxicology*

1. *Acute oral toxicity/pathogenicity in rats, (Technical).* No animal mortality or overt toxic effects were noted in rats dosed orally with 1.9 x $10^8$ colony forming units (cfu)/animal of *B. bassiana* (ATCC #74040). Red foci were noted on the lungs of three of the treated animals indicating possible pulmonary toxicity. However, the acute pulmonary toxicity/pathogenicity study confirmed clearance from the lungs as discussed below. Based on these studies, and the nature of the inerts in the sole registered microbial end use product (EP) containing this active ingredient, the EP can be considered a Toxicity Category IV pesticide.

2. *Acute dermal toxicity in rabbits, (Naturalis-L 225). B. bassiana* (ATCC #74040) was not pathogenic, infective or toxic in rabbits dosed dermally at 2 gm per animal containing 4.2 x $10^7$ cfu/ml. It was therefore considered Toxicity Category IV for dermal toxicity.

3. *Acute pulmonary toxicity/pathogenicity in rats, (Technical).* No mortality or toxic or pathogenic effects were found in the test animals dosed intratracheally with 2.5 x $10^9$ cfu *B. bassiana* (ATCC #74040)/animal. Clearance was complete from the lungs within 15 days of dosing. No significant clinical signs were observed. Brown or tan lesions were noted in the lungs of all treated animals starting on day 4 and an inflammatory response was evident in microscopic examination until day 22. The presence of an inflammatory response is expected as a component of the normal recognition and clearance of microbes by the immune system. No inflammation was evident on tissues examined at the end of the study.

4. *Acute intraperitoneal toxicity/pathogenicity testing in rats, (Technical). B. bassiana* (ATCC #74040) was not pathogenic, infective or toxic in rats when dosed intraperitoneally with 2 x $10^7$ cfu/animal. No animals had the test microbe recovered from their blood or had visible lesions on their internal organs at gross necropsy.

5. *Primary eye irritation in rabbits, (Naturalis-L 225).* Rabbits displayed minimal ocular irritation when given a single 0.1 ml ocular dose containing 2 x $10^6$ cfu. Based on these data, the pesticide was considered acute Toxicity Category III for eye irritation.

6. *Primary dermal irritation in rabbits, (Naturalis-L 225).* There was no mortality or significant toxic effects in animals singly dosed and exposed for four hours with 5 ml *B. bassiana* (ATCC #74040) containing 5.5 x $10^7$ cfu. Based on these data, microbial pesticide was considered Toxicity Category IV for primary dermal irritation effects.

7. *Dermal sensitization.* Data provided to the Agency show that Naturalis-L is a dermal sensitizer. In several animals, the severity of irritation required relocation of test site for inductions 8 and 9. In addition, two animals died during the study - one prior to the challenge phase and one prior to the 48–hour challenge scoring interval. No cause for death was determined. This test was conducted with a test material at 100% concentration rather than at the 50% concentration recommended by the OPPTS harmonized guidelines. The label for this product must state that it is a dermal sensitizer and proper protection equipment should be worn.

8. *Hypersensitivity incidents.* No incidents of hypersensitivity have been reported for this microbial pesticide.

## III. Aggregate Exposures and Risk

In examining aggregate exposure, FFDCA section 408 directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from groundwater or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

### *A. Dietary Exposure and Risk*

Dietary exposure to the microbial pesticide is likely to occur. The lack of acute oral toxicity/pathogenicity, and the ubiquitous nature of the microbial, support the exemption from the requirement of a tolerance for this active ingredient.

1. *Food.* The microbial pesticide can be easily removed from foods by washing, peeling, cooking and processing. Even if ingested, the low acute oral toxicity potential indicates minimal risk. Consequently, dietary exposure to the microbial and the risk posed by ingestion of foods treated with the microbial pesticide, are likely to be minimal for adults, infants and children by the oral route.

2. *Drinking water exposure.* The microorganism *Beauveria bassiana* is common in the soil. It is not known as an aquatic microorganism, and therefore is not expected to proliferate in aquatic habitats. Drinking water is not being screened for *Beauveria bassiana* (ATCC #74040) as a potential indicator of microbial contamination. Both percolation through soil and municipal treatment of drinking water would reduce the possibility of exposure to *Beauveria bassiana* (ATCC #74040) through drinking water. Therefore, the potential of significant transfer to drinking water is minimal to nonexistent. However, even if negligible oral exposure should occur through drinking water, the Agency concludes that such exposure would present no risk due to the lack of toxicity and the ubiquitous nature of the microbe.

### *B. Other Non-Occupational Exposure*

Dermal and inhalation exposure and risk to adults, infants and children via treated lawns or recreational areas are likely if the pesticide is used as labeled. However, the pesticide is a naturally occurring microbe and is ubiquitous in the environment. Based on the low toxicity potential as evidenced by the data submitted, the microbial pesticide active ingredient is likely to pose a minimal to non-existent dermal or inhalation hazard if used as labeled.

## IV. Cumulative Effects

There is one other strain of *Beauveria bassiana* registered at this time. While the two strains may produce similar metabolites, the likelihood of adverse dietary effects via a common mechanism of toxicity is likely to be minimal based on the lack of toxicity/pathogenicity potential of the active ingredients.

## V. Determination of Safety for U.S. Population, Infants and Children

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of exposure (safety) for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of exposure (safety) will be safe for infants and children. In this instance, EPA believes there are reliable data to support the conclusion that there are no threshold effects of concern to infants, children and adults when *Beauveria bassiana* (ATCC #74040) is used as labeled. As a result, the provision requiring an additional margin of exposure does not apply.

There is a reasonable certainty that no harm will result from aggregate exposure to the U.S. population, including infants and children, to *Beauveria bassiana* (ATCC #74040) from the proposed uses. This includes all anticipated dietary exposures and all other exposures for which there is reliable information.

## VI. Other Considerations

### *A. Endocrine Disruptors*

EPA does not have any information regarding endocrine effects of this microbial pesticide at this time. The Agency is not requiring information on the endocrine effects of this pesticide at this time; and Congress allowed 3 years after August 3, 1996, for the Agency to implement a screening and testing program with respect to endocrine effects.

### *B. Analytical Method(s)*

The registrant has submitted data in support of the Agency requirements to identify the active ingredient and potential metabolites and contaminants. Analytical methods are available and sufficient to identify metabolites and contaminants within regulatory levels. All batches containing potential human pathogens are to be destroyed.

### *C. Codex Maximum Residue Level*

There are no Codex tolerances or exemption from tolerances for the microbial active ingredient *Beauveria bassiana* ATCC #74040.

## VII. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d)and as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which governs the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by June 28, 1999, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given under the ''ADDRESSES'' section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the hearing clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5697, tompkins.jim@epa.gov. Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

## VIII. Public Record and Electronic Submissions

EPA has established a record for this rulemaking under docket control number [OPP–300821] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Objections and hearing requests may be sent by e-mail directly to EPA at:

opp-docket@epa.gov.

E-mailed objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this regulation, as well as the public version, as described in this unit will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the Virginia

address in ''ADDRESSES'' at the beginning of this document.

## IX. Regulatory Assessment Requirements

*A. Certain Acts and Executive Orders*

This final rule establishes an exemption from the tolerance requirement under section 408(d) of the FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

In addition, since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

*B. Executive Order 12875*

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

*C. Executive Order 13084*

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

## X. Submission to Congress and the Comptroller General

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

## List of Subjects in 40 CFR Part 180

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

Dated: April 12, 1999.

**Susan B. Hazen,**

*Acting Director, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

## PART 180—[AMENDED]

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

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

2. Section 180.1205 is added to read as follows:

### § 180.1205 Beauveria bassiana ATCC #74040; exemption from the requirements of a tolerance.

An exemption from the requirement of a tolerance is established for residues of the insecticide *Beauveria bassiana* (ATCC #74040) in or on all food commodities when applied or used as ground and aerial foliar sprays for use only on terrestrial crops.

[FR Doc. 99–10093 Filed 4–27–99; 8:45 am]

BILLING CODE 6560–50–F

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

**[OPP–300845; FRL–6073–7]**

**RIN 2070–AB78**

## Fluroxypyr 1-Methylheptyl Ester; Extension of Tolerance for Emergency Exemptions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation extends time-limited tolerances for the combined residues of the herbicide fluroxypyr 1-methylheptyl ester and its metabolite fluroxypyr in or on corn, sweet, K + CWHR at 0.05 ppm; corn, sweet, forage at 2.0 ppm; corn, sweet, stover at 2.5 ppm; corn, field, grain at 0.05 ppm; corn, field, forage at 2.0 ppm; corn, field, stover at 2.5 ppm for an additional 2-year period. These tolerances will expire and are revoked on December 1, 2001. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on field corn and sweet corn. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18.

**DATES:** This regulation becomes effective April 28, 1999. Objections and requests for hearings must be received by EPA, on or before June 28, 1999.

**ADDRESSES:** Written objections and hearing requests, identified by the docket control number [OPP-300845], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP-300845], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket control number [OPP-300845]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

**FOR FURTHER INFORMATION CONTACT:** By mail: Andrew Ertman, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location , telephone number, and e-mail address: Rm. 280, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703)308-9367; ertman.andrew@epa.gov.

**SUPPLEMENTARY INFORMATION:** EPA issued a final rule, published in the **Federal Register** of August 5, 1998 (63 FR 41727) (FRL–6018–4), which announced that on its own initiative under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and (l)(6), as amended by the Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) it established time-limited tolerances for the combined residues of fluroxypyr 1-methylheptyl ester and its metabolite fluroxypyr in or on corn, sweet, K + CWHR at 0.05 ppm; corn, sweet, forage at 2.0 ppm; corn, sweet, stover at 2.5 ppm; corn, field, grain at 0.05 ppm; corn, field, forage at 2.0 ppm; corn, field, stover at 2.5 ppm, with an expiration date of December 1, 1999. EPA established the tolerances because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18. Such tolerances can be established without providing notice or period for public comment.

EPA received a request to extend the use of fluroxypyr on field corn and sweet corn to control volunteer potatoes for this year's growing season due to the continuation of the emergency condition. The applicants stated that volunteer potatoes are one of the main sources for overwintering of obligate pests of potatoes including late blight and leafroll virus. The populations of volunteer potatoes in are closely related to the severity of winter temperature conditions. When soil temperatures reach levels low enough to freeze tubers remaining in the soil after harvest, volunteer potatoes are generally not a problem. However, following mild winters, volunteer potatoes are always present in crops following potatoes in the rotation. Sustained temperatures of 28°F or less are required to kill the tubers and prevent emergence of volunteers.

The applicants stated that volunteer potato populations will be high in 1999 and that volunteer potato plants will act as a source of infection from both late blight and leafroll virus. After having reviewed the submission, EPA concurs that emergency conditions exist. EPA has authorized under FIFRA section 18 the use of fluroxypyr on field corn and sweet corn for control of volunteer potatoes in Oregon and Washington.

EPA assessed the potential risks presented by residues of fluroxypyr in or on field corn and sweet corn. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerances under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of August 5, 1998 (63 FR 41727) (FRL–6018–4). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerances will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerances are extended for an additional 2-year period. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations (CFR). Although these tolerances will expire and are revoked on December 1, 2001, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on field corn and sweet corn after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerances. EPA will

take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

## I. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation issued by EPA as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by June 28, 1999, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given under the ''ADDRESSES'' section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, Crystal Mall ι2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305-5697, tompkins.jim@epa.gov. Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

## II. Public Record and Electronic Submissions

EPA has established a record for this regulation under docket control number [OPP-300845] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Objections and hearing requests may be sent by e-mail directly to EPA at:

opp-docket@epa.gov.

E-mailed objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this regulation, as well as the public version, as described in this unit will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the Virginia address in ''ADDRESSES'' at the beginning of this document.

## III. Regulatory Assessment Requirements

### *A. Certain Acts and Executive Orders*

This final rule establishes a tolerance under section 408 of the FFDCA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 et seq., or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). Nor does it require any prior consultation as specficed by Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

In addition, since tolerances and exemptions that are established under section 408(l)(6) of FFDCA, such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

### *B. Executive Order 12875*

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government,

unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

*C. Executive Order 13084*

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

## IV. Submission to Congress and the Comptroller General

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

## List of Subjects in 40 CFR Part 180

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

Dated: April 16, 1999.

**James Jones,**

*Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

## PART 180—[AMENDED]

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

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

### §180.535 [Amended]

2. In §180.535, by amending the table in paragraph (b), by revising the date ''12/01/99'' to read ''12/01/01.''

[FR Doc. 99–10521 Filed 4-27-99; 8:45 am]

BILLING CODE 6560–50–F

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 180

**[OPP–300852; FRL–6077–5**

**RIN 2070–AB78**

## Bifenthrin; Extension of Tolerance for Emergency Exemptions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation extends a time-limited tolerance for residues of the insecticide bifenthrin and its metabolites in or on cucurbits at 1.0 part per million (ppm) for an additional 1½–year period. This tolerance will expire and is revoked on October 31, 2000. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on cucurbits. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18.

**DATES:** This regulation becomes effective April 28,1 999. Objections and requests for hearings must be received by EPA, on or before June 28, 1999.

**ADDRESSES:** Written objections and hearing requests, identified by the docket control number [OPP–300852], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300852], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall 2 (CM #2), 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket control number [OPP–300852]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and

hearing requests on this rule may be filed online at many Federal Depository Libraries.

**FOR FURTHER INFORMATION CONTACT:** By mail: Andrea Beard, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 271, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308–9356, beard.andrea@epa.gov.

**SUPPLEMENTARY INFORMATION:** EPA issued a final rule, published in the **Federal Register** of June 6, 1997 (62 FR 30996) (FRL–5719–3), which announced that on its own initiative under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a and (l)(6), as amended by the Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) it established a time-limited tolerance for the residues of bifenthrin and its metabolites in or on cucurbits at 1.0 ppm, with an expiration date of April 30, 1998. EPA established the tolerance because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18. Such tolerances can be established without providing notice or period for public comment. On April 1, 1998 (63 FR 15763) (FRL–5779–1), EPA publised a document extending this tolerance to April 30, 1999.

EPA received a request to extend the use of Bifenthrin on cucurbits for this years growing season due to the silverleaf whitefly, a recently-introduced pest in California, which can have devastating effects on the cucurbit crop, and is resistant to registered alternatives. An exemption has also been issued for another material, imidacloprid, to provide early season control. However, bifenthrin is also needed for control later in the season. After having reviewed the submission, EPA concurs that emergency conditions exist. EPA has authorized under FIFRA section 18 the use of bifenthrin on cucurbits for control of the silverleaf whitefly in cucurbits.

EPA assessed the potential risks presented by residues of bifenthrin in or on cucurbits. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of June 6, 1997 (62 FR 30996) (FRL–5719–3). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerance will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerance is extended for an additional 1½–year period. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations (CFR). Although this tolerance will expire and is revoked on October 31, 2000, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on cucurbits after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerance. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

## I. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by June 28, 1999, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given under the ''ADDRESSES'' section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5697, tompkins.jim@epa.gov. Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

## II. Public Record and Electronic Submissions

EPA has established a record for this regulation under docket control number [OPP–300852] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs,

Environmental Protection Agency, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Objections and hearing requests may be sent by e-mail directly to EPA at:

opp-docket@epa.gov.

E-mailed objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this regulation, as well as the public version, as described in this unit will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the Virginia address in ''ADDRESSES'' at the beginning of this document.

## III. Regulatory Assessment Requirements

### *A. Certain Acts and Executive Orders*

This final rule establishes a tolerance under section 408 of the FFDCA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

In addition, since tolerances and exemptions that are established under section 408(l)(6) of FFDCA, such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

### *B. Executive Order 12875*

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

### *C. Executive Order 13084*

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

## IV. Submission to Congress and the Comptroller General

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

## List of Subjects in 40 CFR Part 180

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

Dated: April 20, 1999.

**James Jones,**

*Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

## PART 180—[AMENDED]

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

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

### § 180.442 [Amended]

2. In § 180.442, by amending paragraph (b) by revising the expiration/revocation date for the commodity

Vegetables, curcubits, to read ''10/31/00''.

[FR Doc. 99–10625 Filed 4–27–99; 8:45 am]

BILLING CODE 6560–50–F

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 180

**[OPP–300849; FRL–6076–1]**

**RIN 2070–AB78**

## Sulfosate; Pesticide Tolerance

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a tolerances for residues of sulfosate in or on wheat and pome fruit and increases tolerances in milk. In addition, for cattle, goat, hog, sheep, and horse commodities, this regulation establishes tolerances in liver and meat-by products except liver and increases the tolerance in meat. Zeneca Ag Products requested this tolerance under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

**DATES:** This regulation is effective April 28, 1999. Objections and requests for hearings must be received by EPA on or before June 28, 1999.

**ADDRESSES:** Written objections and hearing requests, identified by the docket control number, [OPP–300849], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300849], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300849]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

**FOR FURTHER INFORMATION CONTACT:** By mail: Jim Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, 703–305–5697, tompkins.jim@epa.gov.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of January 20, 1999 (64 FR 3099) (FRL–6053–5), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170 announcing the filing of a pesticide petition (PP 5F4554) for tolerance by Zeneca Ag. Products, 1800 Concord Pike, P. O. Box 15458, Wilmington, DE 19850–5458. This notice included a summary of the petition prepared by Zeneca Ag Products, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.489 be amended by establishing a tolerance for residues of the herbicide sulfosate, in or on wheat bran at 2.5 parts per million (ppm) (of which no more than 0.75 ppm is trimethylsulfonium (TMS)), wheat grain at 0.75 ppm (of which no more than 0.25 ppm is TMS), wheat forage at 35 ppm (of which no more than 30 ppm is TMS), wheat hay at 85 ppm (of which no more than 80 ppm is TMS), wheat shorts at 1.5 ppm (of which no more than 0.5 ppm is TMS), wheat straw at 1.0 ppm (of which no more than 0.5 ppm is TMS), the pome fruit group at 0.05 ppm; in cattle, goat, hog, sheep, and horse liver at 0.5 ppm, in cattle, goat, hog, sheep, and horse meat by-products, except liver at 2.5 ppm; to increase the tolerance in cattle, goat, hog, sheep, and horse meat from 0.2 to 0.4 ppm and in milk from 0.2 to 0.5 ppm.

In the **Federal Register** of September 11, 1998 (63 FR 48597) (FRL–6026–6), EPA issued a final rule for establishment of tolerances for sulfosate on corn, soybean eggs, milk, cattle, goat, hog, sheep, and horse commodities. Sulfosate residues, at the above levels, resulting from consumption of wheat, pome fruit, meat, milk, poultry, and eggs were included in the dietary and risk assessments conducted to establish these tolerances.

### I. Background and Statutory Findings

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

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

### II. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of sulfosate and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for residues of sulfosate on wheat bran at 2.5 parts per million (ppm) (of which no more than 0.75 ppm is trimethylsulfonium (TMS)), wheat grain at 0.75 ppm (of which no more than 0.25 ppm is TMS), wheat forage at 35 ppm (of which no more than 30 ppm is TMS), wheat hay at 85 ppm (of which no more than 80 ppm is TMS), wheat shorts at 1.5 ppm (of which no more than 0.5 ppm is TMS), wheat straw at

1.0 ppm (of which no more than 0.5 ppm is TMS), the pome fruit group at 0.05 ppm; in cattle, goat, hog, sheep, and horse liver at 0.5 ppm, in cattle, goat, hog, sheep, and horse meat by-products, except liver at 2.5 ppm; to increase the tolerance in cattle, goat, hog, sheep, and horse meat from 0.2 to 0.4 ppm and in milk from 0.2 to 0.5 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

*A. Toxicological Profile*

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by sulfosate are discussed in Unit II. A. of the **Federal Register** notice of September 11, 1998 (63 FR 48597). Please note that this unit included a typographical error. In the discussion of the feeding carcinogenicity study in mice, ''79'' should have been ''7.9'' in the following phrase: ''In addition, there was increased incidence of white matter degeneration in the lumbar region of the spinal cord (males only) (2, 3, 4, 4, 79% response, controls to high dose)...''

*B. Toxicological Endpoints*

The toxicological endpoints for sulfosate are discussed in Unit II. B. of the **Federal Register** notice of September 11, 1998 (63 FR 48597).

*C. Exposures and Risks*

The exposures and risks due to consumption of sulfosate, including residues in wheat and pome fruit, are discussed in Unit II. C. of the **Federal Register** notice of September 11, 1998 (63 FR 48597).

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

The aggregate risks and determination of safety for the U.S. population resulting from use of sulfosate are discussed in Unit II. D. of the **Federal Register** notice of September 11, 1998 (63 FR 48597).

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

The aggregate risks and determination of safety for infants and children resulting from use of sulfosate are discussed in Unit II. E. of the **Federal Register** notice of September 11, 1998 (63 FR 48597).

## III. Other Considerations

*A. Metabolism In Plants and Animals*

The nature of the residues in plants and animals is understood. EPA has determined that the tolerance expression for sulfosate must include both of the parent ions.

*B. Analytical Enforcement Methodology*

Analytical enforcement methodology for sulfosate is discussed in Unit III. B. of the **Federal Register** notice of September 11, 1998 (63 FR 48597).

*C. Magnitude of Residues*

The crop field trial data are adequate to support these tolerances.

*D. International Residue Limits*

There are no Codex, Canadian or Mexican tolerances or maximum residue limits for residues of sulfosate in the subject crops. Therefore, a compatibility issue is not relevant to the proposed tolerances.

*E. Rotational Crop Restrictions*

EPA has previously reviewed two confined rotational crop studies for sulfosate and concluded that rotational crop restrictions were not required.

## IV. Conclusion

Therefore, the tolerances are established for residues of sulfosate on wheat bran at 2.5 parts per million (ppm) (of which no more than 0.75 ppm is trimethylsulfonium (TMS)), wheat grain at 0.75 ppm (of which no more than 0.25 ppm is TMS), wheat forage at 35 ppm (of which no more than 30 ppm is TMS), wheat hay at 85 ppm (of which no more than 80 ppm is TMS), wheat shorts at 1.5 ppm (of which no more than 0.5 ppm is TMS), wheat straw at 1.0 ppm (of which no more than 0.5 ppm is TMS), the pome fruit group at 0.05 ppm; in cattle, goat, hog, sheep, and horse liver at 0.5 ppm, in cattle, goat, hog, sheep, and horse meat by-products, except liver at 2.5 ppm. Further, the tolerances are increased tolerance in cattle, goat, hog, sheep, and horse meat from 0.2 to 0.4 ppm and in milk from 0.2 to 0.5 ppm.

## V. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by June 28, 1999, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given under the ''ADDRESSES'' section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this regulation. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5697, tompkins.jim@epa.gov. Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking

any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

## VI. Public Record and Electronic Submissions

EPA has established a record for this regulation under docket control number [OPP–300849] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Objections and hearing requests may be sent by e-mail directly to EPA at:

opp-docket@epa.gov.

E-mailed objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this regulation, as well as the public version, as described in this unit will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the Virginia address in ''ADDRESSES'' at the beginning of this document.

## VII. Regulatory Assessment Requirements

### *A. Certain Acts and Executive Orders*

This final rule establishes a tolerance under section 408(d) of the FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any prior consultation as specficed by Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

In addition, since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the [tolerance/exemption] in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

### *B. Executive Order 12875*

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

### *C. Executive Order 13084*

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

## VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and

the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 180**

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

Dated: April 14, 1999.

**James Jones,**

*Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

## PART 180–[AMENDED]

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

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

2. Section 180.489 is revised to read as follows:

**§ 180.489 Sulfosate (Sulfonium, trimethyl-salt with** *N*- (phosphonomethyl)glycine (1:1)); tolerances for residues.

(a) *General*. Tolerances are established for residues of the herbicide sulfosate (sulfonium, trimethyl-salt with *N*-(phosphonomethyl)glycine (1:1)) in or on the following raw and processed agricultural commodities:

| Commodity | Parts per million |
|---|---|
| Almond, hulls (of which no more than 0.30 ppm is trimethylsulfonium (TMS)). | 1.00 |
| Aspirated grain fractions (of which no more than 60 ppm is TMS). | 210.00 |
| Bananas (imported only) [1] | 0.05 |
| Cattle, fat | 0.10 |
| Cattle, liver | 0.5 |
| Cattle, mbyp except liver | 2.5 |
| Cattle, meat | 0.4 |
| Citrus fruit group | 0.05 |
| Corn, field, forage | 0.10 |
| Corn, field and pop, grain (of which no more than 0.10 ppm is TMS). | 0.20 |
| Corn, field and pop, stover (of which no more than 0.20 ppm is TMS). | 0.30 |
| Eggs | 0.02 |
| Goats, fat | 0.10 |
| Goats, liver | 0.5 |
| Goats, mbyp, except liver | 2.5 |
| Goats, meat | 0.4 |
| Grape | 0.10 |
| Hogs, fat | 0.10 |
| Hogs, liver | 0.5 |
| Hogs, mbyp except liver | 2.5 |
| Hogs, meat | 0.4 |
| Horses, fat | 0.10 |
| Horses, liver | 0.5 |
| Horses, mbyp except liver | 2.5 |
| Horses, meat | 0.4 |
| Milk | 0.5 |
| Pome fruit group | 0.05 |
| Poultry, fat | 0.05 |
| Poultry, liver | 0.05 |
| Poultry, mbyp (except liver) | 0.10 |
| Poultry, meat | 0.05 |
| Prune (of which no more than 0.05 ppm is TMS). | 0.20 |
| Raisin (of which no more than 0.05 ppm is TMS). | 0.20 |
| Sheep, fat | 0.10 |
| Sheep, liver | 0.5 |
| Sheep, mbyp except liver | 2.5 |
| Sheep, meat | 0.5 |
| Soybean, forage (of which no more than 1 ppm is TMS). | 2.0 |
| Soybean, hay (of which no more than 2 ppm is TMS). | 5.0 |
| Soybean, hulls (of which no more than 2 ppm is TMS). | 7.0 |
| Soybean, seed (of which no more than 1 ppm is TMS). | 3.0 |
| Stone fruit group | 0.05 |
| Tree nut group | 0.05 |
| Wheat bran (of which no more than 0.75 ppm is TMS | 2.5 |
| Wheat grain (of which no more than 0.25 ppm is TMS) | 0.75 |
| Wheat forage (of which no more than 30 ppm is TMS | 35 |
| Wheat hay (of which no more than 80 ppm is TMS | 85 |
| Wheat shorts (of which no more than 0.5 ppm is TMS) | 1.5 |
| Wheat straw (of which no more than 0.5 ppm is TMS) | 1.0 |

[1] There are no U.S. registrations as of the date of publication of the tolerance in the FEDERAL REGISTER

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

(c) *Tolerances with regional registrations.* [Reserved]

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

[FR Doc. 99–10520 Filed 4–27–99; 8:45 am]

BILLING CODE 6560–50–F

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 54

**[CC Docket No. 96–45; FCC 99–46]**

### Federal-State Joint Board on Universal Service

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, we take steps designed to ensure that eligible schools, libraries, and rural health care providers gain access to, and receive, discounted services throughout the first funding cycle. Specifically, we amend our rules to allow schools, libraries, and rural health care providers with existing contracts that expired prior to December 31, 1998 to extend or renew voluntarily these existing contracts without engaging in competitive bidding through June 30, 1999. As a result, we will permit schools and libraries to be eligible for additional discounts on recurring services covered by such contracts for the period from January 1, 1999 through June 30, 1999. We also amend our rules to allow schools and libraries to use nonrecurring services for which the Administrator has approved a request for a discount for this funding year, 1998–1999, through September 30, 1999. This specific action will not result in increased funding amounts from the schools and libraries universal service support mechanism because this change in our rules will merely allow schools and libraries a longer period of time in which to complete receipt of non-recurring services.

**DATES:** Effective April 28, 1999.

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

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's document released on April 2, 1999. The full text of this document is available for public inspection during regular business hour in the FCC Reference Center, 445 12th Street, S.W., Washington, D.C. 20554.

**Summary of Tenth Order on Reconsideration in CC Docket No. 96–45.**

1. By this Order, we take steps designed to ensure that eligible schools, libraries, and rural health care providers gain access to, and receive, discounted services throughout the first funding cycle. We note that our actions address concerns raised by various schools and libraries in light of the Commission's extension of the 1998–99 funding year.

*I. Limited Exemption From Competitive Bidding*

2. On our own motion, we find that it is in the public interest to reconsider the portion of the *Fifth Reconsideration Order and the Ninth Reconsideration Order*, 63 FR 43088 (August 12, 1998), 64 FR 0259 (January 15, 1999), relating to the limited exemption from competitive bidding. After further reflection, informed by the Council of Chief State School Officers (CCSSO's) letter, we conclude that it is necessary to modify sections 54.511 and 54.604 of our rules, so that eligible applicants that filed during the initial filing window and were approved for discounts, are exempt from our competitive bidding rules for voluntary extensions or renewals of existing contracts to a date no later than June 30, 1999. This modification is necessary in light of the Commission's decision in the *Fifth Reconsideration Order* to change the funding year from a calendar year to a fiscal year that begins July 1st and ends June 30th of each year. The modification applies only to the 1998 funding year.

3. When the Commission changed the funding cycle for schools and libraries on June 22, 1998, and for rural health care providers on December 31, 1998, the initial filing windows had already closed, and some schools, libraries, and rural health care providers had existing contracts that were set to end before December 31, 1998. We decided in the *Fifth Reconsideration Order and the Ninth Reconsideration Order* to allow exemption from our competitive bidding requirements for voluntary extensions of existing contracts expiring between December 31, 1998 and June 30, 1999, because it would be ''administratively and financially unworkable'' for them to participate in competitive bidding for only a six month service period. The Commission did not foresee, however, that some applicants that were approved to receive universal service discounts had existing contracts that would expire before December 31, 1998, and would consequently be unable, without engaging in competitive bidding for only a six month period, to receive discounts for the following six months from January 1, 1999 through June 30, 1999. For example, applicants that filed during the filing window and had existing contracts expiring between the 1998 filing window closing date and December 31, 1998 may have been willing, under the old calendar year funding cycle, to forego a month or two of discounts in anticipation of discounts for the following year (starting in January). Under the new fiscal year funding cycle (starting in July) implemented in our orders, however, these applicants would be required to engage in competitive bidding for only a six-month period or be left without discounts for a period of greater than six months. An unintended consequence of the two orders, therefore, was that applicants with contracts expiring before December 31, 1998 were treated less favorably than applicants with contracts expiring between December 31, 1998 and June 30, 1999.

4. We further note that the policy interest we articulated in the *Fifth Reconsideration Order and the Ninth Reconsideration Order* (*i.e.*, eliminating the administrative burden of bidding for only a six-month period) exists equally for applicants with existing contracts expiring between the closing dates of their filing windows and December 31, 1998, and those with existing contracts expiring between December 31, 1998 and June 30, 1999. In light of these considerations, and those raised by the CCSSO and various schools, we reconsider our holding in the *Fifth Reconsideration Order and the Ninth Reconsideration Order* and find herein that all schools, libraries, and rural health care providers that have applied and been approved for discounts for eligible services subject to existing contracts that expire between the respective closing dates of their 1998 filing window and June 30, 1999, are exempt from our competitive bidding requirements for voluntary extensions or renewals of these contracts to a date no later than June 30, 1999. As we noted previously in the *Fifth Reconsideration Order* it would be administratively and financially unworkable for schools, libraries, and rural health care providers to participate in competitive bidding for only a six-month service period.

5. In extending this exemption from our competitive bidding requirements, we make clear that additional discounts for these contracts will only be available for recurring services for the period January 1, 1999 through June 30, 1999. With respect to the limited time period, we recognize that parties to these contracts were unintentionally treated

differently from those applicants with existing contracts expiring after December 31, 1998, but we do not intend to place them in a better position than they would have been had we not changed the funding year. That is, if applicants were willing to forego a month or two of discounted services, in anticipation of a funding year beginning on January 1, 1998, we will not now provide discounts for that period in which the applicant made such a conscious decision. Therefore, recurring services in these approved existing contracts expiring between the closing dates of the 1998 filing window and June 30, 1999, will be eligible for universal service discounts only for the period from January 1, 1999 through June 30, 1999, pursuant to sections 54.501, 54.511(c) and (d), 54.601, and 54.611 of our rules. Consistent with our decision in the *Fifth Reconsideration Order and the Ninth Reconsideration Order* additional discounts will be funded at the monthly level approved by the Administrator, as established by letters sent to eligible schools and libraries, and rural health care providers, through June 30, 1999. We conclude that this approach is reasonable because telecommunications services and Internet access are generally provided at regular, monthly intervals and are billed on a monthly, recurring basis.

*II. Nonrecurring Services*

6. We also reconsider on our own motion, for the 1998–1999 funding year, the requirement that schools and libraries use nonrecurring, discounted services within the funding year for which the discounts were received. Specifically, we amend our rules to allow schools and libraries to use nonrecurring services for which discounts have been committed by the Administrator until September 30, 1999, three months beyond the end of this first funding year.

7. As previously explained, in June 1998, we changed the funding year for the schools and libraries universal services support mechanism to begin July 1 of a given year and to end June 30 of the following year. In addition, we extended our first funding year to coincide with this new funding year rule, resulting in an eighteen-month implementation funding year (January 1, 1998–June 30, 1999). When we changed this first funding year, we explicitly noted that this change would ameliorate concerns by applicants that they would be unable to receive services of a nonrecurring nature, such as internal connections, prior to the close of the funding year. Indeed, we recognized that the delay in providing schools and libraries with information on the discounts that they were approved to receive from service providers pursuant to their requests under section 254 could contribute to applicants' inability to receive discounted services within the original funding year deadline. We note that this rule change applies only to the 1998–99 funding year, and is not applicable to subsequent funding cycles.

8. Since that time, the Administrator has begun to inform schools and libraries about their eligibility to receive discounted services and the availability of funds to cover such discounted services. Although the Administrator proceeded at a reasonable pace, we are concerned that some schools and libraries that will be approved to receive discounted services may have been informed by the Administrator rather late in the funding year. Because the schools and libraries support mechanism was first implemented in this 1998–99 funding year, we did not anticipate these initial delays. Indeed, the Administrator continued to notify schools of their eligibility to receive discounted services and the availability of funds to cover the provision of such services through February of this year.

9. As recently highlighted by the CCSSO, such schools and libraries quite reasonably may not be able to complete the prerequisites necessary to receive nonrecurring discounted services by June 30, 1999, the end of this funding year. For example, some schools and libraries may have been reluctant to initiate the installation of internal connections without first being notified by the Universal Service Administrator of approval of their requested discounts for these nonrecurring services. We believe it would be unduly harsh to insist that those schools and libraries forgo these nonrecurring discounted services, solely because they were not notified of their eligibility for such discounted services, within a time frame that would allow them to take advantage of such services. Such schools and libraries should not be penalized for merely being cautious about taking such services without full information as to how they would pay for the services.

10. In addition, as we noted in the *Fifth Reconsideration Order* many nonrecurring services may need to be performed while children are not in school. Thus, schools notified in February of their qualification for these discounted services have little opportunity to receive such services between now and the end of this funding year. Indeed, for many schools, the only time available to receive nonrecurring services may be at the close of school, which may run close to the end of the funding year. Moreover, although schools and libraries should have contracts in place to begin the work necessary to ensure service can be taken, actually having the necessary personnel on site to complete the contract by June 30, 1999, could prove difficult, if not impossible. Giving schools and libraries additional time in which to complete delivery of nonrecurring services will address these concerns. We note that, with respect to this change, we are not increasing the amount of discounts that schools and libraries may receive for nonrecurring services in 1998–99 beyond those already anticipated by the Administrator; we are merely providing schools and libraries with additional time in which to complete their receipt of these discounted nonrecurring services. Such nonrecurring services must have been requested within the initial filing window and approved by the Administrator for this funding year, 1998–1999.

11. In order to ensure equitable treatment for recipients of discounts for nonrecurring services, we also adopt a limited extension of our exemption from competitive bidding for existing contracts with respect to these *nonrecurring* services. Contracts exempt from competitive bidding that will expire by June 30, 1999, may be voluntarily extended with respect to nonrecurring services for which discounts have been approved by the Administrator for the funding year 1998–1999, until September 30, 1999. This extension applies only to the period during which schools and libraries may receive nonrecurring services for which discounts have been approved by the Administrator for the first funding year; it does not provide additional discount funds. Thus, parties to such contracts may extend to September 30, 1999 the date by which nonrecurring services approved for discounts may be received without complying with the competitive bidding process. Parties may not, however, extend other provisions beyond the dates established by our rules without complying with the competitive bidding process.

12. We believe these actions will ensure that schools and libraries are provided the ability to access ''advanced telecommunications and information services.'' At the same time, these changes will not undermine the efficacy of the schools and libraries universal service support mechanism, because they will not adversely affect the administration of that mechanism. Nor

will these actions financially overburden the schools and libraries universal support mechanism because they require no additional funding; rather, they merely allow collected funds to be used within a reasonable time period.

*III. Effective Date of Rules*

13. In this Order, as noted, we adopt amendments to our exemption from competitive bidding requirements (sections 54.511 and 54.604 of our rules) so that schools, libraries, and rural health care providers that filed applications within the 75-day initial filing window may be exempt from competitive bidding requirements for voluntary extensions or renewals of existing contracts to a date no later than June 30, 1999. The limited exemption from competitive bidding for voluntary extensions or renewals of existing contracts that would otherwise expire between the closing dates of the 1998 filing window and June 30, 1999, will be available only through June 30, 1999. Further, we adopt amendments to sections 54.507(b) and 54.511(d), with respect to nonrecurring services. These rule changes will make it less difficult for schools and libraries to receive eligible, discounted services pursuant to section 254 of the Communications Act of 1934, as amended. Pursuant to the Administrative Procedure Act, we find that we should depart from the general requirement that final rules take effect not less than thirty days after their publication in the **Federal Register**, because these substantive rule changes grant an exemption and ''relieve[. . .] a restriction.'' We conclude that these new rules will take effect upon the date of their publication in the **Federal Register**.

*IV. Supplemental Final Regulatory Flexibility Analysis*

14. In compliance with the Regulatory Flexibility Act (RFA), and the Initial Regulatory Flexibility Analysis (IRFA) that accompanied the *Collection Public Notice*, 63 FR 27542 (May 19, 1998), in the **Federal Register**, this Supplemental Final Regulatory Flexibility Analysis (SFRFA) supplements the Final Regulatory Flexibility Analysis (FRFA) included in the *Universal Service Order*, 62 FR 32862 (June 17, 1997), and the Supplemental Final Regulatory Flexibility Analyses in the *Fifth Reconsideration Order* and the *Ninth Reconsideration Order* only to the extent that changes to the Order adopted here on reconsideration require changes in the conclusions reached in the FRFA in the *Universal Service Order* and the Supplemental Final Regulatory Flexibility Analyses in the *Fifth Reconsideration Order and Ninth Reconsideration Order*. This FRFA was preceded by an Initial Regulatory Flexibility Analysis (IRFA) incorporated in the Notice of Proposed Rulemaking and Order Establishing the Joint Board (NPRM), prepared in connection with the Recommended Decision, which sought written public comment on the proposals in the NPRM and the Recommended Decision.

15. To the extent that any statement contained in this Supplemental Final Regulatory Flexibility Analysis is perceived as creating ambiguity with respect to our rules or statements made in preceding sections of this Order, the rules and statements set forth in those preceding sections shall be controlling.

A. Need for and Objectives of this Report and Order

16. The Commission is required by section 254 of the Act to promulgate rules to implement promptly the universal service provisions of section 254. On May 8, 1997, the Commission adopted rules intended, *inter alia*, to reform our system of universal service support mechanisms so that universal service is preserved and advanced as markets move toward competition. In this Order, we reconsider one aspect of those rules. Specifically, in order to give consistent treatment to all schools, libraries, and rural health care providers that applied for discounts during the 75-day initial filing window, we amend sections 54.511(d) and 54.604 of our rules, so that all applicants that filed for support during the initial filing window may be exempt from our competitive bidding rules for voluntary extensions or renewals of existing contracts to a date no later than June 30, 1999. This, we find, is in the public interest.

17. In addition, in order to avoid penalizing schools and libraries for any caution they exhibited in using nonrecurring services without full information as to how they would pay for them, we amend section 54.507 of our rules to allow schools and libraries for which the Administrator approved discounts on eligible nonrecurring services to receive such services through September 30, 1999. To provide equitable treatment, we amend section 54.511(d) of our rules to allow a limited extension of our exemption from the competitive bidding rules for voluntary extensions on existing contracts with respect to nonrecurring services. Contracts exempt from competitive bidding that will expire by June 30, 1999 may be voluntarily extended with respect to nonrecurring services for which discounts have been approved by the Administrator for the funding year 1998–1999 until September 30, 1999. As explained above, we find these actions will ensure that schools and libraries are provided the ability to access ''advanced telecommunications and information services,'' consistent with section 254.

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

18. The Commission received several letters from various small governmental entities encouraging us to reconsider our rules regarding the exemption of contracts from competitive bidding, and the application of discounts to nonrecurring services beyond the first funding period. As a result, in this Order, we have reconsidered our limited exemption from competitive bidding and have determined that all schools, libraries, and rural health care providers that have applied and been approved for discounts in this initial funding cycle, may be exempt from competitive bidding for voluntary extensions or renewals of existing contracts to a date no later than June 30, 1999, where such contracts otherwise would expire between the closing date of their 1998 filing windows and June 30, 1999. We further amend our rules to allow schools and libraries to receive nonrecurring services for which they applied and have received approval for discounts from the Administrator for the funding year 1998–1999, through September 30, 1999.

C. Description and Estimates of the Number of Small Entities to Which the Rules Adopted in This Order Will Apply

19. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 1992, there were approximately 275,801 small organizations. ''Small

governmental jurisdiction'' generally means ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' As of 1992, there were approximately 85,006 such jurisdictions in the United States. This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (91 percent) are small entities.

20. As noted in the FRFA at paragraphs 890–925 of the *Universal Service Order,* there are a number of small entities that would be affected by the new universal service rules. The rules adopted in this Order, however, would affect primarily only schools, libraries, and rural health care providers. Moreover, because the rules would relieve restrictions on these entities, we believe these rules would not have a significant impact on these small entities. We further describe and estimate, however, the number of small governmental jurisdictions, small businesses, and small organizations that may potentially be affected by the rules adopted in this Order.

21. The Commission specifically noted in the *Universal Service Order* that the SBA defined small elementary and secondary schools and small libraries as those with under $5 million in annual revenues. The Commission further estimated that there are fewer than 86,221 public and 26,093 private schools and fewer than 15,904 libraries that may be affected by the decisions and rules adopted in the Universal Service Order. We believe that these same small entities may be affected potentially by the rules adopted in this Order.

22. In addition, the Commission noted in the *Universal Service Order* that neither the Commission nor the SBA has developed a definition of small, rural health care providers. Section 254(h)(5)(B) defines the term ''health care provider'' and sets forth the seven categories of health care providers eligible to receive universal service support. We estimated that there are fewer than 12,296 health care providers potentially affected by the rules in the *Universal Service Order.* We note that these small entities may potentially be affected by the rules adopted in this Order.

D. Summary Analysis of the Projected Reporting, Recordkeeping, and Other Compliance Requirements

23. In the FRFA to the *Universal Service Order,* we described the projected reporting, recordkeeping, and other compliance requirements associated with the Schools and Libraries section, the Rural Health Care Provider section, and the Administration section of the *Universal Service Order.* We provide the following analysis of the new requirements adopted in this present Order.

24. Under the rule changes adopted herein, those schools, libraries, and rural health care providers that filed applications within the 75-day initial filing window, are exempt through June 30, 1999 from our competitive bidding rules for voluntary extensions or renewals of their existing contracts for telecommunications and Internet access services. This revised rule is in the public interest because it provides consistent treatment to all applicants that filed during the 75-day initial filing window, regardless of when their existing contracts were set to expire. Further, as noted, this revised rule also eliminates the administrative burden for schools, libraries, and rural health care providers, of bidding for only a six month period. This change will not have a significant impact on the reporting, recordkeeping, and other compliance requirements for the schools, libraries, and rural health care support mechanisms, and may reduce paperwork for some schools, libraries, rural health care providers, and other entities.

25. In addition, we adopt rule changes to allow schools and libraries for which the Administrator approved discounts on eligible nonrecurring services to receive such services through September 30, 1999. We also allow a limited extension of our exemption from the competitive bidding rules for voluntary extensions on existing contracts with respect to nonrecurring services. Contracts exempt from competitive bidding that will expire by June 30, 1999 may be voluntarily extended with respect to nonrecurring services for which discounts have been approved by the Administrator for the funding year 1998–1999 until September 30, 1999. These rule changes will allow schools and libraries additional time in which to receive discounted, nonrecurring services. These changes also will not have a significant impact on the reporting, recordkeeping, and other compliance requirements for the schools and libraries, and may reduce paperwork for some schools and libraries, and other entities.

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

26. In the FRFA to the *Universal Service Order,* the Commission described the steps taken to minimize the significant economic impact on a substantial number of small entities consistent with stated objectives associated with the Schools and Libraries section, the Rural Health Care Provider section, and the Administration section of the *Universal Service Order.* As described above, our current action to amend our rules regarding exemptions from competitive bidding will benefit schools, libraries, and rural health care providers, by eliminating the administrative burden of bidding for services for only a six-month period through June 30, 1999. In addition, our decision to amend our rules to allow schools and libraries for which the Administrator approved discounts on eligible nonrecurring services to receive such services through September 30, 1999 will benefit schools and libraries because it will provide them additional time in which to receive such services. Moreover, our decision to allow a limited extension of our exemption from the competitive bidding rules for voluntary extensions on existing contracts with respect to nonrecurring services will also provide additional time in which to receive such services without the potential administrative burden of bidding for such services. We believe that these amended rules fulfill the statutory mandate to enhance access to telecommunications services for schools, libraries, and rural health care providers, and fulfill the statutory principle of providing quality services at ''just, reasonable, and affordable rates,'' without imposing unnecessary burdens on schools, libraries, rural health care providers, or service providers, including small entities.

*V. Ordering Clauses*

27. Accordingly, it is ordered that, pursuant to the authority contained in sections 1–4, 201–205, 254, 303(r), 403, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–205, 254, 303(r), 403, and 405, and 47 CFR 1.108 of the Commission's rules, the Tenth Order on Reconsideration in CC Docket No. 96–45 is adopted.

28. It is further ordered that, pursuant to the authority contained in sections 1–4, 201–205, 254, 303(r), 403, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–205,

254, 303(r), 403, and 405, and 47 CFR 1.108 of the Commission's rules, part 54 of the Commission's rules, 47 CFR part 54, are amended, as set forth.

29. It is further ordered that, because the rule changes set forth below grant an exemption and relieve a restriction, the rule changes are effective immediately upon publication in the **Federal Register**.

30. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Tenth Order on Reconsideration, including the Supplemental Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

### List of Subjects in 47 CFR Part 54

Healthcare providers, Libraries, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

### Rule Changes

Part 54 of Title 47 of the Code of Federal Regulations is amended to read as follows:

## PART 54—UNIVERSAL SERVICE

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

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

2. Revise § 54.507(b) to read as follows

**§ 54.507 Cap.**

* * * * * *

(b) A funding year for purposes of the schools and libraries cap shall be the period July 1 through June 30. For the initiation of the mechanism only, the eighteen month period from January 1, 1998 to June 30, 1999 shall be considered a funding year. For the 1998–99 funding year:

(1) Schools and libraries filing applications within the initial 75-day filing window, and receiving approval for discounts on recurring services, shall receive funding for requested recurring services through June 30, 1999; and

(2) Schools and libraries filing applications within the initial 75-day filing window, and receiving approval for discounts on eligible nonrecurring services, may receive those nonrecurring services subject to the approved discount amounts through September 30, 1999.

* * * * * *

3. Revise § 54.511(d) to read as follows

**§ 54.511 Ordering services.**

* * * * * *

(d)(1) The exemption from the competitive bid requirements set forth in paragraph (c) of this section shall not apply to voluntary extensions or renewals of existing contracts, with the exception that an eligible school or library as defined under § 54.501 or consortium that includes an eligible school or library, that filed an application within the 75-day initial filing window for 1998 (January 30, 1998–April 15, 1998), may voluntarily extend or renew, to a date no later than June 30, 1999, an existing contract that otherwise would terminate between April 15, 1998 and June 30, 1999.

(2) For the 1998–1999 funding year, a contract exempt from the competitive bid requirement, as described in paragraph (c) of this section, may be voluntarily extended to September 30, 1999 only to the extent necessary to permit delivery of the nonrecurring services subject to that contract and for which discounts have been approved.

4. Revise § 54.604(d) to read as follows

**§ 54.604 Existing contracts.**

* * * * * *

(d) The exemption from competitive bid requirements set forth in paragraph (a) of this section shall not apply to voluntary extensions or renewals of existing contracts, except to the extent that an eligible rural health care provider as defined in § 54.601 or consortium that includes an eligible health care provider, and that filed an application within the 75-day initial filing window for 1998 (May 1, 1998—July 14, 1998), may voluntarily extend or renew, to a date no later than June 30, 1999, an existing contract that otherwise would terminate between July 14, 1998 and June 30, 1999.

[FR Doc. 99–10702 Filed 4–27–99; 8:45 am]

BILLING CODE 6712–01–P

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 660

**[Docket No. 981204297–9091–02; I.D. 110698B]**

**RIN 0648–AK21**

## Fisheries Off West Coast States and in the Western Pacific; Western Pacific Bottomfish Fishery; Amendment 5

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues a final rule to implement Amendment 5 to the Fishery Management Plan for Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region (FMP). This rule implements a permanent limited access program for the Mau Zone bottomfish fishery in the Northwestern Hawaiian Islands (NWHI). The intent of this action is to conserve and support the long-term productivity of the bottomfish stocks by preventing the potential for excessive harvest capacity and to improve the low economic returns in the fishery.

**DATES:** Effective May 28, 1999.

**ADDRESSES:** Copies of Amendment 5 may be obtained from Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813. Comments on the modifications to approved collection-of-information requirements should be sent to the Pacific Island Area Office (PIAO), NMFS, 2570 Dole Street, Honolulu, HI 96813 and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 20503 (ATTN: NOAA Desk Officer).

**FOR FURTHER INFORMATION CONTACT:** Alvin Katekaru, Fishery Management Specialist, PIAO, NMFS, at 808–973–2985 or Kitty Simonds at 808–522–8220.

**SUPPLEMENTARY INFORMATION:** NMFS is issuing this rule to implement FMP Amendment 5, as recommended by the Western Pacific Fishery Management Council (Council) under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). This rule implements a limited access program for the Mau Zone bottomfish fishery in the NWHI. The Mau Zone is located north of Kauai between 161°20′ W. and 165°00′ W. longitude in the U.S.

exclusive economic zone around the Hawaiian Islands. The amendment is intended to prevent biological overfishing and improve poor economic returns that are plaguing the open access bottomfish fishery in the Mau Zone. The history of the Mau Zone bottomfish fishery, including the establishment of a control date and a 2-year moratorium on issuance of new Mau Zone open access permits, is summarized in the preamble to the proposed rule (64 FR 823, January 6, 1999) and is not repeated here.

This rule: (1) restricts participation in the Mau Zone bottomfish fishery to vessel owners who hold limited access permits; (2) adopts 10 as the long-term target number of vessels that would be allowed to fish for bottomfish in the Mau Zone; (3) establishes qualifying criteria for allocating initial Mau Zone limited access permits based on historic participation in the fishery (December 17, 1991, control date) and landing of bottomfish from the Mau Zone up to December 31, 1996; (4) prohibits the transfer, lease, charter, or sale of permits to reduce the number of vessels in the fishery to achieve the target number; (5) provides that Mau Zone limited access permits issued to partnerships or corporations will expire (and must surrendered to NMFS) upon a change in more than 50 percent ownership in the vessel, partnership or corporation; (6) limits the amount of time a permit holder may register a limited access permit for use with a leased or chartered vessel; (7) limits the length of replacement vessels to no longer than 60 ft (18.3 m); (8) requires permit holders to make a minimum of five landings of at least 500 lb (227 kg) each of bottomfish management unit species each year from the Mau Zone to qualify for permit renewal; (9) states that the Council will undertake a 5-year comprehensive review of the limited access program to determine its effectiveness in meeting the objectives of the FMP; (10) requires the Council to develop criteria to allow new entry into the Mau Zone when the number of permitted vessels falls below 10; and (11) reserves 20 percent of the long-term target number of limited access permits, i.e., two permits, for a Western Pacific Community Development Program. The rule establishes a fee for processing Mau Zone permits, specifies an appeals process for permit actions, and prohibits the retention of incidentally caught bottomfish in the Mau Zone without a limited access permit are described in Amendment 5. Also, certain provisions governing the Ho'omalu Zone bottomfish limited access program are revised for housekeeping purposes only, such as moving the description of ''qualifying landing'' for initial Ho'omalu Zone permit eligibility points and permit renewal from the *Definitions* section (§ 660.12) of subpart B (Western Pacific Fisheries - General) to subpart E (Bottomfish and Seamount Groundfish Fisheries). Section 660.67(d)(3) of the current bottomfish regulations that refer to 1985 and 1986 ''control dates'' for limiting access to the fisheries off the NWHI, Guam, and American Samoa is removed since it is unlikely that the Council and NMFS will use such old control dates.

## Comments and Response

NMFS received three comments from the public during the comment period on the proposed rule which ended February 22, 1999.

*Comment*: Three commenters expressed their support for setting aside two permits for a Western Pacific Community Development Program.

*Response*: NMFS agrees.

## Changes to the Proposed Rule

Except for insertion of specific dates in § 660.61(a)(3) and (b)(3), no changes were made to the proposed rule. The regulatory text of this final rule is the same as the regulatory text of the proposed rule.

## Classification

The Administrator, Southwest Region, NMFS, determined that FMP Amendment 5 is necessary for the conservation and management of the bottomfish and seamount groundfish fisheries of the Western Pacific region and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

This final rule has been determined to be not significant for the purposes of E.O. 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule, if adopted as proposed, would not have a significant economic impact on a substantial number of small entities. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not prepared.

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number. The collection of this information has been approved by OMB, under OMB control number 0648–0204 for Federal fishing permits.

The public reporting burden for these requirements is estimated to be 45 minutes for a Mau Zone limited access permit application, 2 hours for a permit appeal submission, and 1 hour for permit renewal exemption request per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This rule also restates an information collection requirement already approved by OMB under control number 0648–0204. An application for a Ho'omalu Zone limited access permit is estimated to take 2 hours for an initial application and 1 hour for an application for renewal. Send comments regarding these burden estimates or any other aspect of the data requirements, including suggestions for reducing the burden to NMFS (see ADDRESSES) and to the Office of Information and Regulatory Affairs, OMB, Washington, D.C. 20503 (ATTN: NOAA Desk Officer).

## List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: April 22, 1999.

**Penelope D. Dalton,**

*Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

## PART 660 - FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

1. The authority citation for part 660 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

2. Section 660.12 is amended by removing the definitions of ''Pacific Area Office,'' and ''Qualifying landing'', revising the definition of ''Owner'' and adding a definition of ''Pacific Islands Area Office'' to read as follows:

### § 660.12 Definitions.

* * * * *

*Owner*, as used in subparts C and D of this part and § 660.61(i)through (m),

means a person who is identified as the current owner of the vessel as described in the Certificate of Documentation (Form CG–1270) issued by the USCG for a documented vessel, or in a registration certificate issued by a state, a territory, or the USCG for an undocumented vessel. As used in subpart F of this part and § 660.61(c) through (h), the definition of ''owner'' in § 600.10 of this chapter continues to apply.

*Pacific Islands Area Office* means the Pacific Islands Area Office, (PIAO) Southwest Region, NMFS, located in Honolulu, Hawaii. The address and phone number may be obtained from the Regional Administrator, whose address is in Table 1 to § 600.502 of this chapter.

* * * * *

3. Section 660.13 is amended by revising paragraphs (f), (g), and (i) to read as follows:

**§ 660.13 Permits and fees.**

* * * * *

(f) *Fees*. (1) PIAO will not charge a fee for a permit issued under subpart D or F of this part, or for a Ho'omalu Zone limited access permit issued under § 660.61.

(2) PIAO will charge a fee for each application for a Hawaii longline limited access permit (including permit transfers and permit renewals) and Mau Zone limited access permit (including permit renewals). The amount of the fee is calculated in accordance with the procedures of the NOAA Finance Handbook, available from the Regional Administrator, for determining the administrative costs of each special product or service. The fee may not exceed such costs and is specified with each application form. The appropriate fee must accompany each application. Failure to pay the fee will preclude issuance of a Hawaii longline or Mau Zone limited access permit.

(g) *Expiration*. (1) Permits issued under subparts C, D, and F of this part are valid for the period specified on the permit unless transferred, revoked, suspended, or modified under 15 CFR part 904.

(2) Permits issued under subpart E of this part expire at 2400 local time on December 31.

* * * * *

(i) *Transfer*. An application for a permit transfer under §§ 660.21(h), 660.41(e), or 660.61(e), or for registration of a permit for use with a replacement vessel under § 660.61(k), must be submitted to the PIAO as described in paragraph (c) of this section.

* * * * *

4. Section 660.61 is revised to read as follows:

**§ 660.61 Permits.**

(a) *Applicability*. (1) The owner of any vessel used to fish for bottomfish management unit species in the Northwestern Hawaiian Islands Subarea must have a permit issued under this section and the permit must be registered for use with the vessel.

(2) The PIAO will not register a single vessel for use with a Ho'omalu Zone permit and a Mau Zone permit at the same time.

(3) Mau Zone permits issued before June 14, 1999 become invalid June 14, 1999, except that a permit issued to a person who submitted a timely application under paragraph (i) of this section is valid until the permit holder either receives a Mau Zone limited entry permit or until final agency action is taken on the permit holder's application. The Ho'omalu Zone and the Mau Zone limited entry systems described in this section are subject to abolition, modification, or additional effort limitation programs.

(b) *Submission*. (1) An application for a permit required under this section must be submitted to the PIAO as described in § 660.13. (2) *Ho'omalu Zone limited access permit*. In addition to an application under § 660.13(c), each applicant for a Ho'omalu Zone permit must also submit a supplementary information sheet provided by the PIAO, which must be signed by the vessel owner or a designee and include the following information:

(i) The qualification criterion that the applicant believes he or she meets for issuance of a limited access permit;

(ii) A copy of landings receipts or other documentation, with a certification from a state or Federal agency that this information is accurate, to demonstrate participation in the NWHI bottomfish fishery; and

(iii) If the application is filed by a partnership or corporation, the names of each of the individual partners or shareholders and their respective percentages of ownership of the partnership or corporation.

(3) *Mau Zone limited access permit*. The PIAO will not accept applications for a new Mau Zone permit after June 14, 1999. In addition to an application under § 660.13(c), each applicant for a Mau Zone permit must also submit a supplementary information sheet provided by the PIAO, which must be signed by the vessel owner or a designee and include the following information:

(i) The qualification criterion that the applicant believes he or she meets for issuance of a limited access permit;

(ii) Copy of State of Hawaii catch report(s) to demonstrate that the permitted vessel had made qualifying landings of bottomfish from the Mau Zone; and

(iii) If the application is filed by a partnership or corporation, the names of each of the individual partners or shareholders and their respective percentage of ownership of the partnership or corporation.

(c) *Sale or transfer of Ho'omalu limited access permits to new vessel owners*. (1) A Ho'omalu zone permit may not be sold or otherwise transferred to a new owner.

(2) A Ho'omalu zone permit or permits may be held by a partnership or corporation. If 50 percent or more of the ownership of the vessel passes to persons other than those listed in the original application, the permit will lapse and must be surrendered to the Regional Administrator.

(d) *Transfer of Ho'omalu Zone limited access permits to replacement vessels*. (1) Upon application by the owner of a permitted vessel, the Regional Administrator will transfer that owner's permit to a replacement vessel owned by that owner, provided that the replacement vessel does not exceed 60 ft (18.3 m) in length. The replacement vessel must be put into service no later than 12 months after the owner applies for the transfer, or the transfer shall be void.

(2) An owner of a permitted vessel may apply to the Regional Administrator for transfer of that owner's permit to a replacement vessel greater than 60 ft (18.3 m) in length. The Regional Administrator may transfer the permit upon determining, after consultation with the Council and considering the objectives of the limited access program, that the replacement vessel has catching power that is comparable to the rest of the vessels holding permits for the fishery, or has catching power that does not exceed that of the original vessel, and that the transfer is not inconsistent with the objectives of the program. The Regional Administrator shall consider vessel length, range, hold capacity, gear limitations, and other appropriate factors in making determinations of catching power equivalency and comparability of the catching power of vessels in the fishery.

(e) *Ho'omalu Zone limited access permit renewal*. (1) A qualifying landing for Ho'omalu Zone permit renewal is a landing of at least 2,500 lb (1,134 kg) of bottomfish management unit species from the Ho'omalu Zone or a landing of at least 2,500 lb (1,134 kg) of fish from the Ho'omalu Zone, of which at least 50

percent by weight was bottomfish management unit species. A permit is eligible for renewal for the next calendar year if the vessel covered by the permit made three or more qualifying landings during the current calendar year.

(2) The owner of a permitted vessel that did not make three or more qualifying landings of bottomfish in a year may apply to the Regional Administrator for waiver of the landing requirement. If the Regional Administrator finds that failure to make three landings was due to circumstances beyond the owner's control, the Regional Administrator may renew the permit. A waiver may not be granted if the failure to make three landings was due to general economic conditions or market conditions, such that the vessel operations would not be profitable.

(f) *Issuance of new Ho'omalu Zone limited access permits*. The Regional Administrator may issue new Ho'omalu Zone limited access permits under § 660.13 if the Regional Administrator determines, in consultation with the Council, that bottomfish stocks in the Ho'omalu Zone are able to support additional fishing effort.

(g) *Eligibility for new Ho'omalu Zone limited access permits*. When the Regional Administrator has determined that new permits may be issued, they shall be issued to applicants based upon eligibility, determined as follows:

(1) *Point system*. (i) Two points will be assigned for each year in which the applicant was owner or captain of a vessel that made three or more of any of the following types of landings in the NWHI:

(A) Any amount of bottomfish management unit species, regardless of weight, if made on or before August 7, 1985;

(B) At least 2,500 lb (1,134 kg) of bottomfish management unit species, if made after August 7, 1985; or

(C) At least 2,500 lb (1,134 kg) of any fish lawfully harvested from the NWHI, of which at least 50 percent by weight was bottomfish, if made after August 7, 1985.

(ii) One point will be assigned for each year in which the applicant was owner or captain of a vessel that landed at least 6,000 lb (2,722 kg) of bottomfish from the main Hawaiian Islands.

(iii) For any one year, points will be assigned under either paragraph (g)(1)(i) or (g)(1)(ii) of this section, but not under both paragraphs.

(iv) Before the Regional Administrator issues an Ho'omalu zone permit to fish for bottomfish under this section, the primary operator and relief operator named on the application form must have completed a protected species workshop conducted by NMFS.

(2) *Restrictions*. An applicant must own at least a 25–percent share in the vessel that the permit would cover, and only one permit will be assigned to any vessel.

(3) *Order of issuance*. New permits shall be awarded to applicants in descending order, starting with the applicant with the largest number of points. If two or more persons have an equal number of points, and there are insufficient new permits for all such applicants, the new permits shall be awarded by the Regional Administrator through a lottery.

(4) *Notification*. The Regional Administrator shall place a notice in the *Federal Register* and shall use other means to notify prospective applicants of the opportunity to file applications for new permits under this program.

(h) *Eligibility for new Mau Zone limited access permits* (1) The PIAO will issue an initial Mau Zone permit to a vessel owner who qualifies for at least three points under the following point system:

(i) An owner who held a Mau Zone permit on or before December 17, 1991, and whose permitted vessel made at least one qualifying landing of bottomfish management unit species on or before December 17, 1991, shall be assigned 1.5 points.

(ii) An owner whose permitted vessel made at least one qualifying landing of bottomfish management unit species during 1991, shall be assigned 0.5 point.

(iii) An owner whose permitted vessel made at least one qualifying landing of bottomfish management unit species during 1992, shall be assigned 1.0 point.

(iv) An owner whose permitted vessel made at least one qualifying landing of bottomfish management unit species during 1993, shall be assigned 1.5 points.

(v) An owner whose permitted vessel made at least one qualifying landing of bottomfish management unit species during 1994, shall be assigned 2.0 points.

(vi) An owner whose permitted vessel made at least one qualifying landing of bottomfish management unit species during 1995, shall be assigned 2.5 points.

(vii) An owner whose permitted vessel made at least one qualifying landing of bottomfish management unit species during 1996, shall be assigned 3.0 points.

(viii) Before the PIAO issues a Mau Zone permit to fish for bottomfish under this section, the primary operator and relief operator named on the application form must have completed a protected species workshop conducted by NMFS.

(2) For purposes of this paragraph § 660.61(h), a ''qualifying landing'' means any amount of bottomfish management unit species lawfully harvested from the Mau Zone and offloaded for sale. No points shall be assigned to an owner for any qualifying landings reported to the State of Hawaii more than 1 year after the landing.

(3) More than one Mau Zone permit may be issued to an owner of two or more vessels, provided each of the owner's vessels for which a permit will be registered for use has made the required qualifying landings for the owner to be assigned at least three eligibility points.

(4) A Mau Zone permit holder who does not own a vessel at the time initial permits are issued must register the permit for use with a vessel owned by the permit holder within 12 months from the date the permit was issued. In the interim, the permit holder may register the permit for use with a leased or chartered vessel. If within 12 months of initial permit issuance, the permit holder fails to apply to the PIAO to register the permit for use with a vessel owned by the permit holder, then the permit expires.

(5) For each of paragraphs (h)(1)(i) through (h)(1)(viii) of this section, the PIAO shall assign points based on the landings of one permitted vessel to only one owner if the vessel did not have multiple owners during the time frame covered by the subordinate paragraphs. If a vessel had multiple owners during a time frame covered by any of paragraphs (h)(1)(i) through (h)(1)(viii) of this section (including joint owners, partners, or shareholders of a corporate owner), the PIAO will assign the points for that subordinate paragraph to a single owner if only one owner submits an application with respect to the landings of that vessel during that time frame. If multiple owners submit separate applications with respect to the same landings of the same vessel during the same time frame, then the PIAO shall:

(i) Adhere to any written agreement between the applicants with respect to who among them shall be assigned the aggregate point(s) generated by landings during such time frame(s), or

(ii) If there is no agreement:

(A) Shall issue the applicants a joint permit provided the vessel's landings during such time frames generated at least three points, or

(B) In the event the vessel's landings during such time frame(s) generated less than three points, shall not assign any

points generated by the vessel's landings during such time frame(s).

(i) *Ownership requirements and registration of Mau Zone limited access permits for use with other vessels.* (1) A Mau Zone permit may be held by an individual, partnership, or corporation. No more than 49 percent of the underlying ownership interest in a Mau Zone permit may be sold, leased, chartered, or otherwise transferred to another person or entity. If more than 49 percent of the underlying ownership of the permit passes to persons or entities other than those listed in the original permit application supplemental information sheet, then the permit expires and must be surrendered to the PIAO.

(2) A Mau Zone permit holder may apply under § 660.13 to the PIAO to register the permit for use with another vessel if that vessel is owned by the permit holder, and is no longer than 60 ft (18.3 m).

(3) If a Mau Zone permit holder sells the vessel, for which the permit is registered for use, the permit holder must within 12 months of the date of sale apply to the PIAO to register the permit for use with a vessel owned by the permit holder. If the permit holder has not applied to register a replacement vessel within 12 months, then the permit expires.

(4) If a permitted vessel owned by the permit holder is sold or becomes unseaworthy, the Mau Zone permit with which the vessel was registered may be registered for use with a leased or chartered vessel for a period not to exceed 12 months from the date of registration of the leased or chartered vessel. If by the end of that 12-month period the permit holder fails to apply to the PIAO to register the permit for use with a vessel owned by the permit holder, then the permit expires.

(j) *Mau Zone limited access permit renewal.* (1) A Mau Zone permit will be eligible for renewal if the vessel for which the permit is registered for use made at least five separate fishing trips with landings of at least 500 lb (227 kg) of bottomfish management unit species per trip during the calender year. Only one landing of bottomfish management unit species per fishing trip to the Mau Zone will be counted toward the landing requirement.

(2) If the vessel for which the permit is registered for use fails to meet the landing requirement of paragraph (j)(1) of this section, the owner may apply to the Regional Administrator for a waiver of the landing requirement. Grounds for a waiver are limited to captain incapacitation, vessel breakdowns, and the loss of the vessel at sea if the event prevented the vessel from meeting the landing requirement. Unprofitability is not sufficient for waiver of the landing requirement.

(3) Failure of the permit holder to register a vessel for use under the permit does not exempt a permit holder from the requirements specified in this paragraph.

(k) *Appeals of permit actions.* (1) Except as provided in subpart D of 15 CFR part 904, any applicant for a permit or a permit holder may appeal the granting, denial, or revocation of his or her permit to the Regional Administrator.

(2) In order to be considered by the Regional Administrator, such appeal must be in writing, must state the action appealed, and the reasons therefore, and must be submitted within 30 days of the appealed action. The appellant may request an informal hearing on the appeal.

(3) The Regional Administrator, in consultation with the Council, will decide the appeal in accordance with the FMP and implementing regulations and based upon information relative to the application on file at NMFS and the Council, the summary record kept of any hearing, the hearing officer's recommended decision, if any, and any other relevant information.

(4) If a hearing is requested, or if the Regional Administrator determines that one is appropriate, the Regional Administrator may grant an informal hearing before a hearing officer designated for that purpose. The applicant or permit holder may appear personally or be represented by counsel at the hearing and submit information and present arguments as determined appropriate by the hearing officer. Within 30 days of the last day of the hearing, the hearing officer shall recommend in writing a decision to the Regional Administrator.

(5) The Regional Administrator may adopt the hearing officer's recommended decision, in whole or in part, or may reject or modify it. The Regional Administrator's decision on the application is the final administrative decision of the Department of Commerce, and is effective on the date the Administrator signs the decision.

5. Section 660.62 is amended by revising paragraph (b), removing paragraph (c), and redesignating paragraphs (d) through (f) as paragraphs (c) through (e), respectively, to read as follows:

**§ 660.62 Prohibitions.**

* * * * *

(b) Fish for, or retain on board a vessel, bottomfish management unit species in the Ho'omalu Zone or Mau Zone without the appropriate permit, registered for use with that vessel, issued under § 660.13.

* * * * *

6. Section 660.67 is amended by removing paragraph (d)(3) and adding new paragraph (e) to read as follows:

**§ 660.67 Framework for regulatory adjustments.**

* * * * *

(e) *Five-year review*. The Council will conduct a comprehensive review on the effectiveness of the Mau Zone limited access program 5 years following implementation of the program. The Council will consider the extent to which the FMP objectives have been met and verify that the target number of vessels established for the fishery is appropriate for current fishing activity levels, catch rates, and biological condition of the stocks. The Council may establish a new target number based on the 5-year review.

[FR Doc. 99–10635 Filed 4–27–99; 8:45 am]

BILLING CODE 3510–22–F

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 679

**[Docket No. 990304062–9062–01; I.D. 042399B]**

## Fisheries of the Economic Exclusive Zone Off Alaska; Groundfish Fisheries by Vessels using Hook-and-Line Gear in the Gulf of Alaska

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

**ACTION:** Closure.

**SUMMARY:** NMFS is prohibiting directed fishing for groundfish by vessels using hook-and-line gear in the Gulf of Alaska (GOA), except for sablefish or demersal shelf rockfish. This action is necessary because the first seasonal bycatch mortality allowance of Pacific halibut apportioned to hook-and-line gear targeting groundfish, other than sablefish or demersal shelf rockfish, in the GOA has been caught.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), April 24, 1999, until 1200 hrs, A.l.t., May 18, 1999.

**FOR FURTHER INFORMATION CONTACT:** Mary Furuness, 907–586–7228

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Final 1999 Harvest Specifications of Groundfish for the GOA (64 FR 12094, March 11, 1999) established the Pacific halibut bycatch mortality allowance for groundfish included in the other hook-and-line fishery, which is defined at § 679.21(d)(4)(iii)(C), for the first season, the period January 1, 1999, through May 17, 1999, as 250 metric tons. The other hook-and-line fishery includes all groundfish, except sablefish and demersal shelf rockfish.

In accordance with § 679.21(d)(7)(ii), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the first seasonal apportionment of the 1999 Pacific halibut bycatch mortality allowance specified for the hook-and-line groundfish fisheries, other than sablefish or demersal shelf rockfish, in the GOA has been caught. Consequently, NMFS is prohibiting directed fishing for groundfish, other than sablefish or demersal shelf rockfish, by vessels using hook-and-line gear in the GOA.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

## Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to prevent overharvesting the first seasonal apportionment of the 1999 Pacific halibut bycatch mortality allowance specified for the groundfish fisheries, other than sablefish or demersal shelf rockfish, by vessels using hook-and-line gear in the GOA. A delay in the effective date is impracticable and contrary to the public interest. The first seasonal bycatch mortality allowance of Pacific halibut apportioned to hook-and-line gear targeting groundfish, other than sablefish or demersal shelf rockfish, in the GOA has been caught. Further delay would only result in overharvest which would disrupt the FMP's objective of apportioning Pacific halibut bycatch allowances throughout the year. NMFS finds for good cause that the implementation of this action can not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.21 and is exempt from review under E.O. 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: April 23, 1999.

**Richard W. Surdi,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 99–10633 Filed 4–23–99; 1:56 pm]

BILLING CODE 3510–22–F

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 679

**[Docket No. 990304062–9062–01; I.D. 042399A]**

## Fisheries of the Exclusive Economic Zone Off Alaska; Deep-water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

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

**ACTION:** Closure.

**SUMMARY:** NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary because the second seasonal apportionment of the 1999 Pacific halibut bycatch allowance specified to the deep-water species fishery in the GOA has been caught.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), April 25, 1999, until 1200 hrs, A.l.t., July 4, 1999.

**FOR FURTHER INFORMATION CONTACT:** Tom Pearson, 907–481–1780 or tom.pearson@noaa.gov.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Final 1999 Harvest Specifications of Groundfish for the GOA (64 FR 12094, March 11, 1999) established the Pacific halibut bycatch allowance for the GOA trawl deep-water species fishery, which is defined at § 679.21(d)(3)(iii)(B), for the second season, the period April 1, 1999, through July 3, 1999, as 300 metric tons.

In accordance with § 679.21(d)(7)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the second seasonal apportionment of the 1999 Pacific halibut bycatch allowance specified for the trawl deep-water species fishery in the GOA has been caught. Consequently, NMFS is prohibiting directed fishing for the deep-water species fishery by vessels using trawl gear in the GOA. The species and species groups that comprise the deep-water species fishery are: All rockfish of the genera *Sebastes* and *Sebastolobus*, deep-water flatfish, rex sole, arrowtooth flounder, and sablefish.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

## Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to prevent overharvesting the second seasonal apportionment of the 1999 Pacific halibut bycatch allowance specified for the trawl deep-water species fishery in the GOA. A delay in the effective date is impracticable and contrary to the public interest. The second seasonal apportionment of the Pacific halibut bycatch allowance has been caught. Further delay would only result in overharvest which would disrupt the FMP's objective of apportioning Pacific halibut mortality allowances throughout the year. NMFS finds for good cause that the implementation of this action can not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.21 and is exempt from review under E.O. 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: April 23, 1999.

**Richard W. Surdi,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 99–10632 Filed 4–23–99; 1:56 pm]

BILLING CODE 3510–22–F

# Proposed Rules

Federal Register
Vol. 64, No. 81
Wednesday, April 28, 1999

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

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 99–NM–17–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Model A310 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A310 series airplanes. This proposal would require repetitive inspections to detect cracked or broken support brackets of the upper wing-to-fuselage fairings, and replacement of any discrepant support brackets with new brackets. This proposal also would require replacement of the fairing seals with new, improved seals; modification of the fairing panels; and installation of new bulkheads; which would constitute terminating action for the repetitive inspections. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent reduced structural integrity of the fairing support brackets, which could result in loss of the wing-to-fuselage fairings during flight, and consequent structural damage to the airplane.

**DATES:** Comments must be received by May 28, 1999.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–17–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; 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 notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, 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 notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–17–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. 99–NM–17–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

### Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A310 series airplanes.

The DGAC advises that it has received several reports of loss of the upper wing-to-fuselage fairings during flight. The loss of these fairings is attributed to cracked or broken support brackets that attach the three wing-to-fuselage fairings located between fuselage frame (FR) 40 and FR54.2. Investigation revealed that the cracking of the support brackets occurred because of bending of the forward and aft panels caused by a lack of stiffness along the lower edge of the panels, due to a step in the center fairing panel at FR47.

To prevent such discrepancies, a new center fairing panel with no step, together with new support brackets (in a location closer to the upper edge of the panel), was installed on certain other Airbus Model A310 series airplanes. Subsequently, additional reports were received of cracked or broken support brackets, again resulting in loss of the wing-to-fuselage fairings during flight. Further investigation revealed the ultimate cause of the loss of the fairings to be vibration induced by ram air penetrating between the fairing and the fuselage, which caused the aft fairing support brackets to break. Such conditions, if not detected and corrected, could result in loss of the wing-to-fuselage fairings during flight, and consequent structural damage to the airplane.

### Explanation of Relevant Service Information

The manufacturer has issued Airbus Service Bulletin A310–53–2078, Revision 1, dated March 24, 1997, which describes procedures for repetitive inspections to detect cracked or broken support brackets of the upper wing-to-fuselage fairing, and replacement of any discrepant support brackets with new brackets.

The manufacturer also has issued Airbus Service Bulletin A310–53–2083, Revision 02, dated May 5, 1998, which describes procedures for replacement of the fairing seals with new, improved seals; modification of the fairing panels;

and installation of new bulkheads; which eliminates the need for the repetitive inspections.

Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition. The DGAC classified Airbus Service Bulletin A310–53–2078, Revision 1, as mandatory; and Airbus Service Bulletin A310–53–2083, Revision 02, as recommended; and issued French airworthiness directives 97–175–228(B) R1 and 98–450–261(B), both dated November 18, 1998, in order to assure the continued airworthiness of these airplanes in France.

## FAA's Conclusions

This airplane model is manufactured in France 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 DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

## Explanation of Requirements of 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 bulletins described previously, except as discussed below.

## Differences Between Proposed Rule and Service Bulletins

Operators should note that, unlike the procedures described in Airbus Service Bulletin A310–53–2078, Revision 1, this proposed AD would not permit further flight if cracks are detected in the support brackets of the wing-to-fuselage fairing. The FAA has determined that, because of the safety implications and consequences associated with such cracking, any subject support bracket of the wing-to-fuselage fairing that is found to be cracked must be replaced prior to further flight.

## Cost Impact

The FAA estimates that 47 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 2 work hours per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $5,640, or $120 per airplane, per inspection cycle.

It would take approximately 6 work hours per airplane to accomplish the proposed replacement, modification, and installation, at an average labor rate of $60 per work hour. Required parts would cost approximately $1,690 per airplane. Based on these figures, the cost impact of the replacement, modification and installation proposed by this AD on U.S. operators is estimated to be $96,350, or $2,050 per airplane.

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

## Regulatory Impact

The regulations proposed herein 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. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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:

**Airbus Industrie:** Docket 99–NM–17–AD.

*Applicability:* Model A310–200 series airplanes, on which Airbus Modification 4800 or 4906 has been accomplished; and Model A310–300 series airplanes on which Airbus Modification 11758 has not been accomplished; certificated in any category.

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

*Compliance:* Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the support brackets of the upper wing-to-fuselage fairing, which could result in loss of the wing-to-fuselage fairings during flight, and consequent structural damage to the airplane, accomplish the following:

**Initial/Repetitive Inspections**

(a) Prior to the accumulation of 5,000 total flight hours or within 1,200 flight hours after the effective date of this AD, whichever occurs later: Perform a detailed visual inspection to detect cracked or broken support brackets of the upper wing-to-fuselage fairings, in accordance with Airbus Service Bulletin A310–53–2078, Revision 1, dated March 24, 1997. Repeat the detailed visual inspection thereafter at intervals not to exceed 2,500 flight hours.

**Corrective Action**

(b) If any discrepancy is detected during any inspection required by paragraph (a) of this AD, prior to further flight, replace the discrepant support bracket with a new bracket in accordance with Airbus Service Bulletin A310–53–2078, Revision 1, dated March 24, 1997. Repeat the inspection required by paragraph (a) of this AD thereafter at intervals not to exceed 2,500 flight hours.

**Terminating Action**

(c) Within 2 years after the effective date of this AD, accomplish the requirements of paragraphs (c)(1) and (c)(2) of this AD.

(1) Perform the initial inspection required by paragraph (a) of this AD in accordance

with Airbus Service Bulletin A310–53–2078, Revision 1, dated March 24, 1997.

(2) Replace the fairing seals with new, improved seals; modify the fairing panels; and install new bulkheads; in accordance with Airbus Service Bulletin A310–53–2083, Revision 02, dated May 5, 1998. Accomplishment of these actions constitutes terminating action for the repetitive inspection requirements of this AD.

**Alternative Methods of Compliance**

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

**Special Flight Permits**

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

**Note 3:** The subject of this AD is addressed in French airworthiness directives 97–175–228(B) R1 and 98–450–261(B), both dated November 18, 1998.

Issued in Renton, Washington, on April 21, 1999.

**Darrell M. Pederson,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 99–10604 Filed 4–27–99; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 98–SW–42–AD]**

## Airworthiness Directives; McDonnell Douglas Helicopter Systems Model MD–900 Helicopters

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes to supersede an existing airworthiness directive (AD), applicable to McDonnell Douglas Helicopter Systems (MDHS) Model MD–900 helicopters, that currently requires applying specified serial numbers and establishing life limits for certain parts. This proposal is prompted by additional analysis that supports an increase in the life limits of certain parts. The actions specified by this AD are intended to increase the life limits for various parts.

**DATES:** Comments must be received on or before June 28, 1999.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–42–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Greg DiLibero, Aerospace Engineer, Aircraft Certification Office, Airframe Branch, FAA, 3960 Paramount Blvd., Lakewood, CA 90712, telephone 562–627–5231, fax number 562–627–5210.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, 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 notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–SW–42–AD.'' The postcard will be date stamped and returned to the commenter.

### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–42–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

### Discussion

On June 17, 1997, the FAA issued AD 97–13–09, Amendment 39–10056 (62 FR 34163), applicable to MDHS Model MD–900 helicopters. The AD required applying a specified serial number (S/N) to the following parts: For helicopters with S/N 0002 through 0012, to the mid-forward truss assembly, Part Number (P/N) 900F2401200–102, and to the forward and aft deck fitting assemblies, P/N 900F2401500–103 and 900F2401600–103; for helicopters with S/N 0002 through 0048, to the vertical stabilizer control system (VSCS) bellcrank assemblies, P/N 900F2341712–101, 900FP341712–103, and to the mid-aft truss strut assembly, P/N 900F2401300–103. The AD required reducing the life limits for the nonrotating swashplate assembly, P/N 900C2010192–105, –107, –109, and –111, to 554 hours time-in-service (TIS); the collective drive link assembly, P/N 900C2010207–101, to 1,480 hours TIS; and the self-aligning, spherical/slider main rotor bearing P/N 900C3010042–103, to 480 hours TIS. The AD required establishing life limits for the VSCS bellcrank assembly, P/N 900FP341712–103, and the bellcrank arm, P/N 900F2341713–101 (used in the VSCS bellcrank assembly, P/N 900F2341712–101), of 2,700 hours TIS. That action was prompted by the need to establish life limits for various parts and to reduce the life limits on other parts to prevent fatigue failure of those parts and subsequent loss of control of the helicopter.

Since the issuance of that AD, additional analysis supports an increase in the life limits for certain parts. The action in that AD of applying S/N's to certain parts and establishing a life limit for the VSCS bellcrank assembly, P/N 900FP341712–103, of 2,700 hours TIS remains the same except that the correct P/N for the bellcrank arm is P/N 900F2341712–101. This document proposes increasing the life limits for the nonrotating swashplate, P/N 900C2010192–105, –107, –109, and –111, to 1,800 hours TIS; the collective drive link assembly, P/N 900C2010207–101, to 3,307 hours TIS; and the self-aligning, spherical/slider main rotor bearing, P/N 900C3010042–103, to 2,030 hours TIS. The new life limits are based on modified fatigue spectrums, fatigue tests, and flight strain data. The actions specified in this proposal would increase the life limits for various parts.

Since an unsafe condition has been identified that is likely to exist or

develop on other MDHS Model MD–900 helicopters of the same type design, the proposed AD would supersede AD 97–13–09 to increase the life limits for certain parts and correct the P/N for the bellcrank, and, as in AD 97–13–09, require applying S/N's to certain parts and establishing a life limit for the VSCS bellcrank assembly,

The FAA estimates that 27 helicopters would be affected by this proposed AD, that it would take approximately 2.5 work hours per helicopter to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $4,050.

The regulations proposed herein 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. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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 removing Amendment 39–10056 (62 FR 34163, June 25, 1997), and by adding a new airworthiness directive (AD) to read as follows:

**McDonnell Douglas Helicopter Systems:** Docket No. 98–SW–42–AD. Supersedes AD 97–13–09, Amendment 39–10056, Docket No. 96–SW–35–AD.

*Applicability:* McDonnell Douglas Helicopter Systems (MDHS) MD–900 helicopters, certificated in any category.

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

*Compliance:* Required as indicated, unless accomplished previously. To establish appropriate life limits for various parts, accomplish the following:

(a) On or before attaining the following life limits, remove from service:

(1) The nonrotating swashplate assembly, part number (P/N) 900C2010192–105, –107, –109, or –111, on or before 1,800 hours TIS.

(2) The collective drive link assembly, P/N 900C2010207–101, on or before 3,307 hours TIS.

(3) The self-aligning, spherical/slider main rotor bearing, P/N 900C3010042–103, on or before 2,030 hours TIS.

(4) The vertical stabilizer control system (VSCS) bellcrank assembly, P/N 900FP341712–103, and bellcrank arm, P/N 900F2341712–101, on or before 2,700 hours TIS.

(b) On or before 100 hours TIS after July 10, 1997, or before October 31, 1999, whichever occurs first:

(1) For Model MD–900 helicopters with serial numbers (S/N) 900–00002 through 900–00012, apply the appropriate S/N to the mid-forward truss assembly, P/N 900F2401200–102, and the forward and aft deck-fitting assemblies, P/N 900F2401500–103 and 900F2401600–103.

(2) For Model MD–900 helicopters with S/N 900–00002 through 900–00048, apply S/N to the left and right VSCS bellcrank assemblies, P/N 900F2341712–101 and 900FP341712–103, and the mid-aft truss strut assembly, P/N 900F2401300–103.

(3) Apply the S/N as specified in paragraphs (b)(1) and (b)(2) of this AD adjacent to the existing P/N in accordance with the Accomplishment Instructions of MDHS Service Bulletin No. 900–039, Revision 2, dated March 12, 1997.

(c) This AD revises the Airworthiness Limitations Section of the MD–900 Maintenance Manual by increasing the retirement lives for certain parts.

**Note 2:** The Airworthiness Limitations Section of the MD–900 Rotorcraft Maintenance Manual, Reissue 1, Revision 2, dated July 24, 1998, pertains to the subject of this AD.

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

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles Aircraft Certification Office.

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

Issued in Fort Worth, Texas, on April 21, 1999.

**Henry A. Armstrong,**

*Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 99–10619 Filed 4–27–99; 8:45 am]

BILLING CODE 4910–13–U

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## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## 26 CFR Part 49

**[REG–118620–97]**

**RIN 1545–AV63**

## Communications Excise Tax; Prepaid Telephone Cards; Hearing Cancellation

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Cancellation of notice of public hearing on proposed rulemaking.

**SUMMARY:** This document provides notice of cancellation of a public hearing on proposed regulations under section 4251 containing proposed rules for the application of the communications excise tax to prepaid telephone cards (PTCs).

**DATES:** The public hearing originally scheduled for Wednesday, May 5, 1999, at 10 a.m., is cancelled.

**FOR FURTHER INFORMATION CONTACT:** LaNita Van Dyke of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–7190 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** A notice of proposed rulemaking and/or notice of

public hearing that appeared in the **Federal Register** on Thursday, December 17, 1998, (63 FR 69585), announced that a public hearing was scheduled for Wednesday, May 5, 1999, at 10 a.m., in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is proposed regulations under section 4251 of the Internal Revenue Code. The public comment period for these proposed regulations expired on Wednesday, March 17, 1999. The outlines of topics to be addressed at the hearing were due on Wednesday, April 14, 1999.

The notice of proposed rulemaking and/or notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of Wednesday, April 21, 1999, no one has requested to speak. Therefore, the public hearing scheduled for Wednesday, May 5, 1999, is cancelled.

**Cynthia Grigsby,**

*Chief, Regulations Unit, Assistant Chief Counsel (Corporate).*

[FR Doc. 99–10566 Filed 4–27–99; 8:45 am]

BILLING CODE 4830–01–U

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 261

**[FRL–6331–9]**

## Availability of Report to Congress on Fossil Fuel Combustion; Request for Comments and Announcement of Public Hearing

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of availability.

**SUMMARY:** The Environmental Protection Agency (''we'' or EPA) is today making available the Agency's Report to Congress on Fossil Fuel Combustion that is required by section 8002(n) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6982(n). The Report to Congress contains a detailed study of fossil fuel combustion wastes not previously studied (the ''remaining wastes''), including oil, natural gas, and certain coal combustion wastes. Its purpose is to determine whether the remaining fossil fuel combustion wastes should retain their exemption from hazardous waste regulations as provided by section 3001(b)(3)(A)(i) of RCRA and codified at 40 CFR 261.4(b)(4). This exemption is often referred to as the Bevill Exemption. The report presents the Agency's study methods, findings and tentative recommendations regarding the exemption from hazardous waste regulation for the remaining fossil fuel combustion wastes. A brief summary of the tentative recommendations appears in the **SUPPLEMENTARY INFORMATION** section below.

Information submitted in public comments and at a public hearing will be used by EPA in conjunction with the Report to Congress to make a final determination on the regulatory status of these remaining fossil fuel combustion wastes.

**DATES:** EPA will accept public comments on the Report to Congress until June 14, 1999. The Agency will hold a public hearing on the Report to Congress on May 21, 1999.

**ADDRESSES:** Those persons wishing to submit public comments must send an original and two copies of their comments referencing EPA docket number F–1999–FF2P–FFFFF to: RCRA Docket Information Center (5305W), U.S. Environmental Protection Agency Headquarters (EPA,HQ), 401 M Street, SW., Washington, DC, 20460. Hand deliveries of comments should be made to the Arlington, VA address below.

Comments may also be submitted electronically through the Internet to: rcra-docket@epa.gov. Comments in electronic format should also identify the docket number F–1999–FF2P–FFFFF. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Commenters should not submit electronically any confidential business information (CBI). An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 401 M Street, SW, Washington, DC 20460.

Public comments and supporting materials are available for viewing in the RCRA Docket Information Center (RIC), located at Crystal Gateway I Building, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15 per page. The Report to Congress is also available electronically. See the Supplemental Information section below for information on electronic access.

Requests to speak at the public hearing should be submitted in writing to the Public Hearing Officer—Fossil Fuel Combustion, Office of Solid Waste, Industrial & Extractive Wastes Branch (5306W), U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460. The May 21, 1999 public hearing will be held at the Environmental Protection Agency Auditorium, Waterside Mall, 401 M Street, SW, Washington, DC. The hearing will begin at 9:30 a.m. with registration beginning at 9:00 a.m. The hearing will end at 3 p.m. but may be concluded earlier. Oral and written statements may be submitted at the public hearing. Persons who wish to make oral presentations must restrict them to 15 minutes maximum, and are requested to provide written comments for inclusion in the record.

**FOR FURTHER INFORMATION CONTACT:** For general information, contact the RCRA Hotline at (800) 424–9346 or TDD (hearing impaired) (800) 553–7672. In the Washington, DC metropolitan area, call (703) 412–9810 or TDD (703) 412–3323. For more detailed information on specific aspects of today's action, contact Dennis Ruddy, U.S. Environmental Protection Agency (5306W), 401 M Street, SW., Washington, DC 20460, at (703) 308–8430, or e-mail: ruddy.dennis@epa.gov.

**SUPPLEMENTARY INFORMATION:**

### Customer Service

In developing the Report to Congress, we tried to address the concerns of all our stakeholders. Your comments will help us improve this regulatory action. We invite you to provide different views on options we propose, new approaches we have not considered, new data, how this regulatory action may affect you, or other relevant information. We welcome your views on all aspects of this action, but we request comments in particular on the items discussed in the Report to Congress. Your comments will be most effective if you follow the suggestions below:

- Explain your views as clearly as possible and why you feel that way.
- Provide solid technical and cost data to support your views.
- If you estimate potential costs, explain how you arrived at the estimate.
- Tell us which parts you support, as well as those you disagree with.
- Provide specific examples to illustrate your concerns.
- Offer specific alternatives.
- Refer your comments to specific sections of the report.
- Make sure to submit your comments by the deadline in this notice.

• Be sure to include the name, date, and docket number with your comments.

Copies of the full report, titled Report to Congress: Wastes from the Combustion of Fossil Fuels; Volume 2—Methods, Findings, and Recommendations (EPA publication number EPA 530–R–99–010), are available for inspection and copying at the EPA Headquarters library, at the RCRA Docket (RIC) office identified in **ADDRESSES** above, at all EPA Regional Office libraries, and in electronic format at the following EPA Web site: http://www.epa.gov/osw/special.htm. Printed copies of Volume 2 and the executive summary, titled Report to Congress: Wastes from the Combustion of Fossil Fuels; Volume 1—Executive Summary (EPA publication number EPA 530–S–99–010), can also be obtained by calling the RCRA/Superfund Hotline at (800) 424–9346 or (703) 412–9810. The Executive Summary is also available in electronic format at the EPA Web site identified above.

## I. Background

RCRA section 3001(b)(3) (hereafter referred to as the Bevill Exemption) exempts, among other things, fossil fuel combustion wastes from regulation under RCRA subtitle C, pending completion of a Report to Congress and a subsequent determination of whether such regulation is warranted. In RCRA section 8002(n), Congress directed EPA to conduct a detailed and comprehensive study based on eight study factors (discussed below) and submit a Report to Congress on ''the adverse effects on human health and the environment, if any, of the disposal and utilization of fossil fuel combustion wastes.'' RCRA section 3001(b)(3)(C) then requires that EPA determine, within six months of the date of submission of the Report to Congress, either to promulgate regulations for fossil fuel combustion wastes under subtitle C or determine that subtitle C regulation is unwarranted.

The Bevill Exemption was added to RCRA on October 12, 1980, as part of the 1980 Solid Waste Disposal Act Amendments. In response to the 1980 RCRA amendments, EPA published an interim final amendment to its hazardous waste regulations to reflect the provisions of the Bevill Exemption (40 CFR 261.4(b)(4)). In 1991, a suit was filed against EPA for failure to complete a regulatory determination on fossil fuel combustion (FFC) wastes. Gearhart v. Reilly Civil No. 91–2345 (D.D.C.). On June 30, 1992, the Agency entered into a Consent Decree which established a schedule for EPA to complete the regulatory determinations for all fossil fuel combustion (FFC) wastes. FFC wastes were divided into two categories: (1) fly ash, bottom ash, boiler slag, and flue gas emission control waste from the combustion of coal by electric utilities and independent commercial power producers, and (2) all remaining wastes subject to RCRA Sections 3001(b)(3)(A)(i) and 8002(n). On August 9, 1993, EPA published a determination for the first category of wastes, concluding that regulation under subtitle C for these wastes was not warranted. To make an appropriate determination for the second category, or ''remaining wastes,'' EPA decided that additional study was necessary. Under the current court-ordered deadlines, the Agency was to complete this Report to Congress by March 31, 1999, and issue a regulatory determination by October 1, 1999.

## II. Report to Congress

EPA has completed its study of the remaining wastes for fossil fuel combustion and prepared the Report to Congress on Wastes from the Combustion of Fossil Fuels. In keeping with the statutory requirements, the report addresses the following factors (hereafter ''study factors'') required under section 8002(n) of RCRA:

• The source and volumes of such materials generated per year;

• Present disposal practices;

• Potential danger, if any, to human health and the environment from the disposal of such materials;

• Documented cases in which danger to human health or the environment has been proved;

• Alternatives to current disposal methods;

• The costs of such alternatives;

• The impact of those alternatives on the use of natural resources; and

• The current and potential utilization of such materials.

In addition, RCRA section 8002(n) directs the Agency to review other federal and state studies and actions (e.g., regulations) to avoid duplication of effort.

The resulting review and discussion of EPA's analysis is organized into seven chapters in Volume 2 of the Report to Congress; Volume 1 is an Executive Summary. The first chapter of Volume 2 briefly summarizes the purpose and scope of the report, general methods and information sources used, and EPA's decision making methodology. The second chapter provides an overview of industry sectors that practice fossil fuel combustion. The third chapter addresses comanaged wastes at coal-fired utilities. The fourth chapter addresses non-utility coal combustion wastes. The fifth chapter addresses combustion wastes from the use of fluidized bed technology. The sixth chapter addresses wastes from oil combustion. The seventh chapter addresses natural gas combustion. Each of chapters 3 through 7 addresses the study factors identified above followed by a summary of findings, and concludes with recommendations. The recommendations are EPA's tentative conclusions regarding exemption from RCRA Subtitle C for the respective remaining wastes.

Briefly, the Agency has tentatively concluded to retain the exemption for the disposal of: comanaged and co-burning coal combustion wastes at utilities; coal combustion wastes at non-utilities; petroleum coke combustion wastes; and for fluidized bed combustion wastes. The Agency has also tentatively concluded to retain the exemption for natural gas combustors. The Agency has tentatively concluded that, for the beneficial use of coal combustion wastes in agricultural applications and for the disposal of oil combustion wastes, some form of regulation or voluntary controls may be appropriate. The Agency currently has insufficient information on managing fossil fuel combustion wastes in surface and underground mines in order to assess the potential for risks associated with this practice, whether for disposal or beneficial uses such as mine reclamation. The Agency is seeking additional information on this practice from all potential sources, including those commenting on the Report to Congress, in order to determine whether additional controls are appropriate.

Finally, the Agency has tentatively concluded to retain the exemption for all other beneficial uses of fossil fuel combustion wastes.

Interested parties should obtain the full text of the tentative recommendations, which appears in both Volume 1 and Volume 2 of the Report to Congress.

Dated: March 31, 1999.

**Matthew Hale,**

*Acting Deputy Director, Office of Solid Waste.*

[FR Doc. 99–10523 Filed 4–27–99; 8:45 am]

BILLING CODE 6560–50–P

**DEPARTMENT OF DEFENSE**

**48 CFR Parts 201 and 204**

**[DFARS Case 97–D033]**

## Defense Federal Acquisition Regulation Supplement; Uniform Procurement Instrument Identification

**AGENCY:** Department of Defense (DoD).

**ACTION:** Proposed rule with respect for comments.

**SUMMARY:** The Director of Defense Procurement is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to revise procedures for assigning procurement instrument identification numbers to contracts, agreements, modifications, and orders. The existing procedures do not provide a sufficient number of identifiers for those activities that place a high volume of orders under another activity's contract or agreement. The proposing changes would increase the number of available identifiers by incorporating the issuing activity's six-digit code into the instrument identification number.

**DATES:** Comments on the proposed rule should be submitted in writing to the address specified below on or before June 28, 1999, to be considered in the formation of the final rule.

**ADDRESSES:** Interested parties should submit written comments on the proposed rule to: Defense Acquisition Regulations Council, Attn: Ms. Melissa Rider, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax (703) 602–0350. Please cite DFARS Case 97–D033.

E-mail comments submitted over the Internet should be addressed to: dfars@acq.osd.mil.

Please cite DFARS Case 97–D033 in all correspondence related to this issue. E-mail correspondence should cite DFARS Case 97–D033 in the subject line.

**FOR FURTHER INFORMATION CONTACT:** Ms. Melissa Rider, (703) 602–0131. Please cite DFARS Case 97–D033.

**SUPPLEMENTARY INFORMATION:**

### A. Background

An advance notice of proposed rulemaking (ANPR) was published in the **Federal Register** on December 16, 1997 (62 FR 65782). The ANPR solicited comments on a contemplated revision of DFARS guidance pertaining to uniform procurement instrument identification numbers (PIINs). As a result of comments received in response to the ANPR and further DoD review of this issue, a proposed rule has been developed to include the following DFARS changes:

1. The Director, Defense Procurement, will be the approving authority for any deviation from the uniform PIIN policy. Consistent application of the PIIN policy will facilitate the generation of reliable contract data.

2. The PIIN will consist of a linkage of a basic number, the code assigned by the agency to the activity issuing the contract action, and, if necessary, a supplementary number. The issuing activity code is the same code that already appears in the ''Issued by'' block of most contracting forms. No new information is needed to support this concept. The three linked fields will form a unique identification number.

3. The two-digit alpha identifiers will be removed from the DFARS Appendix G activity address listings. The codes presently are used in the first two positions or an order number to identify an activity that is placing an order under another activity's contract or agreement. Use of the six-digit issuing activity code in the PIIN will eliminate the need for the Appendix G two-digit identifier code in the order number. This will increase the number of available positions in most order numbers from two to four, thereby greatly expanding the available number of identifiers.

4. The six-digit issuing activity code will also be used to identify the contracting office in Block A3 of DD Form 350, Individual Contracting Action Report, replacing the existing five-digit coding system.

5. The ninth-position alpha codes are revised as follows:

a. Given the new linkage concept, less alpha codes will be needed to cover the number of requests for quotations and purchase orders issued in a fiscal year. Therefore, only two ninth-position alpha codes will be assigned to each category. They are designated as Series I and Series II to permit agency designation of certain blocks of basic numbers for different types of instruments (e.g., electronic commerce, paper-based, computer-generated).

b. Code ''F'' will no longer be used for orders placed with or through other departments or agencies. Instead, the alpha code indicating the type of instrument will be used (e.g., a purchase order issued under a GSA Federal Supply Schedule contract will be coded ''M'').

c. Code ''Y'' will be used for blanket purchase agreements (BPAs) established under contracts issued by another agency, such as a BPA established under a GSA Federal Supply Schedule contract.

d. Code ''K'' will no longer be used to identify short form research contracts, as this type of contract is no longer addressed in the DFARS.

Amendments to the DD Form 250, Material Inspection and Receiving Report, will also be needed, as that form presently does not use the issuing activity code as a data element. DD Form 250 changes will be addressed in a future DFARS case.

### B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule employs information that already exists in DoD contracts, agreements, modifications, and orders. It is anticipated that little or no programming effort will be required for contractors to accommodate the new numbering system. An initial regulatory flexibility analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS subparts also will be considered in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 97–D033 in correspondence.

### C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of the Management and Budget under 44 U.S.C. 3501, et seq.

### List of Subjects in 48 CFR Parts 201 and 204

Government procurement.

**Michele P. Peterson,**

*Executive Editor, Defense Acquisition Regulations Council.*

Therefore, 48 CFR Parts 201 and 204 are proposed to be amended as follows:

1. The authority citation for 48 CFR Parts 201 and 204 continues to read as follows:

**Authority:** 41 U.S.C. 421 and 48 CFR Chapter 1.

## PART 201—FEDERAL ACQUISITION REGULATIONS SYSTEM

2. Section 201.402 is amended by revising paragraph (1) to read as follows:

**201.402 Policy.**

(1) The Director of Defense Procurement, Office of the Under

Secretary of Defense (Acquisition and Technology), USD (A&T) DP, is the approval authority within DoD for—

(i) Any individual deviation from—

(A) FAR 3.104, Procurement Integrity, or DFARS 203.104, Procurement Integrity;

(B) FAR Subpart 27.4 Rights in Data and Copyrights, or DFARS Subpart 227.4, Rights in Data and Copyrights;

(C) DFARS Subpart 204.70, Uniform Procurement Instrument Identification Numbers;

(D) FAR Part 30, Cost Accounting Standards Administration, or DFARS Part 230, Cost Accounting Standards Administration;

(E) FAR Subpart 31.1, Applicability, or DFARS Subpart 231.1, Applicability (contract cost principles);

(F) FAR Subpart 31.2, Contracts with Commercial Organizations, or DFARS Subpart 231.2, Contracts with Commercial Organizations; or

(G) FAR Part 32, Contract Financing (except Subparts 32.7 and 32.8 and the payment clauses prescribed by Subpart 32.1), or DFARS Part 232, Contract Financing (except Subparts 232.7 and 232.8); or

(ii) Any class deviation.

* * * * *

## PART 204—ADMINISTRATION MATTERS

3. Subpart 204.7 is revised to read as follows:

### Subpart 204.7—Uniform Procurement Instrument Identification Numbers

Sec.
204.7000 Scope.
204.7001 General.
204.7002 Basic number.
204.7003 Activity code.
204.7004 Supplementary numbers.
204.7004–1 Amemdments to solicitations.
204.7004–2 Orders and calls under contracts and agreements.
204.7004–3 Modifications.

## Subpart 204.7—Uniform Procurement Instrument Identification Numbers

### 204.7000 Scope.

This Subpart—

(a) Prescribes procedures for uniform assignment of identification numbers to procurement instruments; and

(b) Applies to all DoD procurement instruments except communication service authorization issued by the Defense Information Technology Contracting Organization.

### 204.7001 General.

(a) The procurement instrument identification number (PIIN) consists of the linkage of basic number, the issuing activity's code, and, if necessary, a supplementary number.

(b) When establishing a PIIN—

(1) Use alpha-numeric characters as prescribed in this subpart; and

(2) Do not use the letter I or O.

(c) Separate the major elements of a basic number entered on a paper instrument (e.g., N00023–00–B–0120. If there is no assigned space on the instrument, enter the basic number in the upper right corner and identify the type of instrument (e.g., Solicitation Number N00023–00–B–0120).

(d) If department or agency procedures require additional numbers on procurement instruments, keep the additional numbers clearly separate from the identification numbers prescribed in this subpart.

(e) Retain the same identification numbers for the life of the instrument.

(f) When establishing a blanket purchase agreement (BPA) under a Federal Supply Schedule (see FAR 8.404(b)(4)) or other contract—

(1) Develop a PIIN for the BPA in accordance with this subpart; and

(2) Identify the Federal Supply Schedule or other contract number in the BPA and in each order placed under the BPA.

(g) When placing an order under another agency's contract or agreement, use the basic number assigned by the other agency.

### 204.7002 Basic number.

Assign a 13-character basic number to an instrument as follows:

(a) *Positions 1 through 6.* The first six positions contain the activity identifier shown in Appendix G.

(1) The first part of this series identifies the department or agency as follows:

(i) Department of the Army—DA

(ii) Department of the Navy (except Marine Corps)—N

(iii) Department of the Air Force—F

(iv) Defense Information Systems Agency—DCA

(v) Defense Logistics Agency—S

(vi) Defense Threat Reduction Agency—DTRA

(vii) National Imagery and Mapping Agency—NMA

(viii) Miscellaneous Defense Activities—MDA

(ix) Marine Corps—M

(x) Ballistic Missile Defense Organization—HQ0006

(xi) Defense Commissary Agency—(DECA)

(xii) United States Special Operations Command—USZA

(xiii) Defense Micro-Electronic Agency—DMEA

(2) The last part of this series identifies the office issuing the instrument.

(3) Use all six positions. If necessary, enter zeros between the department or agency identifier and the issuing office identifier.

(b) *Positions 7 and 8.* The seventh and eight positions are the last two digits of the fiscal year in which the basic number is assigned.

(c) *Position 9.* Indicate the type of instrument by entering one of the following upper case letters in position nine. (For contracting actions for listed or non-listed items with Javits-Wagner-O'Day participating non-profit agencies or Federal Prison Industries, and contracting actions with other Government agencies, select the code for the type of instrument being issued.)

(1) Blanket purchase agreement, except a blanket purchase agreement established under a Federal Supply Schedule or another agency's contract—A
(2) Invitation for bids— B
(3) Contract other than identifinite-delivery contract, facilities contract, or sales contract—C
(4) Indefinite-delivery contract—D
(5) Facilities contract—E
(6) [Reserved]—F
(7) Basic ordering agreement—G
(8) Agreement, including basic agreement and loan agreement, but excluding blanket purchase agreement, basic ordering agreement, and lease agreement—H
(9) Do not use—I
(10) [Reserved]—J
(11) [Reserved]—K
(12) Lease agreement—L
(13) Purchase order—Series I—M*
(14) Notice of intent to purchase—N
(15) Do not use—O
(16) Purchase order—Series II—P*
(17) Request for quotations-Series I—Q*
(18) Request for proposals—R
(19) Sales contract—S
(20) Request for quotations-Series II—T*
(21) [Reserved]—U
(22) [Reserved]—V
(23) [Reserved]—W
(24) Reserved for departmental use—X
(25) Blanket purchase agreement under a Federal Supply Schedule or another agency's contract—Y
(26) Reserve for departmental use—Z

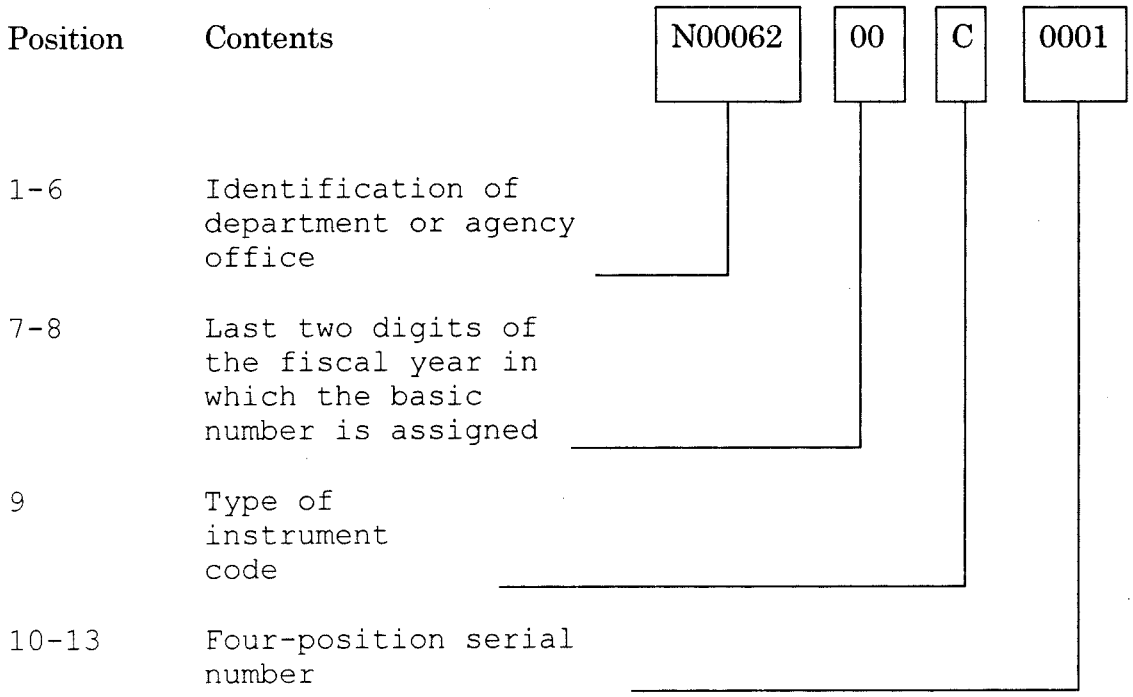
*Agencies may authorize the use of different series numbers to accommodate automated systems.

(d) *Position 10 through 13.*

Enter the serial number of the instrument in these positions. A separate series of serial numbers may be used for any type of instrument listed in paragraph (c) of this section. Ensure that serial numbers within the same PIIN are not duplicated within an activity.

(e) *Illustration of basic number.* The following illustrates a properly configured basic number:

BILLING CODE 5000–04–M




BILLING 5000–04–C

**204.7003 Activity code.**

A six-digit code follows the basic number in a PIIN. This is the code for the activity issuing the instrument. '

**204.7004 Supplementary numbers.**

**204.7004–1 Amendments to solicitations.**

Use of four-position number to identify amendments to solicitations (solicitations have code B, N, Q, R, or T in the ninth position of the basic number). Number amendments sequentially beginning with 0001, e.g., RFP N00062–00–R–1234, Activity Code N00062, Amendment 0001.

**204.7004–2 Orders and calls under contracts and agreements.**

Assign numbers to orders and calls under contracts and agreements, except orders under lease or ship repair agreements, as follows (contracts and agreements have code A, D, G, or H in the ninth position of the basic number):

(a) *Order or call placed by the activity that awarded the contract or agreement.* Use a four-position serial number for the order to call.

(1) First use numeric identifiers, beginning with 0001, e.g., Indefinite delivery contract N00383–00–D–0001, Activity Code N00383, Order 0001.

(2) When the numbers exceed 9999, use alpha characters in the second, third, and fourth positions.

(3) Do not use alpha characters in the first position.

(b) *Oder or call placed by an activity under another activity's contract or agreement.* Use a four-position serial number for the order or call.

(1) For an order under a Federal schedule—

(i) Use an F in the first position if the order is being placed under a GSA Federal Supply Schedule;

(ii) Use a J in the first position if the order is being placed under any other type of Federal schedule; and

(iii) In the second, third, and fourth positions—

(A) First use numeric identifiers, beginning with 001; and

(B) When the numbers exceed 999, use alpha or alpha-numeric characters.

(2) For an order under a contract that is not a Federal schedule—

(i) First use numeric identifiers, beginning with 0001;

(ii) When the numbers exceed 9999, use alpha or alpha-numeric characters; and

(iii) Do not use the letter, A, F, J, or P in the first position.

**204.7004–3 Modifications.**

(a) *Modifications to contracts, agreements, and purchase orders.* (This policy applies to instruments coded C, E, L, M, P, or S in the ninth position of the basic number.)

(1) Use a six-position modification number as follows:

(i) *Position 1.* Identify the office issuing the modification as follows:

(A) Contract administration office A

(B) Contracting office P

(ii) *Positions 2 and 3.* These are the first two digits in a serial number. They may be either alpha or numeric. Use the letter K, L, M, N, P, Q, S, T, U, V, W, X, Y, or Z only in the second position and only in the following circumstances:

(A) Use K, L, M, N, P, or Q in the second position if the modification is issued by the Air Force and is a provisioned item order. The Navy also may use K in the second position to identify a provisioned item order.

(B) Use S in the second position to identify modifications issued to provide initial or amended shipping instructions when—

*(1)* The contract has either FOB origin or destination delivery terms; and

*(2)* The price changes.

(C) Use T, U, V, W, X, or Y in the second position to identify modifications issued to provide initial or amended shipping instructions when—

*(1)* The contract has FOB origin delivery terms; and

*(2)* The price does not change.

(D) Use Z in the second position to identify a modification that definitizes a letter contract or other unpriced action.

(iii) *Positions 4 through 6.* These positions are always numeric. Use a separate series of serial numbers for each type of modification listed in paragraph (a)(1)(ii) of this subsection. Examples of proper numbering for positions 2–6 (the first position will be either A or P) are as follows:

| Normal modification | Provisioned items order (Reserved for use by Air Force or Navy only) | Shipping instructions |
|---|---|---|
| 00001–99999 | K0001–K9999 | S0001–S9999 |
| then | KA001–KZ999 | SA001–SZ999 |
| A0001–A9999 | L0001–L9999 | T0001–T9999 |
| B0001–B9999 | LA001–LZ999 | TA001–TZ999 |
| and so on to | M0001–M9999 | U0001–U9999 |
| H0001–H9999 | MA001–MZ999 | UA001–UZ999 |
| then | N0001–N9999 | V0001–V9999 |
| J0001–J9999 | NA001–NZ999 | VA001–VZ999 |
| then | P0001–P9999 | W0001–W9999 |
| R0001–R9999 | PA001–PZ999 | WA001–WZ999 |
| then | Q0001–Q9999 | X0001–X9999 |
| AA001–HZ999 | QA001–QZ999 | XA001–XZ999 |
| then | | Y0001–Y9999 |
| JA001–JZ999 | | YA001–YZ999 |
| RA001–RZ999. | | |

(2) If a contract administration office is changing the contract administration or disbursement office for the first time and is using computer-generated modifications to notify many offices, use the six-position identification number ARZ999. If either office is changed again during the life of the contract, use the identification number ARZ998, and on down as needed.

(3) Each office authorized to issue modifications must assign the identification numbers in sequence. Do not assign a number until it has been determined that a modification will be issued.

(b) *Modifications to orders and calls.*

(This policy applies to instruments coded A, D, G, or H in the ninth position of the basic number, orders placed under a Federal Supply Schedule, and orders placed under a contract or agreement awarded by a non-DoD agency.) Use a two-position modification number as follows:

(1) Modifications issued by a purchasing office begin wit 01, 02, and so on through 99, then B1 through B9, BA through BZ, C1 through C9, and so on through ZZ (e.g., Contract F04611–01–D–0125, Activity Code FA9300, Order 0002, Modification 01).

(2) Modifications issued by a contract administration office begin with 1A, 1B, and so on through 9Z, followed by A1, A2, and so on to A9, then AA, BB, and so on through AZ.

[FR Doc. 99–10547 Filed 4–27–99; 8:45 am]

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## DEPARTMENT OF DEFENSE

## 48 CFR Part 225

**[DFARS Case 99–D005]**

## Defense Federal Acquisition Regulation Supplement; Foreign Military Sales Customer Observation of Negotiations

**AGENCY:** Department of Defense (DoD).

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** The Director of Defense Procurement is proposing to amend the Defense Federal Acquisitions Regulations Supplement (DFARS) to specify that, if requested by a foreign military sales (FMS) customer, the contracting officer should permit the FMS customer to observe contract price negotiations and should provide the FMS customer with information regarding price reasonableness.

**DATES:** Comments on the proposed rule should be submitted in writing to the address specified below on or before June 28, 1999, to be considered in the formation of the final rule.

**ADDRESSES:** Interested parties should submit written comments on the proposed rule to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3061. Telefax (703) 602–0350. Please cite DFARS Case 99–D005.

E-mail comments submitted over the Internet should be addressed to: dfars@acq.osd.mil

Please cite DFARS Case 99–D005 in all correspondence related to this issue. E-mail correspondence should cite DFARS Case 98–D005 in the subject line.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Williams, (703) 602–0131. Please cite DFARS Case 99–D005.

**SUPPLEMENTARY INFORMATION:**

### A. Background

FMS customers have expressed an interest in becoming more involved in the preparation of contracts that DoD awards on their behalf. They have requested the opportunity to observe price negotiations and to receive assurances that their contract prices are reasonable. This rule proposes revisions to DFARS 225.7304 to specify that, if requested by an FMS customer, the contracting officer should provide the FMS customer with an explanation of the reasonableness of the negotiated price of its contract; and should permit thee FMS customer to observe price negotiations if the prospective contractor consents and the FMS customer provides certain written assurances.

### B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because involvement of FMS customers in the contracting process should have no significant effect on offerors or contractors. The contracting officer must obtain permission from a prospective contractor before permitting an FMS customer to observe price negotiations. In addition, the FMS customer must provide written assurance that it will not disclose any proprietary or other contract or data except as specifically authorized by the contractor. An initial regulatory flexibility analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities

concerning the affected DFARS subpart also will be considered in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 99–D005 in correspondence.

### C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, et seq.

### List of Subjects in 48 CFR Part 225

Government procurement.

**Michele P. Peterson,**

*Executive Editor, Defense Acquisition Regulations Council.*

Therefore, 48 CFR Part 225 is proposed to be amended as follows:

1. The authority citation for 48 CFR Part 225 continues to read as follows:

**Authority:** 41 U.S.C. 421 and 48 CFR Chapter 1.

## PART 225—FOREIGN ACQUISITION

2. Section 225.7304 is revised to read as follows:

**225.7304 Source selection and contract pricing.**

(a) FMS customers may request that a defense article or defense service by obtained from a particular contractor. In such cases, FAR 6.302–4 provides authority to contract without full and open competition. the FMS customer also may request that a subcontract be placed with a particular firm. The contracting officer shall honor such requests from the FMS customer only is the LOA or other written direction sufficiently fulfills the requirements of FAR Subpart 6.3.

(b) Do not allow representatives of the FMS customer to—

(1) Direct the deletion of names of firms from bidders mailing lists or slates of proposed architect-engineer firms. (They may suggest the inclusion of certain firms); or

(2) Interfere with a contractor's placement of subcontracts.

(c) Do not accept directions from the FMS customer on source selection decisions or contract terms (except that, upon timely notice, the contracting officer may attempt to obtain any special contract provisions and warranties requested by the FMS customer).

(d) Do not honor any request by the FMS customer to reject any bid or proposal.

(e) If requested by the FMS customer—

(1) The contracting officer should provide the FMS customer with an explanation of the reasonableness of the negotiated price of its contract. This may include briefings or tailored reports, such as top-level pricing summaries, historical pricing trends, or an explanation of any price differential between DoD and FMS contracts; and

(2) Representatives of the FMS customer may observe price negotiations between the U.S. Government and the prospective contractor if—

(i) The contractor provides written permission consenting to the observation of price negotiations by the FMS customer. The contractor's written permission must include any restrictions on the disclosure of proprietary or other data; and

(ii) The FMS customer provides written assurances that it will not—

(A) Disclose any proprietary or other contractor data except as specifically authorized by the contractor; or

(B) Discuss with the contractor any issue related to the negotiation of price, either during or separate from negotiations.

[FR Doc. 99–10546 Filed 4–27–99; 8:45 am]

BILLING CODE 5000–04–M

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 300

**[Docket No. 99041610–9199–01; I.D. 031999C]**

**RIN 0648–AL18**

## Pacific Halibut Fisheries; Local Area Management Plan for the Halibut Fishery in Sitka Sound

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS issues a proposed rule that would establish a Local Area Management Plan (LAMP) for the halibut fishery in Sitka Sound, in the Gulf of Alaska. This action would affect persons fishing from commercial and charter vessels. This action would implement the North Pacific Fishery Management Council (Council) recommendation to prohibit halibut fishing in Sitka Sound by commercial fishing vessels greater than 35 ft (10.7 meters(m)) and, during June, July, and August, by commercial fishing vessels less than or equal to 35 ft (10.7 m) and charter vessels. This action is necessary to address the decreased availability of halibut in Sitka Sound (currently attributed to too many harvesters of halibut within a relatively small area) and is intended to promote the goals and objectives of the Council with respect to management of halibut in and off Alaska.

**DATES:** Comments must be received by May 28, 1999.

**ADDRESSES:** Comments must be sent to Sue Salveson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, 709 West 9th Street, Room 453, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802, Attention: Lori J. Gravel. Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) for this action may be obtained from the above address.

**FOR FURTHER INFORMATION CONTACT:** Gretchen Harrington, 907–586–7228.

**SUPPLEMENTARY INFORMATION:** The Convention between the United States and Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and the Bering Sea (Convention), signed at Ottawa, Ontario, Canada, on March 2, 1953, and amended by a Protocol Amending the Convention, signed at Washington, D.C., United States of America, on March 29, 1979, authorizes the International Pacific Halibut Commission (Commission) to promulgate regulations for the conservation and management of the Pacific halibut fishery. Before these regulations would have any effect on U.S. fishermen, they must be approved by the Secretary of State of the United States pursuant to section 4 of the Northern Pacific Halibut Act (Halibut Act, 16 U.S.C. 773–773k) that executes the above Convention. The Halibut Act, in section 5, gives the Secretary of Commerce (Secretary) the general responsibility to carry out the Convention between the United States and Canada, and requires the Secretary to adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and the Halibut Act. The Secretary's authority has been delegated to the Assistant Administrator for Fisheries, NOAA. Section 5 of the Halibut Act also provides that the regional fishery management council having authority for the geographical area concerned may recommend management measures governing Pacific halibut catch in U.S. Convention waters that are in addition

to, but not in conflict with, regulations of the Commission.

The Sitka (Alaska) Fish and Game Advisory Committee began the process necessary to develop a LAMP in 1995 to address the concerns of local residents about the decreased availability of halibut in Sitka Sound. The Chairman of the Sitka Fish and Game Advisory Committee appointed representatives of all major sectors participating in the Sitka Sound halibut fishery, including the commercial, sport, charter, and personal use fishermen, to the Sitka Halibut Task Force (Task Force).

The Task Force determined that too many harvesters targeted halibut in Sitka Sound. The Commission has no data that support or refute localized depletion; however, local or anecdotal information indicates the opportunity for an individual fisherman to catch a halibut has greatly decreased due to increased competition. This increased competition among users is due to an increase in the number of guided charter vessels and the Individual Fishing Quota (IFQ) fishery that allows commercial fishing vessels to operate throughout the summer. The Task Force unanimously agreed to a statement of findings and a list of voluntary actions in May 1995.

The Task Force was reconvened in January 1997 in response to Proposal 270 submitted by the Sitka Tribe of Alaska to the State of Alaska Board of Fisheries (BOF). Proposal 270 requested the BOF to take action to prohibit commercial and charter fishing for halibut, ling cod, rockfish, and other bottomfish in the Sitka Sound area. In February 1997, the BOF deferred the halibut proposal to the Council as the responsible body for developing regulations having domestic allocation of Pacific halibut as a primary purpose. The Council assigned the Task Force with the duty of developing a LAMP for halibut for Council action.

The Task Force determined that the decreased availability of halibut in Sitka Sound due to excessive competition was diminishing the quality of life for local residents. The Task Force identified the following areas of concern: Status of the halibut stocks; increasing charter fishing effort; decreasing non-charter sport catch; decreasing commercial catches; and changes in commercial fishing patterns due to the IFQ program. The Task Force then created a proposed LAMP for Sitka Sound and submitted it to the Council.

The Council directed its staff to prepare an EA/RIR/IRFA analyzing the Task Force's LAMP proposal. The Council approved the Task Force's proposal as the preferred alternative in February 1998. The Council's preferred alternative is the basis of this proposed rule. The following summarizes the preferred alternative.

First, commercial vessels greater than 35 ft (10.7 m) overall length targeting halibut would be prohibited in the Sitka Sound area, defined as a line across Kakul Narrows at the Green Buoy and from a point on Chichagof Island to Kruzof Island adjacent to Sinitsin Island on the North, to the Sitka Salmon Derby Boundaries on the South.

Second, commercial vessels less than or equal to 35 ft (10.7 m) in overall length targeting halibut would be prohibited from fishing for halibut in the Sitka Sound area during June, July, and August. A trip limit of 2000 lb (0.91 metric tons (mt)) of halibut would be in effect for commercial vessels less than or equal to 35 ft (10.7 m) in overall length targeting halibut in the Sitka Sound area during the designated IFQ season as specified in 15 CFR 300.26, except during the closed period of June, July, and August. The Sitka Sound area in this case is the same as that defined for commercial vessels greater than 35 ft (10.7 m) in overall length, except that the southern boundary would be a line from Sitka Point to Hanus Point, from Hanus Point to the Green Marker in Dorothy Narrows, and across to Baranof Island.

Finally, during June, July, and August, charter vessels would be prohibited from fishing for halibut in the Sitka Sound area, defined the same as the closed area for commercial vessels less than or equal to 35 ft (10.7 m) in overall length. Operators of charter vessels could retain halibut harvested outside Sitka Sound when they are fishing for other species within Sitka Sound from June 1 through August 31. The charter vessel fleet considers the ability to retain halibut caught outside the closed area necessary because of the difficulties in off-loading catch during a charter fishing trip. NMFS is particularly interested in receiving comments on this aspect of the proposed rule because of the difficulty in distinguishing between halibut caught outside the closed area and halibut that may have been caught within the closed area.

The less restrictive southern boundary for charter vessels and commercial fishing vessels less than or equal to 35 ft (10.7 m) in overall length would allow them to fish in more protected waters during inclement weather. Also, it would allow the smaller vessels access to the halibut fishing grounds around Biorka Island. The southern boundary for commercial fishing vessels greater than 35 ft (10.7 m) in overall length would exclude the larger vessels from fishing around Biorka Island.

NMFS prepared an EA/RIR/IRFA for this proposed rule that describes the management background, the purpose and need for action, the management action alternatives, and the environmental and the socio-economic impacts of the alternatives. A copy of the EA/RIR/IRFA can be obtained from NMFS (see **ADDRESSES**). A summary of the IRFA follows.

This proposed action is being considered because local residents of Sitka Sound are concerned about the decreased availability of halibut. The objective is to allocate halibut fishing opportunities in Sitka Sound among fishermen fishing with commercial vessels, anglers fishing from charter vessels, subsistence/personal use fisheries, and sport fishermen. Section 5 of the Halibut Act authorizes the Council to recommend management measures governing Pacific halibut catch in Sitka Sound.

There were 192 registered charter vessels and 74 commercial longline vessels with allocations of halibut in Area 2C that fished in Sitka Sound in 1996.

This rule does not contain reporting, recordkeeping, or compliance requirements and there are no relevant Federal rule which may duplicate, overlap, or conflict with this proposed rule.

The alternative of not having a LAMP for Sitka Sound would not have a negative impact on the halibut resource but would increase competition for the resource in Sitka Sound. Creation of an alternative LAMP for Sitka Sound, which would (1) prohibit halibut commercial vessels greater than 35 ft (10.7 m) from harvesting halibut in Sitka Sound, (2) prohibit halibut commercial vessels less than or equal to 35 ft (10.7 m) from harvesting halibut in Sitka Sound during July, July, and August with a 1,000 lb (0.45 mt) trip limit during the remainder of the IFQ fishing season, and (3) during July, June, and August only allow for a subsistence/personal use fishery, and a non-guided sport fishery in Sitka Sound, would protect the interests of non-guided anglers but restrict the retention of halibut caught outside Sitka Sound by charter vessels while fishing inside the Sound.

None of the alternatives discussed in the EA/RIR/IRFA is likely to significantly affect the quality of the human environment, or are expected to have significant impacts on endangered or threatened species, or marine mammals.

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

**List of Subjects in 50 CFR Part 300**

Fisheries, Fishing, Reporting and recordkeeping requirements, Treaties.

Dated: April 20, 1999.

**Penelope D. Dalton,**

*Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For reasons set out in the preamble, 50 CFR part 300 is proposed to be amended to read as follows:

## PART 300—INTERNATIONAL FISHERIES REGULATIONS

1. The authority citation for 50 CFR part 300, subpart E continues to read as follows:

**Authority:** 16 U.S.C. 773–773k

2. In § 300.61, the definitions for ''Charter vessel'', ''Fishing'', ''Individual Fishing Quota'', ''IFQ fishing trip'', ''IFQ halibut'', ''Overall length'', ''Setline gear'', and ''Sport fishing'' are added in alphabetical order to read as follows:

**§ 300.61 Definitions.**

* * * * *

*Charter vessel* means a vessel used for hire in sport fishing for halibut, but not including a vessel without a hired operator.

*Fishing* means the taking, harvesting, or catching of fish, or any activity that can reasonably be expected to result in the taking, harvesting, or catching of fish, including specifically the deployment of any amount or component part of setline gear anywhere in the maritime area.

*Individual Fishing Quota* (IFQ), for purposes of this subpart, means the annual catch limit of halibut that may be harvested by a person who is lawfully allocated a harvest privilege for a specific portion of the TAC of halibut.

*IFQ fishing trip*, for purposes of the subpart, means the period beginning when a vessel operator commences harvesting IFQ halibut and ending when the vessel operator lands any species.

*IFQ halibut* means any halibut that is harvested with fixed gear in any IFQ regulatory area.

*Overall length* of a vessel means the horizontal distance, rounded to the nearest foot, between the foremost part of the stem and the aftermost part of the stern (excluding bowsprits, rudders, outboard motor brackets, and similar fittings or attachments).

* * * * *

*Setline gear* means one or more stationary, buoyed, and anchored lines with hooks attached.

*Sport fishing* means all fishing other than commercial fishing and treaty Indian ceremonial and subsistence fishing.

* * * * *

3. In § 300.63, the heading is revised, introductory text of § 300.63 is revised, and paragraph (d) is added to read as follows:

**§ 300.63 Catch sharing plans, local area management plans, and domestic management measures.**

Catch sharing plans (CSP) and local area management plans (LAMP) may be developed by the appropriate regional fishery management council, and approved by NMFS, for portions of the fishery. Any approved CSP or LAMP may be obtained from the Administrator, Northwest Region, or the Administrator, Alaska Region.

* * * * *

(d) The LAMP for Sitka Sound provides guidelines for participation in the halibut fishery in Sitka Sound.

(1) For purposes of § 300.63(d), Sitka Sound means (See Figure 1) to subpart E of the part:

(i) With respect to § 300.63(d)(2), that part of the Commission regulatory area 2C that is enclosed on the north and east by a line from Kruzof Island at 57°20'30'' N. lat., 135°45'10'' W. long. to Chichagof Island at 57°22'03'' N. lat., 135°43'00'' W. long., and a line from Chichagof Island at 57°22'35'' N. lat., 135°41'18'' W. long. to Baranof Island at 57°22'17'' N. lat., 135°40'57'' W. long.; and is enclosed on the south and west by a line from Cape Edgecumbe at 57°59'54'' N. lat., 135°51'27'' W. long. to Vasilief Rock at 56°48'56'' N. lat., 135°32'30'' W. long. to the green day marker in Dorothy Narrows at 56°49'17'' N. lat., 135°22'45'' W. long. to Baranof Island at 56°49'17'' N. lat., 135°22'36'' W. long.

(ii) With respect to § 300.63(d)(3) and (4), that part of the Commission regulatory area 2C that is enclosed on the north and east by a line from Kruzof Island at 57°20'30'' N. lat., 135°45'10'' W. long. to Chichagof Island at 57°22'03'' N. lat., 135°43'00'' W. long., and a line from Chichagof Island at 57°22'35'' N. lat., 135°41'18'' W. long. to Baranof Island at 57°22'17'' N. lat., 135°40'57'' W. lat.; and is enclosed on the south and west by a line running from Sitka Point at 56°59'23'' N. lat., 135°49'34'' W. long., to Hanus Point at 56°51'55'' N. lat., 135°30'30'' W. long., to the green day marker in Dorothy Narrows at 56°49'17'' N. lat., 135°22'45'' W. long. to Baranof Island at 56°49'17'' N. lat., 135°22'36'' W. long.

(2) A person using a vessel greater than 35 ft (10.7 m) in overall length, as defined in 50 CFR 300.61, is prohibited from fishing for IFQ halibut with setline gear, as defined in 50 CFR 300.61, within Sitka Sound as defined in paragraph (d)(1)(i) of this section.

(3) A person using a vessel less than or equal to 35 ft (10.7 m) in overall length, as defined in 50 CFR 300.61:

(i) Is prohibited from fishing for IFQ halibut with setline gear within Sitka Sound, as defined in paragraph (d)(1)(ii) of this section, from June 1 through August 31; and

(ii) Is prohibited, during the remainder of the designated IFQ season, from retaining more than 2,000 lbs. (0.91 mt) of IFQ halibut within Sitka Sound, as defined in paragraph (d)(1)(ii) of this section, per IFQ fishing trip, as defined in 50 CFR 300.61.

(4) No charter vessel, as defined in 50 CFR 300.61, shall engage in sport fishing as defined in 50 CFR 300.61, for halibut within Sitka Sound, as defined in paragraph (d)(1)(ii) of this section, from June 1 through August 31.

(i) No charter vessel shall retain halibut caught while engaged in sport fishing, as defined in 50 CFR 300.61, for other species, within Sitka Sound, as defined in paragraph (d)(1)(ii) of this section, from June 1 through August 31.

(ii) Notwithstanding paragraphs (d)(4) and (d)(4)(i) of this section, halibut harvested outside Sitka Sound, as defined in (d)(1)(ii) of this section, may be retained onboard a charter vessel engaged in sport fishing as defined in 50 CFR 300.61,for other species within Sitka Sound, as defined in paragraph (d)(1)(ii) of this section from June 1 through August 31.

3. In subpart E of part 300, Figure 1 is added following § 300.65.

BILLING CODE 3510–22–F

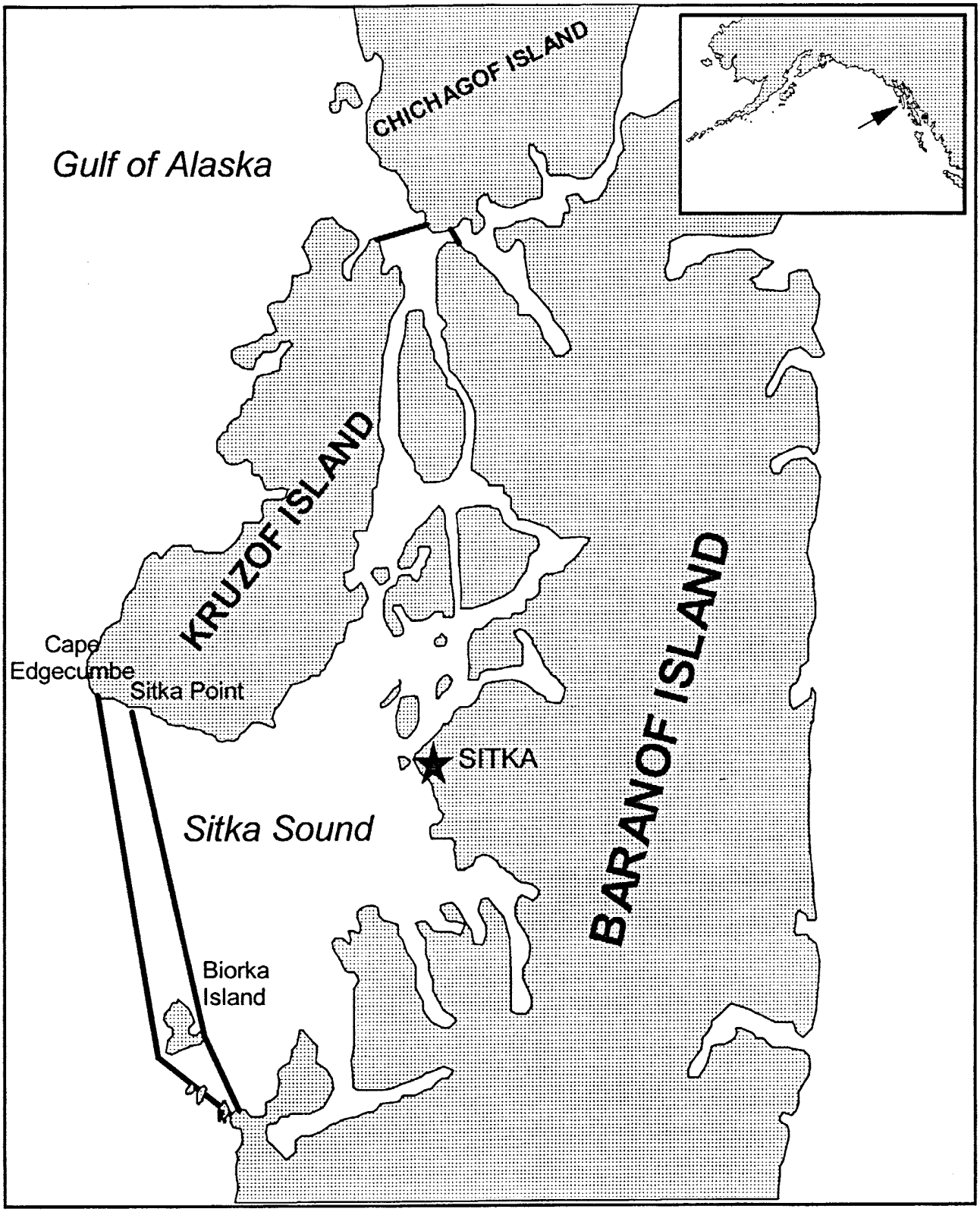


Figure 1. Sitka Local Area Management Plan
a. Map

Figure 1. Sitka Sound Local Area Management Plan Boundaries
b. Coordinates

**Northern Boundary:**

A line from Kruzof Island at 57°20'30" N. lat., 135°45'10" W. long. to Chichagof Island at 57°22'03" N. lat., 135°43'00" W. long., and a line from Chichagof Island at 57°22'35" N. lat., 135°41'18" W. long. to Baranof Island at 57°22'17" N. lat., 135°40'57" W. long.

**Southern Boundaries:**

(1) A line from the southernmost tip of Cape Edgecumbe at 57°59'54" N. lat., 135°51'27" W. long. to Vasilief Rock at 56°48'56" N. lat., 135°32'30" W. long. to the green day marker in Dorothy Narrows at 56°49'17" N. lat., 135°22'45" W. long. to Baranof Island at 56°49'17" N. lat., 135°22'36" W. long.

(2) A line from the southernmost tip of Sitka Point at 56°59'23" N. lat., 135°49'34" W. long., to Hanus Point at 56°51'55" N. lat., 135°30'30" W. long., to the green day marker in Dorothy Narrows at 56°49'17" N. lat., 135°22'45" W. long. to Baranof Island at 56°49'17" N. lat., 135°22'36" W. long.

[FR Doc. 99–10541 Filed 4–27–99; 8:45 am]
BILLING CODE 3510–22–C

# Notices

Federal Register
Vol. 64, No. 81
Wednesday, April 28, 1999

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

### Forest Service

### East Side Project, McKean, Elk and Forest Counties, Pennsylvania

**AGENCY:** Forest Service, USDA.

**ACTION:** Revised notice of intent to prepare an environmental impact statement.

**SUMMARY:** Reference is made to our notice of intent to prepare an environmental impact statement for the East Side Project (FR Document 98–10895 filed 4/23/98) published in the **Federal Register**, Volume 63, No. 79, Friday, April 24, 1998, pages 20368–69.

In accordance with Forest Service Environmental Policy and Procedures handbook 1909.15, part 21.2—*Revision of Notices of Intent,* we are revising the date that the Draft Environmental Impact Statement is expected to be filed with the Environmental Protection Agency and be available for public review and comment to July 1, 1999. Subsequently, the date the final EIS is scheduled to be completed is revised to be November 1, 1999.

**FOR FURTHER INFORMATION CONTACT:** Gary W. Kell, Allegheny National Forest at P.O. Box 847, Warren, PA 16365 or by telephone at 814/723–5150.

Dated: April 19, 1999.

**John E. Palmer,**

*Forest Supervisor.*

[FR Doc. 99–10575 Filed 4–27–99; 8:45 am]

BILLING CODE 3410–11–M

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Transfer of Administrative Jurisdiction; Table Rock Lake Reservoir Project; Mark Twain National Forest, Missouri

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of land interchange.

**SUMMARY:** On August 25, 1998, and December 24, 1998, the Secretary of the Army and the Secretary of Agriculture, respectively, signed a joint interchange order authorizing the transfer of administrative jurisdiction of 4,556.81 acres, more or less, lying within and adjacent to the Mark Twain National Forest in Stone and Barry Counties, Missouri, from the Department of Agriculture to the Department of the Army. Further, the order transfers from the Department of the Army to the Department of Agriculture 68.32 acres, more or less, within and adjacent to the exterior boundaries of the Mark Twain National Forest, Stone County, Missouri, for inclusion in the Mark Twain National Forest. The 45-day Congressional oversight requirement of the Act of July 26, 1956 (70 Stat. 656, 16 U.S.C. 505a, 505b) has been met. A copy of the Joint Order, as signed, and Exhibits A and C, which describe the lands being conveyed, are set out at the end of this notice.

**EFFECTIVE DATE:** The order is effective April 28, 1999.

**FOR FURTHER INFORMATION CONTACT:** David M. Sherman, Lands Staff, 4 South, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090, Telephone: (202) 205–1362.

Dated: April 20, 1999.

**Gloria Manning,**

*Acting Deputy Chief, National Forest Systems.*

**Department of the Army**

**Department of Agriculture**

*Table Rock Lake, Missouri*

Joint Order Interchanging Administrative Jurisdiction of Department of the Army Lands and National Forest Lands

By virtue of the authority vested in the Secretary of the Army and the Secretary of Agriculture by the Act of July 26, 1956, (70 Stat. 656; 16 U.S.C. 505a, 505b) it is ordered as follows:

(1) The lands under the jurisdiction of the Department of the Army, described in Exhibit A and shown on Exhibit B (maps are on file and available for public inspection in the Office of the Chief, USDA Forest Service, Washington, D.C.), which lie within and adjacent to the Mark Twain National Forest, Missouri are hereby transferred from the jurisdiction of the Secretary of the Army to the jurisdiction of the Secretary of Agriculture subject to outstanding rights or interests of record and to such flooding as may occur from the operation of the Table Rock Lake Project.

(2) The lands under the jurisdiction of the USDA Forest Service, described in Exhibit C and shown on Exhibit D (maps are on file and available for public inspection in the Office of the Chief, USDA Forest Service, Washington, D.C.) which lie within and adjacent to the Table Rock Lake Project, Missouri, are hereby transferred from the Secretary of Agriculture to the jurisdiction of the Secretary of the Army.

(3) Pursuant to Section 2 of the aforementioned Act of July 26, 1956, the National Forest lands transferred to the Secretary of the Army by this order are hereafter subject only to the laws applicable to the Department of the Army lands comprising the Table Rock Lake Project, Missouri. The Department of Army lands transferred to the Secretary of Agriculture by this order are hereafter subject only to the laws applicable to lands acquired under the Act of March 1, 1911 (36 Stat. 961), as amended.

This order will be effective as of the date of publication in the **Federal Register**.

Dated: August 25, 1998.

**Louis Caldera,**

*Secretary of the Army.*

Dated: December 24, 1998.

**Dan Glickman,**

*Secretary of Agriculture.*

### Exhibit A—Description of Corps of Engineers Lands Affected by Piney Creek Wilderness

Acres of Corps of Engineers ownership in the following described sectional subdivisions and acres of Corps of Engineers ownership within Piney Creek Wilderness to be conveyed to the Mark Twain National Forest:

| | COE acres owned | COE acres to convey to USFS | COE segment map |
|---|---|---|---|
| Stone County, Missouri: | | | |
| *T 23 N, R 24 W* | | | |
| Sec. 19: SW¼ | 17.5 | 17.5 | U |
| Barry County, Missouri: | | | |
| *T 23 N, R 25 W* | | | |
| Sec. 24: SW NE, N½ SE | 25.32 | 25.32 | U |

Acres over which the Corps of Engineers possesses a flowage easement in the following described sectional subdivisions and acres of flowage easement within Piney Creek Wilderness to be conveyed to the Mark Twain National Forest:

| | COE acres easement | COE acres easement to USFS | COE segment map |
|---|---|---|---|
| Barry County, Missouri: | | | |
| *T 23 N, R 25 W* | | | |
| Sec. 24: N½ SE, N½ SW, S½ NW, SW NE | 25.5 | 25.5 | U |

| | |
|---|---|
| Total COE acres in fee | 42.82 |
| Total COE acres of flow easement | 25.50 |
| Total COE acres involved | 68.32 |

**Exhibit C—Description of National Forest Lands Affected by Table Rock Reservoir Project**

Acres of National Forest ownership in the following described sectional subdivisions and acres of National Forest ownership on or below the 936-foot m.s.l. contour and within the Cow Creek Area to be conveyed to the Corps of Engineers:

| | N.F. acres owned | N.F. acres to convey to COE | COE segment map |
|---|---|---|---|
| Stone County, Missouri: | | | |
| T 21 N, R 23 W | | | |
| Sec. 5: NW NW | 40.0 | 2.0 | I |
| T 22 N, R 23 W | | | |
| Sec. 1: E½ Lot 1 & 2 NW, NW SW, NW SE | 159.33 | 18.9 | B |
| Sec. 5: W½ LOT 2 NW | 38.54 | 2.6 | G |
| Sec. 6: NW¼ (north of James River), NW SE, N½ SW (north of James River), plus all that part of the above sectional subdivisions lying above the 936-foot m.s.l. contour and described as exceptions in the attached Exchange Deed labeled McGuire, dated April 18, 1986 and filed for record in Book 181, at Page 1860, Stone County Recorder's Office. | 76.2 | 76.2 | H |
| Sec. 12: W½ NW, N½ SW, SW SW, plus all that part of the above sectional subdivisions lying above the 936-foot m.s.l. contour and described as exceptions in the attached Exchange Deed labeled Plaster, dated April 17, 1990 and filed for record in Book 198, at Page 1629, Stone County Recorder's Office. | 48.4 | 48.4 | B |
| Sec. 24: NE NE, S½ NE | 120.0 | 17.0 | D |
| Sec. 25: NE NE, SW NE | 80.0 | 16.9 | D |
| Sec. 27: SW NW | 40.0 | .1 | E |
| Sec. 31: SW NW, NW SW | 95.25 | 92.25 | I |
| T 23 N, R 23 W | | | |
| Sec. 19: Lot 1 NW, Lot 2 SW, N½ Lot 1 SW, W½ NE | 278.7 | 22.2 | G |
| Sec. 20: N½ SE | 80.0 | 4.6 | G |
| Sec. 21: N½ NW including that part of the NE NW lying above the 936 foot m.s.l. contour and south of Aunt's Creek. | 80.0 | 3.2 | G |
| Sec. 32: SW SW | 40.0 | 2.5 | G |
| Sec. 34: SE¼, including that part of the SE¼ lying above the 936-foot m.s.l. contour and below the Corps of Engineers Management line, which is more particularly described in the attached legal description labeled Collins Ranch. | 81.57 | 81.57 | F |
| Sec. 35: NW SW, including that part of the NW SW lying above the 936-foot m.s.l. contour and below the Corps of Engineers Management line, which is more particularly described in the attached legal description labeled Collins Ranch. | .2 | .2 | F |
| T 21 N, R 24 W | | | |
| Sec. 1: SW NW as described in the attached legal description labeled KK Kamps, which includes lands above and below the 936 foot m.s.l. contour. | 12.82 | 12.82 | I |
| T 22 N, R 24 W | | | |
| Sec. 3: SW¼, SW SE | 200.0 | 28.9 | S |

| | N.F. acres owned | N.F. acres to convey to COE | COE segment map |
|---|---|---|---|
| Sec. 4: E½ Lot 1 NE, W½ Lot 2 NE, Lot 1 NW | 159.85 | 49.5 | S |
| Sec. 5: Lot 1 NE, Lot 2 NW | 162.41 | 10.2 | S |
| Sec. 6: S½ Lots 1 & 2 SW | 80.39 | 3.0 | CC |
| Sec. 7: W½ NE, S½ Lot 1 NW, N½ Lot 2 NW, S½ Lot 1 SW, Lot 2 SW | 280.44 | 79.1 | CC |
| Sec. 8: S½ NE, E½ SE, SW NW | 200.0 | 64.0 | S |
| Sec. 9: N½ SE SE, NW SW | 60.0 | 13.0 | S |
| Sec. 10: SE NE | 40.0 | 3.7 | S |
| Sec. 11: S½ NW, SW NE | 120.0 | 15.5 | S |
| Sec. 15: NW SE, W½ NW | 120.0 | 10.6 | R |
| Sec. 18: N½ NE, SE NE | 120.0 | 50.8 | CC |
| Sec. 21: Lot 1 SE as described in the attached legal description labeled McFarlin, which includes lands above and below the 936 foot m.s.l. contour. | 20.67 | 20.67 | R |
| Sec. 25: NE NE | 40.0 | 15.0 | I |
| Sec. 32: W½ SE, SW¼, S½ NW, W½ NW NW | 340.0 | 72.4 | DD |
| Sec. 36: SE SE | 40.0 | 40.0 | I |
| T 23 N, R 24 W | | | |
| Sec. 20: NW NE, S½ SE, NE SW | 160.0 | 16.7 | U |
| Sec. 23: NE NE, SW NE, NE SE, SE NW | 160.0 | 81.25 | T |
| Sec. 24: W½ SE, SW¼ W½ NW | 240.0 | 92.0 | G |
| | 80.0 | 80.0 | T |
| Sec. 27: W½ SE | 80.0 | 7.2 | T |
| Sec. 28: NE NE | 40.0 | 8.6 | T |
| Sec. 29: NE¼ | 158.0 | 50.0 | U |
| Total—Stone County, other than Cow Creek block | | 1213.56 | |
| Barry County, Missouri: | | | |
| T 21 N, R 25 W | | | |
| Sec. 13: Lot 1 | 7.56 | 7.56 | GG |
| T 22 N, R 25 W | | | |
| Sec. 1: W½ SE, SE SW | 120.0 | 4.8 | CC |
| Sec. 12: SE¼ | 160.0 | 14.8 | CC |
| Sec. 13: NE NE, SW¼ | 127.7 | 15.4 | CC |
| T 21 N, R 26 W | | | |
| Sec. 29: NE NE | 40.0 | 2.1 | MM |
| T 22 N, R 26 W | | | |
| Sec. 26: SE SE | 40.0 | 3.8 | JJ |
| Total—Barry County | | 48.46 | |

| | |
|---|---|
| Stone County Lands (Less Cow Creek) | 1213.56 |
| Barry County Lands | 48.46 |
| Grand Total (acres) | 1262.02 |

## Description of National Forest Lands Within the Cow Creek Block

| | N.F. acres acquired | N.F. acres to be conveyed to COE | COE segment map |
|---|---|---|---|
| Stone County, Missouri, Cow Creek: | | | |
| T 21 N, R 23 W | | | |
| Sec. 1: All except NW SW | 600.0 | 600.0 | E |
| Sec. 2: All except N½ NE, NW NW, NE SE & except 1 square acre in the NE corner of the SW NE. | 479.0 | 479.0 | E |
| Sec. 3: E½ SE, S½ NE, NW NE, NW NW | 240.0 | 240.0 | E |
| Sec. 4: NW NE | 40.0 | 40.0 | |
| Sec. 10: NE NE | 40.0 | 40.0 | E |
| Sec. 11: N½ N½ | 160.0 | 160.0 | E |
| Sec. 12: NE¼ north of 86, E½ NW, NW NW | 276.0 | 276.0 | E |
| T 22 N, R 23 W | | | |
| Sec. 26: SW SW | 40.0 | 40.0 | E |
| Sec. 27: S½ SW, part E½ SE | 105.0 | 105.0 | E |
| Sec. 33: SE¼ except NW SE | 120.0 | 120.0 | |
| Sec. 34: All except SE SW, SW, SE, part E½ SE | 523.19 | 523.19 | E |
| Sec. 35: NW¼, S½ NE, E½ SW | 320.0 | 320.0 | E |
| Sec. 36: S½ & part SE NE | 351.6 | 351.6 | E |
| Total—Cow Creek | 3,294.79 | 3,294.79 | |

[FR Doc. 99–10620 Filed 4–27–99; 8:45 am]

BILLING CODE 3410–11–M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 011999A]**

### Small Takes of Marine Mammals Incidental to Specified Activities; La Jolla Children's Pool Beach Management and Water Quality Project

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

**ACTION:** Notice of withdrawal of a request for a small take exemption authorization.

**SUMMARY:** On April 8, 1999, NMFS was notified by the City of San Diego's Park and Recreation Department that it was withdrawing its request for an authorization under the Marine Mammal Protection Act (MMPA) to take small numbers of Pacific harbor seals by harassment incidental to excavating and removing beach sand at the La Jolla Children's Pool, La Jolla, CA.

**ADDRESSES:** A copy of the application and/or the letter of withdrawal may be obtained by writing to Donna Wieting, Acting Chief, Marine Mammal Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225 or by telephoning one of the contacts listed in **FOR FURTHER INFORMATION CONTACT**.

**FOR FURTHER INFORMATION CONTACT:** Kenneth Hollingshead, Office of Protected Resources at 301–713–2055, or Joe Cordaro, Southwest Regional Office at 562–980–4017.

**SUPPLEMENTARY INFORMATION:** On December 28, 1998, NMFS received a request from the City of San Diego for authorization under section 101(a)(5)(D) of the MMPA (16 U.S.C. 1371(a)(5)(D)) to take small numbers of Pacific harbor seals (*Phoca vitulina*) and possibly 1 to 2 California sea lions (*Zalophus californianus*) and northern elephant seals (*Mirounga angustirostris*) by harassment incidental to excavating and removing 3,000 $yd^3$ (2,295 $m^3$) of beach sand at the La Jolla Children's Pool. The La Jolla Children's Pool was constructed in 1931 to provide a sheltered swimming area for children in La Jolla. Over time, the beach behind the breakwater has gradually widened as sand has accumulated in the sheltered pool. By 1998, the shoreline had advanced to near the end of the breakwater, at the mouth of the pool, leaving very little area for recreational swimming. The lack of a protected swimming area and the proximity to dangerous rip current conditions near the breakwater opening have created significant safety concerns.

In addition to the restricted use and associated dangers due to sand accretion, recreational use has been further compromised by a population of harbor seals that regularly use the Children's Pool area as a haul-out area. Seal feces from the concentrated harbor seal population have resulted in fecal coliform bacteria counts that significantly exceed State water quality standards for bathing beaches and body contact areas. DNA testing has confirmed the harbor seal population as the source of the bacterial contamination. As a result, the Children's Pool has been determined unsafe for human contact and has been closed to the public for all water contact since September 4, 1997. Moreover, the presence of the large seal population attracts large numbers of non-bathing observers to the beach area. This interaction has raised additional safety concerns for both humans and the seals.

The La Jolla Children's Pool Beach Management and Water Quality Project proposed to restore a safe swimming area and acceptable water quality to the pool by reducing the beach width. Out of 4,200 $yd^3$ (3,213 $m^3$) of sand in the pool area, approximately 3,000 $yd^3$ (2,295 $m^3$) was to have been excavated and removed to narrow the beach. The City of San Diego expected that, by excavating and enlarging the area available for recreational swimming, it would provide a safe region for the public away from the dangerous rip currents, and, by reducing the area available for harbor seals, water quality levels are expected to return to former levels that were acceptable and safe for human contact.

A notice of receipt of the application and proposed incidental harassment authorization issued under the MMPA was published on February 22, 1999 (64 FR 8548), and a 30-day public comment period was provided on the application and proposed authorization. Several comments were received during the comment period.

Subsequent to the close of the comment period, on April 8, 1999, NMFS was notified by the Park and Recreation Department that it was withdrawing its request for an authorization under section 101(a)(5)(D) of the MMPA to take small numbers of Pacific harbor seals by harassment incidental to excavating and removing beach sand at the La Jolla Children's Pool, La Jolla, CA. The letter noted that the City will be evaluating alternatives to sand removal in order to reduce the level of fecal contamination in the pool waters and may submit a renewed application in the future.

Dated: April 22, 1999.

**Hilda Diaz-Soltero,**

*Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 99–10641 Filed 4–27–99; 8:45 am]

BILLING CODE 3510–22–F

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 042199G]**

### Caribbean Fishery Management Council; Public Meetings

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

**ACTION:** Notice of public meetings.

**SUMMARY:** The Caribbean Fishery Management Council (Council) will hold a series of fact-finding meetings in Puerto Rico and the U.S. Virgin Islands.

**DATES:** See **SUPPLEMENTARY INFORMATION** for specific dates.

**ADDRESSES:** See **SUPPLEMENTARY INFORMATION** for specific locations.

**FOR FURTHER INFORMATION CONTACT:** Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, PR 00918–2577, telephone: (787) 766–5926.

**SUPPLEMENTARY INFORMATION:**

Tuesday May 11, 1999 — 7:00 p.m. to 10:00 p.m.

Location: Conference Room, Legislature Building, Charlotte Amalie, St. Thomas, U.S.V.I.

*Wednesday, May 12, 1999 — 7:00 p.m. to 10:00 p.m.*

Location: Conference Room, Legislature Building, St. John, U.S.V.I.

*Thursday, May 13, 1999 — 7:00 p.m. to 10:00 p.m.*

Location: Conference Room, Caravelle Hotel, 44A Queen Cross Street, Christinasted, St. Croix, U.S.V.I.

*Monday, May 17, 1999 — 7:00 p.m. to 10:00 p.m.*

Location: Refugio Las Marias, Vieques, PR

*Tuesday, May 18, 1999 — 1:00 p.m. to 4:00 p.m.*

Location: El Meson Criollo, Carr. 987, Km. 3.2, Fajardo, PR

*Tuesday May 18, 1999 — 7:00 p.m. to 10:00 p.m.*

Location: Conference Room, Casa Alcaldia of Naguabo, Naguabo, PR

*Wednesday, May 19, 1999 — 7:00 p.m. to 10:00 p.m.*

Location: Conference Room, Ponce Hilton Hotel, 1150 Ave. Caribe, Ponce, PR

*Thursday, May 20, 1999 — 1:00 p.m. to 4:00 p.m.*

Location: Conference Room, Villa Parguera Hotel, 304 St., Km. 3.3, La Parguera, Lajas, PR

*Thursday, May 20, 1999 — 7:00 p.m. to 10:00 p.m.*

Location: Conference Room, Joyuda Beach Hotel, Rd. 102, Bo. Joyuda, Cabo Rojo, PR

*Friday, May 21, 1999 — 6:00 p.m. to 9:00 p.m.*

Location: Centro Comunal of Barrio Jarealito, Arecibo, PR

The Caribbean Fishery Management Council will hold a series of fact finding meetings in Puerto Rico and the U.S. Virgin Islanda to obtain input from fishery and the general public on possible management measures proposed by, among others, Project Reef Keeper and some concerned citizens. The first of the proposed measures is the phasing out of fish traps in around ten years. The idea here is to avoid the damage to the reef and fish species when traps are deployed on top of reefs, and when these are lost continuing killing fish for a long time. The Council has not taken a position on this or any of the measures that are to be discussed at the meetings. The other two measures the Council need comments on are the banning of gill nets and the prohibition to use SCUBA gear to fish for queen conch, lobster and some reef fishes, the commercial and/or recreational fisheries. The proponents of these measures believe that the use of gill nets is jeopardizing the recovery of the already over-exploited resources. Furthermore, there is the notion that SCUBA is the main reason why the stocks of queen conch and lobster are so depleted. The Council wishes to find more information on these important and drastic measures before the preparation of an option paper that could initiate the process of development of amendments to the fishery management plans to ban any of these methods of fishing written statements regarding agenda issues.

Although other issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice.

## Special Accommodations

These meetings are physically accessible to people with disabilities. For more information or request for sign language interpretation and/other auxiliary aids, please contact Mr. Miguel A. Rolon, Executive Director, Carribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, PR 00918–2577, telephone: (787) 766–5926, at least 5 days prior to the meeting date.

Dated: April 22, 1999.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 99–10637 Filed 4–27–99; 8:45 am]

BILLING CODE 3510–22–F

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

**[I.D. 042199E]**

## New England Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The New England Fishery Management Council (Council) is scheduling a public meeting of its Groundfish Oversight Committee and Groundfish Advisory Panel in May, 1999 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

**DATES:** The meeting will be held on May 11, 1999. See **SUPPLEMENTARY INFORMATION** for specific times.

**ADDRESSES:** The meeting will be held in Peabody, MA. See **SUPPLEMENTARY INFORMATION** for specific locations.

**FOR FURTHER INFORMATION CONTACT:** Paul J. Howard, Executive Director, New England Fishery Management Council (781) 231–0422. Requests for special accommodations should be addressed to the New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1036; telephone: (781) 231–0422.

**SUPPLEMENTARY INFORMATION:**

## Meeting Dates and Agenda

*Tuesday, May 11, 1999, 9:30 a.m.*—Groundfish Oversight Committee and Groundfish Advisory Panel Joint Meeting

Location: Holiday Inn, One Newbury Street (Route 1 North), Peabody, MA 01960; telephone: (978) 535–4600.

The committee and panel will review draft proposals and analysis for Framework Adjustment 31 to the Northeast Multispecies Fishery Management Plan (FMP), and recommend a preferred alternative for consideration by the Council at its

May 26–27 meeting. Framework Adjustment 31 would modify the FMP regulations pertaining to the Georges Bank cod fishery, including: a proposal for vessels to take a 30-day block out of the multispecies fishery during each quarter; reductions in the allowable number of hooks used by hook vessels and gillnets used by Day Gillnet category vessels; increasing the minimum size of cod to 21 inches; and eliminating the ''running clock'' provision of the Gulf of Maine cod trip limit program. The committee and panel will also discuss and advise the Council on issues and measures to be included in a public hearing document for Amendment 13 to the FMP, including but not limited to: management of the recreational and party/charter fishery, management policy and strategy for the commercial fishery, action to rebuild all stocks in the fishery management unit as needed under new overfishing definitions; managing fleet fishing capacity, including possible implementation of a two-tier permit system to address latent fishing permits; proposals for industry support systems involving scientific research and conservation engineering programs; modification of the annual adjustment schedule and possible change to the fishing year; the use of electronic vessel monitoring systems (VMS); and other issues that may be identified during the scoping process.

Although other issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice.

## Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least five days prior to the meeting dates.

Dated: April 22, 1999.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 99–10636 Filed 4–27–99; 8:45 am]

BILLING CODE 3510–22–F

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 042199F]**

### New England Fishery Management Council; Public Meetings

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

**ACTION:** Notice of public meetings.

**SUMMARY:** The New England Fishery Management Council (Council) is scheduling a number of public meetings of its oversight committees and advisory panels in May, 1999 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

**DATES:** The meetings will be held between May 13 and May 24, 1999. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

**ADDRESSES:** Meetings will be held in Peabody and E. Boston, MA. See **SUPPLEMENTARY INFORMATION** for specific locations.

**FOR FURTHER INFORMATION CONTACT:** Paul J. Howard, Executive Director, New England Fishery Management Council; (781) 231–0422. Requests for special accommodations should be addressed to the New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1036; telephone: (781) 231–0422.

**SUPPLEMENTARY INFORMATION:**

#### Meeting Dates and Agendas

*Thursday, May 13, 1999, 10:00 a.m.*—Joint NEFMC/ASMFC Herring Advisors Committee Meeting

Location: Holiday Inn, One Newbury Street, Route 1, Peabody, MA 01960; telephone: (978) 535–4600; fax: (978) 535–8238

Development of advisory panel recommendations on limited entry, controlled access, and recommendations on the establishment of a control date for the Atlantic herring fishery; other business.

*Monday, May 24, 1999, 9:30 a.m.*—Scallop Committee Meeting.

Location: Holiday Inn Boston Logan Airport, 225 McClellan Highway, East Boston, MA 02128, telephone: (617) 569–5250; fax: (617) 561–0971

The committee will identify problems and issues to be addressed by Amendment 10 and evaluate research proposals that would utilize the scallop TAC set-aside from Closed Area II.

Although other issues not contained in this agenda may come before these groups for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, these issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice.

#### Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: April 22, 1999.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 99–10638 Filed 4–27–99; 8:45 am]

BILLING CODE 3510–22–F

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 041699C]**

### South Atlantic Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The South Atlantic Fishery Management Council (Council) will hold a meeting to coordinate with state artificial reef program coordinators on the review and consideration of establishing artificial reefs as marine fishery reserves, or ''artificial refugia'' in the South Atlantic.

**DATES:** The meeting will be held on May 13, 1999 from 8:30 a.m. to 5:00 p.m.

**ADDRESSES:** The meeting will be held at the Florida Marine Research Institute, 100 8th Avenue, SE, St. Petersburg, FL 33701; telephone: 717-896-8626.

**FOR FURTHER INFORMATION CONTACT:** Susan Buchanan, Public Information Officer; telephone: (843) 571-4366; fax: (843) 769-4520; email: susan.buchanan@noaa.gov.

**SUPPLEMENTARY INFORMATION:** Although other issues not contained in this agenda may come before the Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice.

#### Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by May 6, 1999.

Dated: April 22, 1999.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 99–10640 Filed 4–27–99; 8:45 am]

BILLING CODE 3510–22–F

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 042199D]**

### Western Pacific Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The Western Pacific Fishery Management Council's (Council) Pelagics Plan Team (PPT) members will hold a meeting.

**DATES:** The meeting will be held May 12–14, 1999, from 8:30 a.m. to 5:00 p.m. each day.

**ADDRESSES:** The meeting will be held at the Council office.

*Council address*: Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813.

**FOR FURTHER INFORMATION CONTACT:** Kitty M. Simonds, Executive Director; telephone: 808–522–8220.

**SUPPLEMENTARY INFORMATION:** The PPT meeting will discuss and may make recommendations to the Council on the following agenda items:

1. Pelagic fisheries annual report modules;
2. 1st quarter 1999 Hawaii and American Samoa longline fishery report;
3. Shark incidental catch in the Hawaii longline fishery, and issues related to shark finning and commercial gears used to catch sharks;

4. Status of Council and NMFS projects concerning mitigation of longline-seabird interactions in the Hawaii longline fishery;

5. Status of NMFS research on bycatch of turtles in the Hawaii longline fishery, and issues relating to the complaint filed against NMFS concerning the current biological opinion for turtles and compliance with National Environmental Protection Act requirements;

6. Marine debris: sources and impacts on habitat and protected species;

7. Status of the area closure for large pelagic fishing vessels around the islands of American Samoa, and area closures for other island areas in the Western Pacific;

8. Progress of the Multi-lateral High Level Conference process to implement a management convention for tunas in the Central-West Pacific;

9. Fisheries data issues including recreational fishery reporting and formation of a recreational fisheries data task force;

10. Review of Pelagics Advisory Panel recommendations;

11. Status report on High Seas Fishing Compliance Act licensing of Hawaii-based longline vessels;

12. Review of Council program plan;

13. Other business as required.

Although other issues not contained in this agenda may come before this Team for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not the subject of formal discussion during this meeting. Action will be restricted to those issues specifically listed in this notice.

## Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808–522–8220 (voice) or 808–522–8226 (fax), at least 5 days prior to meeting date.

Dated: April 22, 1999.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 99–10639 Filed 4–27–99; 8:45 am]

BILLING CODE 3510–22–F

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Privacy Act of 1974; System of Records

**AGENCY:** Office of the Secretary, DoD.

**ACTION:** Notice to amend a system of records.

**SUMMARY:** The Office of the Secretary of Defense proposes to amend a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

**DATES:** The amendment will be effective on May 28, 1999, unless comments are received that would result in a contrary determination.

**ADDRESSES:** Send comments to OSD Privacy Act Coordinator, Records Management Division, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Bosworth at (703) 588–0159.

**SUPPLEMENTARY INFORMATION:** The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed amendments are not within the purview of subsection (r) of the Privacy Act (5 U.S.C. 552a), as amended, which would require the submission of a new or altered system report for each system. The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety.

Dated: April 22, 1999.

**L. M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

**DHA 08**

**SYSTEM NAME:**

Health Affairs Survey Data Base *(April 12, 1999, 64 FR 17627).*

**CHANGE:**

* * * * *

**RETRIEVABILITY:**

Delete the first paragraph under *Annual Beneficiary Survey:* and replace with '1. Beneficiary Records: Records of beneficiaries who have or have not responded to the survey may be retrieved by patient identifiers such as name, address, sponsor Social Security Number, family member prefix code, and demographic categories such as age, sex, military rank group (officer/enlisted/civilian).'

Delete the first paragraph under *Customer Satisfaction Survey:* and replace with '1. Beneficiary Records: Records of beneficiaries who have been mailed a survey may be retrieved by name and address for purposes of initiating follow-up contacts to obtain a response to the survey; but after 90 days, the name and address are permanently deleted so that the survey respondent cannot be identified.'

* * * * *

**DHA 08**

**SYSTEM NAME:**

Health Affairs Survey Data Base.

**SYSTEM LOCATION:**

Primary location: Directorate of Information Management, Fort Detrick, MD 21702–5020.

Secondary locations: Survey distribution and response tracking files are located at the contractor facilities.

Survey result data files are located at the Office of the Assistant Secretary of Defense (Health Affairs), the Commanders and Intermediate Commanders of the Services Medical Treatment Facilities, the Surgeons General of the Military Services and Regional Managers of TRICARE facilities. The addresses for the secondary locations may be obtained from the Deputy Assistant Secretary of Defense (Health Budgets and Programs), Five Skyline Place, Suite 810, 5111 Leesburg Pike, Falls Church, VA 22041–3206.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

*Annual Beneficiary Survey:* Individuals eligible for health care under Title 10 (including active duty personnel, reserve personnel and their family members (dependents); retired Armed Forces personnel and their family members; surviving dependents of deceased active duty and retired personnel; and certain others including individuals and their dependents affiliated with the U.S. Coast Guard, U.S. Public Health Service and the National Oceanic and Atmospheric Administration.

*Customer Satisfaction Survey:* Active duty members of the Armed Forces, civilian personnel, and contract personnel serving as health care providers for individuals eligible for health care under Title 10 in military medical and dental treatment facilities and other treatment settings.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

*Annual Beneficiary Survey:* Name, rank, age, gender, race, address, sponsor Social Security Number and family member prefix code of individuals who will be surveyed; verification that a survey has been completed and returned by the individual; and response data from the completed surveys.

*Customer Satisfaction Survey:* Medical and dental care provider name,

provider type, specialty and rank; medical treatment facility, and clinic where care was provided; and response data from the completed surveys.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 138, Assistant Secretaries of Defense; 10 U.S.C. 1071 (NOTE); 10 U.S.C. Chapter 55; and E.O. 9397 (SSN).

**PURPOSE(S):**

*Annual Beneficiary Survey:* The survey collects information concerning beneficiary attitudes, perceptions, and opinions about their individual health and health care (including access to care, health status, use of care, familiarity with programs and services available, and satisfaction with care received) in order to assess, plan, evaluate, and improve quality, efficiency, convenience and cost effectiveness of health care services. This process includes analyses of information related to special interest health care subjects, including health status, in order to validate current and/or forecast future health care needs or to implement plans in response to new health care requirements. Retaining beneficiary specifics allows for individual follow-up to improve response rates; scientific analysis of the data; and to validate survey responses by comparing responses to independent sources of data.

*Customer Satisfaction Survey:* The survey collects information concerning beneficiary attitudes, perceptions, and opinions about health care provided during specific visits (including access to care, quality of care, satisfaction with how care was delivered, satisfaction with the specific care provider, and satisfaction with care received) in order to assess, plan, evaluate, and improve quality, efficiency, convenience and cost effectiveness of health care services. This process includes analyses of information related to special interest health care subjects, including health status, in order to validate current and/or forecast future health care needs or to implement plans in response to new health care requirements. Specific care provider information is analyzed in order to alert medical authorities to potential problem areas where additional educational and corrective measures may be required in order to improve customer satisfaction.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:**

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Electronic records stored on magnetic and/or optical media.

**RETRIEVABILITY:**

*Annual Beneficiary Survey:*

1. Beneficiary Records: Records of beneficiaries who have or have not responded to the survey may be retrieved by patient identifiers such as name, address, sponsor Social Security Number, family member prefix code, and demographic categories such as age, sex, military rank group (officer/enlisted/civilian).

2. Response Records: Survey data is normally retrieved using demographic or other non-personalized elements.

3. The beneficiary and response records contain a randomly generated code which permits the identification of the survey respondent.

*Customer Satisfaction Survey:*

1. Beneficiary Records: Records of beneficiaries who have been mailed a survey may be retrieved by name and address for purposes of initiating follow-up contacts to obtain a response to the survey; but after 90 days, the name and address are permanently deleted so that the survey respondent cannot be identified.

2. Response Records: Records of care providers who furnished care at a specific facility/clinic may be retrieved only by the facility/clinic commander by name, rank (if military), provider type (e.g., physician, clinical nurse, etc.) and specialty (e.g., pediatrician.

**SAFEGUARDS:**

Media at the primary location are stored in a locked cage in a controlled access area when not in use; when maintained at the contract location, media are stored in cabinets or storage areas when not being used and are placed in a locked container or space within a building that is secured after hours. Result data that includes patient or provider identification is maintained in locked storage cabinets or locked areas in buildings that are secured after hours. Only authorized personnel who have received Privacy Act training are permitted access to information in the system.

Specific instructions are provided MTF commanders on the safeguards required in handling and maintaining Customer Satisfaction Survey information.

**RETENTION AND DISPOSAL:**

Hard copy surveys are destroyed after the information contained in survey responses is entered into a computer system.

*Annual Beneficiary Survey:* Data files with beneficiary specifics and results will be retained until an appraisal and schedule is obtained from the National Archives and Records Administration.

*Customer Satisfaction Survey:* Data files with results and provider specifics will be retained until an appraisal and schedule is obtained from the National Archives and Records Administration.

**SYSTEM MANAGER(S) AND ADDRESS:**

Deputy Assistant Secretary of Defense (Health Budgets and Programs), Five Skyline Place, Suite 810, 5111 Leesburg Pike, Falls Church, VA 22041–3206.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether this system contains information about themselves should address written inquiries to the Deputy Assistant Secretary of Defense (Health Budgets and Programs)/Program Review and Evaluation, Five Skyline Place, Suite 810, 5111 Leesburg Pike, Falls Church, VA 22041–3206.

*Annual Beneficiary Survey:* A beneficiary should provide full name, sponsor's Social Security Number, family member prefix, and current address and telephone number of the individual.

*Customer Satisfaction Survey:* A health care provider should provide name, current address, telephone number, and name of the medical facility and clinic should be supplied.

**RECORD ACCESS PROCEDURES:**

Individuals seeking access to records about themselves contained in this system should address written inquiries to the Deputy Assistant Secretary of Defense (Health Budgets and Programs), Five Skyline Place, Suite 810, 5111 Leesburg Pike, Falls Church, VA 22041–3206.

*Annual Beneficiary Survey:* A beneficiary should provide full name, sponsor's Social Security Number, family member prefix, and current address and telephone number of the individual.

*Customer Satisfaction Survey:* A health care provider should provide name, current address, telephone number, and name of the medical facility and clinic should be supplied.

**CONTESTING RECORD PROCEDURES:**

The OSD rules for accessing records and for contesting contents and appealing initial agency determinations are contained in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

**RECORD SOURCE CATEGORIES:**

Sources include Services medical and dental treatment facilities and facilities contracted by DoD to perform medical care for Military members, former members and dependents. Survey information is provided by the individual patient or a parent or guardian of the individual patient. Demographic information that may be related to the patient is provided by the Defense Enrollment Eligibility Reporting System (DEERS), the Ambulatory Data System (ADS), and the Composite Health Care System (CHCS).

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

[FR Doc. 99–10572 Filed 4–27–99; 8:45 am]

BILLING CODE 5001–10–F

## DEPARTMENT OF DEFENSE

### Department of the Army

### Privacy Act of 1974; System of Records

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice to amend system of records.

**SUMMARY:** The Department of the Army is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

**DATES:** This proposed action will be effective without further notice on May 28, 1999, unless comments are received which result in a contrary determination.

**ADDRESSES:** Privacy Act Officer, Records Management Program Division, Army Records Management and Declassification Agency, ATTN: TAPC-PDD-RP, Stop C55, Ft. Belvoir, VA 22060–5576.

**FOR FURTHER INFORMATION CONTACT:** Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390.

**SUPPLEMENTARY INFORMATION:** The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: April 22, 1999.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

### A0065 TAPC

**SYSTEM NAME:**

Postal and Mail Service System (February 22, 1993, 58 FR 10002).

**CHANGES:**

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**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

After 'military' add 'and civilian'.

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**STORAGE:**

Delete entry and replace with 'Paper records, microfiche and electronic storage media.'

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**SAFEGUARDS:**

Delete entry and replace with 'Records are located in secured buildings, accessible only to designated persons having an official need for the information. Electronic information is password controlled.'

* * * * *

**SYSTEM MANAGER(S) AND ADDRESS:**

Delete entry and replace with 'Commander, U.S. Total Army Personnel Command, ATTN: TAPC-PDO-IP, Army Postal Officer, 200 Stovall Street, Alexandria, VA 22332–0474.'

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### A0065 TAPC

**SYSTEM NAME:**

Postal and Mail Service System.

**SYSTEM LOCATION:**

Postal facilities at Army headquarters offices, commands, and installations. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Persons designated as postal clerks; military and civilian personnel assigned/attached to Army installations who require mail handling service.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Designating Army postal clerks/NCO's/supervisors/orderlies (DD Form 285); locator cards (DA Form 3955) comprising a directory of individuals assigned, en route, and/or departing given installation, showing individual's full name, grade, current mailing address, date of assignment/detachment, and Social Security Number.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

10 U.S.C. 3013, Secretary of the Army; DoD 4525.6-M, DoD Postal Manual; and E.O. 9397 (SSN).

**PURPOSE(S):**

To designate persons authorized to perform Army postal functions; to maintain current addresses of persons arriving/departing units for the purpose of handling personal mail.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information may be disclosed to the U.S. Postal Service.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records, microfiche and electronic storage media.

**RETRIEVABILITY:**

By individual's surname and/or Social Security Number.

**SAFEGUARDS:**

Records are located in secured buildings, accessible only to designated persons having an official need for the information. Electronic information is password controlled.

**RETENTION AND DISPOSAL:**

Documents designating postal personnel are destroyed two years from the termination/revocation date of designation. Directory locator cards (DA Form 3955) are retained for 12 months after member's departure from unit and then destroyed.

**SYSTEM MANAGER(S) AND ADDRESS:**

Commander, U.S. Total Army Personnel Command, ATTN: TAPC-

PDO-IP, Army Postal Officer, 200 Stovall Street, Alexandria, VA 22332–0474.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Installation Postal Director at the unit where assigned or employed.

Individual should provide the full name, Social Security Number, current address, and signature to assist in locating the records.

**RECORD ACCESS PROCEDURES:**

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Installation Postal Director at the unit where assigned or employed.

Individual should provide the full name, Social Security Number, current address, and signature to assist in locating the records

Personal visits may be made; individual must furnish proof of identity.

**CONTESTING RECORD PROCEDURES:**

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

**RECORD SOURCE CATEGORIES:**

From the individual, unit commanders and Army postal officers.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

[FR Doc. 99–10571 Filed 4–27–99; 8:45 am]

**BILLING CODE 5001–10–F**

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## DEPARTMENT OF DEFENSE

### Department of the Navy

### Privacy Act of 1974; System of Records Notice

**AGENCY:** Department of the Navy, DoD.

**ACTION:** Notice to amend records systems.

**SUMMARY:** The Department of the Navy proposes to amend 12 systems of records notices in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

**DATES:** The amendments will be effective on May 28, 1999, unless comments are received that would result in a contrary determination.

**ADDRESSES:** Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (N09P30), 2000 Navy Pentagon, Washington, DC 20350–2000.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Doris Lama at (202) 685–6545 or DSN 325–6545.

**SUPPLEMENTARY INFORMATION:** The Department of the Navy's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The Department of the Navy proposes to amend 13 systems of records notices in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The changes to the systems of records are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered systems reports. The records systems being amended are set forth below, as amended, published in their entirety.

Dated: April 22, 1999.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

**N01001–5**

**SYSTEM NAME:**

MSC Masters and Chief Engineers Date File (February 22, 1993, 58 FR 10694).

**CHANGES:**

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**SYSTEM NAME:**

Delete entry and replace with 'MSC Masters/Chief Engineers Biographical Data File.'

**SYSTEM LOCATION:**

Delete entry and replace with 'Afloat Personnel Management Center, Military Sealift Command, P.O. Box 120, Virginia Beach, VA 23458–0120.'

* * * * *

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Delete entry and replace with 'Biographical and professional information containing name, date and place of birth, home address and phone numbers, education, training for sea, maritime licenses held, military experience, shore employment, commercial shipboard status, spouse's name, number of children and their names and ages, highlights of merchant marine career, special skills and accomplishments, hobbies, special interests, community activities and association membership.'

**PURPOSE(S):**

Delete entry and replace with 'To maintain background information on MSC Masters and Chief Engineers. The electronic version of the biographical data (MSC 12330/8) is completed after selection. The information is used to identify location and provide biographical information on Masters and Chief Engineers to the promotion board, media and internal requests for information prior to public appearances, press releases, or courtesy calls to MSC ships by MSC personnel and members of other organizations or commands.

* * * * *

**SAFEGUARDS:**

Delete entry and replace with 'The biographical data is maintained in areas accessible to authorized personnel only. The Afloat Personnel Management Center is physically located at Camp Pendleton, Virginia. Access to buildings on this state military reservation is by clearance of 24-hour security guards.'

**RETENTION AND DISPOSAL:**

Delete entry and replace with 'The biographical data on Masters and Chief Engineers is updated annually. Outdated files are destroyed when updated information is received and the entire file is destroyed immediately upon the Masters or Chief Engineers separation or retirement from the Command.'

**SYSTEM MANAGER(S) AND ADDRESS:**

Delete entry and replace with 'Director, Afloat Personnel Management Center, Military Sealift Command, P.O. Box 120, Virginia Beach, VA 23458–0120.'

* * * * *

**N01001–5**

**SYSTEM NAME:**

MSC Masters/Chief Engineers Biographical Data File.

**SYSTEM LOCATION:**

Military Sealift Command, Washington Navy Yard, Building 210, 901 M Street, SE, Washington, DC 20398–5540.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

MSC Masters and Chief Engineers aboard civil service manned ships.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Biographical and professional information containing name, data and place of birth, home address and phone number, education, training for sea, maritime licenses held, military experience, shore employment,

commercial shipboard status, spouse's name, number of children and their names and ages, highlights of merchant marine career, special skills and accomplishments, hobbies, special interests, community activities and association membership.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Department Regulations.

PURPOSE(S):

To maintain background information on MSC Masters and Chief Engineers. The electronic version of the biographical data (MSC 12330/8) is completed after selection. The information is used to identify location and provide biographical information on Masters and Chief Engineers to the promotion board, media and internal requests for information prior to public appearances, press releases, or courtesy calls to MSC ships by MSC personnel and members of other organizations or commands.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine used pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and computerized records.

RETRIEVABILITY:

Name.

SAFEGUARDS:

The biographical data is maintained in areas accessible to authorized personnel only. The Afloat Personnel Management Center is physically located at Camp Pendleton, Virginia. Access to buildings on this state military reservation is by clearance of 24-hour security guards.

RETENTION AND DISPOSAL:

The biographical data on Masters and Chief Engineers is updated annually. Outdated files are destroyed when updated information is received and the entire file is destroyed immediately upon the Masters or Chief Engineers separation or retirement from the Command.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Afloat Personnel Management Center, Military Sealift Command, PO Box 120, Virginia Beach, VA 23458–0120.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contained information about themselves should address written inquiries to the Director, Afloat Personnel Management Center, Military Sealift Command, PO Box 120, Virginia Beach, VA 23458–0120.

Written requests should contain full name of the individual, military grade or rate, and date of birth. For personal visits, the individual should be able to provide some acceptable means of identification.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Director, Afloat Personnel Management Center, Military Sealift Command, PO Box 120, Virginia Beach, VA 23458–0120.

Written requests should contain full name of the individual, military grade or rate, and date of birth. For personal visits, the individual should be able to provide some acceptable means of identification.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records and contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

**N01710–1**

SYSTEM NAME:

Recreation Association Membership Files (September 9, 1996, 61 FR 47483).

CHANGES:

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SYSTEM MANAGER(S) AND ADDRESS:

Delete first paragraph and replace with 'Policy Official: Commander, Navy Personnel Command (NPC–658), 5720 Integrity Drive, Millington, TN 38055–6580.'

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**N01710–1**

SYSTEM NAME:

Recreation Association Membership Files.

SYSTEM LOCATION:

Organizational elements of the Department of the Navy. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Name, rank, Social Security Number, room and telephone number, membership care number and dates purchased.

CATEGORIES OF RECORDS IN THE SYSTEM:

This record lists the names, internal codes, room and telephone numbers of each membership card and dates purchased.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Department Regulations and E.O. 9397 (SSN).

PURPOSE(S):

To indicate income from sale of membership cards; to provide an audit trial for the auditors; and to confirm memberships, upon request.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, card files, magnetic tape, personal computer.

RETRIEVABILITY:

Name, Social Security Number, Case number, organization.

SAFEGUARDS:

Password control system, file, and element access based on predefined need-to-know. Physical access is controlled by locked terminals and rooms, guards, personnel screening and visitor control.

RETENTION AND DISPOSAL;

Records are destroyed one year after individual terminates membership.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Official: Commander, Navy Personnel Command (NPC–658), 5720

Integrity Drive, Millington, TN 38055–6580.

System Manager: Commanding officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commanding officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commanding officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Nary Instruction 5211.5; 32CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

**N01740–1**

SYSTEM NAME:

Family Dependent Care Program (February 10, 1997, 62 FR 5963).

CHANGES:

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PURPOSE:

In paragraph 2, line 2, after 'Centers,' add 'Child Development Programs,'.

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**N01740–1**

SYSTEM NAME:

Family Dependent Care Program.

SYSTEM LOCATION:

Organizational elements of the Department of the Navy. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Navy personnel serving on active duty or in the Ready Reserve who are single parents of members of dual military couples, that have custodial responsibility (i.e., housing, medical, logistical, financial, food, clothing, transportation, etc.) for family members or other dependents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Family Care Plan package which includes NAVPERS 1740.6—Family Care Plan Certificate, NAVPERS 1740.7—Family Care Plan Arrangements, Family Care Plan Checklist, copies of powers of attorney, legal documents, allotment information, financial information, counseling forms, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations, E.O. 9397 (SSN), OPNAVINST 1740.4A, U.S. Navy Family Care Policy.

PURPOSE(S):

To ensure family members are cared for during deployments, reserve mobilizations, temporary duty, etc. and that arrangements are in place for the financial well-being of family members covered by the Family Care Plan during separations.

Utilized by command financial specialists, Family Service Centers, Child Development Programs, and legal assistance offices for providing guidance and assistance.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and automated records.

RETRIEVABILITY:

Name and Social Security Number.

SAFEGUARDS:

Files are maintained in file cabinets under the control of authorized personnel during working hours; the office space in which the file cabinets are located is locked outside official working hours. Automated records are password protected.

RETENTION AND DISPOSAL:

Records are maintained by the commanding officer or his designated representative for the period the individual is assigned to the organization. Records are updated annually or when family circumstances or other personal status changes. File follows member with each new assignment. Once affiliation with the Navy is complete, record is destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Official: Chief of Naval Personnel, Bureau of Naval Personnel (Pers-2WW), 2 Navy Annex, Washington, DC 20370–5001.

Record Holder: Commanding officer or designated representative of the naval activity where assigned. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commanding Officer of the activity where assigned.

Request should include full name, Social Security Number, and dates assigned at that activity.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Commanding Officer of the activity where assigned.

Request should include full name, Social Security Number, and dates assigned at that activity.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and contesting contents, and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

**N01752–1**

SYSTEM NAME:

Family Advocacy Program System (December 5, 1997, 62 FR 64367).

**CHANGES:**

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**PURPOSE(S):**

Delete paragraph 2. In paragraph 10, line 2, delete 'non-identifying' and in line 3, delete 'data tapes'.

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**RETRIEVABILITY:**

In paragraph 3, line one, after 'by' add 'Social Security Number or'.

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**RETENTION AND DISPOSAL:**

Replace paragraph 2 with 'Navy Central Registry data base is retained permanently at the Navy Personnel Command (NPC–661), 5720 Integrity Drive, Millington, TN 38055–6610.'

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**N01752–1**

**SYSTEM NAME:**

Family Advocacy Program System.

**SYSTEM LOCATION:**

Navy Case Files: Family Service Center, Family Advocacy Center, and/or Medical Treatment Facilities at the local naval activity that services the local beneficiaries. Official mailing addresses for naval activities are published as an appendix to the Department of the Navy's compilation of systems of records notices.

Marine Corps Family Advocacy Program Records: Marine Corps installations with a Family Service Center. Official mailing addresses are published as an appendix to the Department of the Navy's compilation of records notices.

Navy Central Registry: Navy Personnel Command (NPC–661), 5720 Integrity Drive, Milington, TN 38055–6610.

Marine Corps Central Registry: Commandant of the Marine Corps; Head, Family Advocacy Program (MHF–25), Headquarters, U.S. Marine Corps, 2 Navy Annex, Washington, DC 20380–1775.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

All beneficiaries entitled to care at Navy medical and dental facilities whose abuse or neglect is brought to the attention of appropriate authorities.

All beneficiaries reported for abusing or neglecting such victims.

Victims/offenders not associated with the Department of the Navy and who are not generally entitled to care at Navy medical and dental facilities.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Navy Family Advocacy Case Files:

(a) Victim's file consists of risk assessment which includes the following forms: incident report, eligibility decision, demographics, safety assessment, safety response, risk focused assessment reports (DOMAINS I, II, IV, V, VI, VII), risk assessment matrix, risk assessment summary, risk assessment findings, intervention plan, and Case Review Committee presentation; video/audio tapes of contact with victim; case notes about victim; Family Advocacy Program generated correspondence regarding abuse or neglect of victim; Original copy of DD Form 2486; Privacy Act Statement signed by victim; contacts with children who are not victims of abuse or neglect, and other supporting data assembled relevant to the abuse or neglect and generated by FAP staff that are specific to the victim.

(b) Offender's file consists of assessment with offender; demographics; video-audio tapes of contacts with offender; case notes on contacts with offender; case notes about offender; risk focused assessment report DOMAIN III (alleged offender characteristics); Family Advocacy Program (FAP) generated correspondence regarding offender; Privacy Act Statement signed by offender; and other supporting data assembled relevant to the abuse or neglect and generated by the FAP staff that are specific to the offender.

(c) Documentation generated outside of the Family Advocacy Program (Naval Criminal Investigative Service reports; local police reports; Base Security Incident Complaint Reports; psychiatric and substance abuse evaluations; treatment reports; copies of pertinent medical entries; Child Protective Service reports; shelter reports; photographs; correspondence generated outside the Family Advocacy Program; and other supporting data assembled relevant to the abuse or neglect and generated outside the FAP that are specific to either the victim(s) or offender(s) (e.g., Military Protective Orders, barring letters, and civilian temporary restraining orders) are maintained in a separate folder and are retrieved by case number.

Marine Corps Program Family Advocacy Program Files:

(a) Victim's file consists of client's fact sheet (demographics); Privacy Act Statement signed by victim; Limits of Privacy Statement signed by victim; initial assessment; CRC Case Assessment with risk assessment; audio/video tapes of contact with victim; safety plan; notes on collateral contacts about victim; case notes; CRC case status determination; CRC generated correspondence; Command's Case disposition and recommendation approval letter; original copy of DD Form 2486 and other relevant supporting data generated by the FAP staff that is specific to the victim.

(b) Offender's file consists of client's fact sheet (demographics); Privacy Act Statement signed by offender; Limits of Privacy Statement signed by offender; initial assessment; CRC Case Assessment; audio/video tapes of contacts with offender; case notes on collateral contacts regarding offender; case notes; CRC case status determination; CRC generated correspondence; Command's Case disposition and recommendation approval letter; copy of DD Form 2486 and other relevant supporting data generated by the FAP staff that is specific to the offender.

(c) Documentation generated outside of the Family Advocacy Program (Naval Criminal Investigative Service reports; local police reports; Base Security Incident Complaint Reports; psychiatric and substance abuse evaluations; treatment reports; copies of pertinent medical entries; Child Protective Service reports; shelter reports; photographs; correspondence generated outside the family advocacy Program; and other supporting data assembled relevant to the abuse or neglect and generated outside the FAP that are specific to either the victim(s) or offender(s) (e.g., Military Protective Orders, barring letters, and civilian temporary restraining orders) are maintained in a separate folder and are retrieved by case number.

Both the Navy and Marine Corps Central Registries contain data elements extracted from DD 2486, Child/Spouse Abuse Incident Report.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301, Departmental Regulations; DoD Directive 6400.1, 6400.1–M, 6400.2; Secretary of the Navy Instruction 1752.3A; OPNAVINST 1752.2A; BUMEDINST 6302.22; and MCO 1752.3B (FAP SOP); and E.O. 9397 (SSN).

**PURPOSE(S):**

To collect information pertaining to the identification, prevention, evaluation, intervention, treatment and rehabilitation of beneficiaries involved in abuse or neglect.

To provide pertinent case-related information to DoD and DON officials, other than Commanding Officers, responsible for specific case interventions in abuse and/or neglect incidents (e.g., clinical counselors providing counseling/treatment to

victims and/or offenders, medical personnel providing medical treatment to victims and/or offenders).

To provide specific data on assessed risk, safety needs, case status, and recommended actions to commanding officers of FAP involved service members.

To provide case specific information to headquarters personnel for necessary review and oversight.

Purposes of the Central Registries: To support local FAP case management to include tracking of individuals, identification of prior FAP involvement, and monitoring of caseloads.

To support FAP budget and staffing requirements and policy changes.

To support the Navy Personnel Command flagging and assignment control process for FAP involved service members.

To provide information in support of the 'Installation Records Check (IRC)' required by OPNAVINST 1700.9D for screening applicants for any position which involves the care and/or supervision of children.

To provide the Defense Manpower Data Center (DMDC) with data from the Navy Central Registry.

To support FAP research efforts.

To respond to public and/or other government agencies' requests for aggregate data.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Executive Branch of government in the performance of their official duties relating to the coordination of family advocacy programs, medical care, and research concerning family member abuse or neglect.

To federal, state or local government agencies when it is deemed appropriated to utilize civilian resources in the counseling and treatment of individuals or families involved in abuse or neglect or when it is deemed appropriate or necessary to refer a case to civilian authorities for civil or criminal law enforcement.

To contractors, private and public individuals/organizations for authorized health research in the interest of the federal government and the public. When not considered necessary, client identification data shall be eliminated from records used for research studies.

To officials and employees of federal, state, and local governments and agencies when required by law and/or regulation in furtherance of local communicable disease control, family abuse prevention programs, preventive medicine and safety programs, and other public health and welfare programs.

To officials and employees of local and state governments and agencies in the performance of their official duties relating to professional certification, licensing, and accreditation of health care providers.

To law enforcement officials to protect the life and welfare of third parties. This release will be limited to necessary information. Consultation with the hospital or regional judge advocate is advised.

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems notices also apply to this system.

**Note:** Records of identity, diagnosis, prognosis or treatment of any patient which are maintained in connection with the performance of any program or activity relating to substance abuse education, prevention, training, treatment, rehabilitation, or research, which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall, except as provided in 42 U.S.C. 290dd-2, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd-2. These statutes take precedence over the Privacy Act of 1974 in regard to accessibility of such records except to the individual to whom the record pertains. The 'Blanket Routine Uses' do not apply to these types of records.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records may be stored in file folders, microfilm, magnetic tape, machine lists, discs, and other computerized or machine readable media.

**RETRIEVABILITY:**

Victim's file is retrieved by name of victim, case number, their Social Security Number, and/or year of incident.

Alleged offender's file is retrieved by alleged offender's name, case number, their Social Security Number and/or year of incident.

Central registry data is retrieved by Social Security Number or any identifying data element on the DD Form 2486.

**SAFEGUARDS:**

These files are highly sensitive and must be protected form unauthorized disclosure. While records may be maintained in various kinds of filing equipment, specific emphasis is given to ensuring that the equipment areas are monitored or have controlled access. Access to records of information or the central registry is limited to those officials who have been properly screened and trained and/or have a need to know consistent with the purpose for which the information was collected. The threshold for 'need to know' is strictly limited to those officials who are responsible for the identification, prevention, evaluation, intervention, treatment and rehabilitation of beneficiaries involved in abuse or neglect. Also pertinent information is limited to DoD and DON officials responsible for intervening in abuse and/or neglect incidents.

Information maintained on a computer requires password protection. Computer terminals are located in supervised areas with access controlled system.

Family Advocacy Program Staff will ensure that the in-take assessment and clinical notes are not duplicated and placed in both the victim and alleged offender's files.

**RETENTION AND DISPOSAL:**

Family Advocacy Program case records are maintained at the activity 4 years after the last entry in the file. If there is no subsequent activity 4 years after closure, the records are transferred to the National Personnel Records Center, 9600 Page Boulevard, St. Louis, MO 63132–5100, where they are retained for 50 years and then destroyed.

Navy Central Registry data base is retained permanently at the Navy Personnel Command (NPC–661), 5720 Integrity Drive, Millington, TN 38055–6610.

Marine Corps Central Registry data is retained permanently by the Commandant of the Maine Corps (MHF–20), Headquarters. U.S. Marine Corps, 2 Navy Annex, Washington, DC 20380–1775.

**SYSTEM MANAGER(S) AND ADDRESS:**

Navy Central Registry: Commander, Navy Personnel Command (NPC–661), 5720 Integrity Drive, Millington, TN 38055–6610.

Marine Corps Central Registry: data is retained permanently by the Commandant of the Maine Corps (MHF–25), Headquarters. U.S. Marine Corps, 2 Navy Annex, Washington, DC 20380–1775.

Navy Centralized Child Sexual Abuse Case Files: Chief of Naval Personnel

(Pers-661), 2 Navy Annex, Washington, DC 20370–6610.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information in the case files about themselves should address written inquiries to the commanding officer of the naval activity from which they received treatment. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records.

Request should contain the full name and Social Security Number of the individual, and/or year of the incident.

Individuals seeking to determine whether this system of records contains information in the Navy Central Registry about themselves shall address written inquiries for Navy case to the Commander, Navy Personnel Command (NPC–661), 5720 Integrity Drive, Millington, TN 38055–6610.

For the Marine Corps Central Registry address written inquiries to the Commandant of the Maine Corps (MHF–25), Headquarters. U.S. Marine Corps, 2 Navy Annex, Washington, DC 20380–1775.

Requests should contain the full name and Social Security Number of the individual.

RECORD ACCESS PROCEDURE:

Individuals seeking to access records about themselves in the case files should address written inquiries to the commanding officer of the naval activity form which they received treatment. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records.

Requests should contain the full name and Social Security Number of the individual, and/or year of an incident.

Individuals seeking to access information from the Navy Central Registry about themselves shall address written inquiries for Navy Central Registry to the Commander, Navy Personnel Command (NPC–661), 5720 Integrity Drive, Millington, TN 38055–6610.

For the Marine Corps Central Registry address written inquiries to the Commandant of the Maine Corps (MHF–25), Headquarters. U.S. Marine Corps, 2 Navy Annex, Washington, DC 20380–1775.

Requests should contain the full name and Social Security Number of the individual.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Victim; offender; other DoD component Central Registries; medical and dental records; educational institutions; medical facilities; private practitioners; law enforcement agencies; public and private health and welfare agencies, and witnesses.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

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 such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

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.

An exemption rule for this system has been promulgated in the accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 701, subpart G. For additional information contact the system manager.

**N01754–1**

SYSTEM NAME:

Navy Family Support Clinical Counseling Records. (April 24, 1997, 62 FR 19994).

CHANGES:

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CATEGORIES OF RECORDS IN THE SYSTEM:

Replace '(QOLMIS–66)' with '(QDLMISNET) Network.'

* * * * *

STORAGE:

Delete entry and replace with 'File folders, microfilm, magnetic tapes, machine lists, discs, and other computerized or machine readable media.'

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**N01754–1**

SYSTEM NAME:

Navy Family Support Clinical Counseling Records.

SYSTEM LOCATION:

Navy Family Service Centers, Navy Family Advocacy Centers/Departments located at various Navy and Marine Corps activities. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military service members and their dependents, retirees and their dependents, and spouses of POW's and MIA's and their eligible dependents. In certain overseas locations and certain remote CONUS locations, civilian DOD overseas employees may be eligible for services.

CATEGORIES OF RECORDS IN THE SYSTEM:

Clinical Counseling Records and/or Family in Need of Services (FINS) Counseling Records. File could contain personal information such as name, Social Security Number, case number, home address, telephone number, marriage counseling information, parent-child relationship information, family relations, financial data, developmental disability information, and Quality of Life Management Information System (QDLMISNET) Network.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Department Regulations and E.O. 9397 (SSN).

PURPOSE(S):

The Family Service Centers (FSC) offer information, conduct referral services, and directly deliver services for a wide array of personal and family matters, counseling, assistance and crisis intervention to those eligible.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

File folders, microfilm, magnetic tapes, machine lists, discs, and other computerized of machine readable media.

**RETRIEVABILITY:**

Name and FSC/Family Advocacy Program generated number.

**SAFEGUARDS:**

Access is limited to professional FSC staff and as delegated by the FSC Director at each location on a need-to-know basis. Paper records are stored in locked file cabinets. Automated records may be controlled by limiting physical access to data entry terminals or use of passwords. Access to computer information, and tape and disc storage, is strictly controlled. Work areas are sought-controlled during normal working hours. Building access is controlled and doors are locked during non-duty hours.

**RETENTION AND DISPOSAL:**

Paper records are retained for two years and then destroyed. Automated records are maintained for five years, then tapes/discs are erased.

**SYSTEM MANAGER(S) AND ADDRESS:**

Policy Official: Commander, Navy Personnel Command (NPC–661), 5720 Integrity Drive, Millington, TN 38055–6610.

Record Holder for FSC and/or FINS Cases: Commanding officers of installations with Navy Family Service Centers or Navy Family Advocacy Centers/Departments. Official mailing addresses are published as an appendix to the Department of the Navy's compilation of systems of records notices.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the commanding officer of the naval activity from which they were seen for counseling. Official mailing addresses are published as an appendix to the Department of the Navy's compilation of systems of records notices.

Marine Corps individuals seeking to determine whether information about themselves is contained in this system should address written inquiries for FSC files to the Commandant of the Marine Corps (MHF), Headquarters, U.S. Marine Corps, 2 Navy Annex, Washington, DC 20380–0001.

Individuals should provide proof of identity, full name, rank, Social Security Number, dates of counseling, etc.

**RECORD ACCESS PROCEDURES:**

Individuals seeking access to information about themselves contained in this system should address written inquiries to the commanding officer of the naval activity from which they were seen for counseling. Official mailing addresses are published as an appendix to the Department of the Navy's compilation of systems of records notices.

Marine Corps individuals seeking access to information about themselves contained in this system should address written inquiries for FSC files to the Commandant of the Marine Corps (MHF), Headquarters, U.S. Marine Corps, 2 Navy Annex, Washington, DC 20380–0001.

Individuals should provide proof of identity, full name, rank, Social Security Number, dates of counseling, etc.

**CONTESTING RECORD PROCEDURES:**

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

**RECORD SOURCE CATEGORIES:**

Information is normally obtained directly from the individual applying for counseling/assistance, however, there may be instances when the FSC/Family Advocacy Program counselor obtains information from mental health officials.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

**N01754–2**

**SYSTEM NAME:**

Navy/USMC Family Service Centers Volunteers (April 24, 1997, 62 FR 19994).

**CHANGES:**

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**SYSTEM MANAGER(S) AND ADDRESS:**

Delete entry and replace with 'Commander, Navy Personnel Command (NPC–661), 5720 Integrity Drive, Millington, TN 38055–6610.'

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**N01754–2**

**SYSTEM NAME:**

Navy/USMC Family Service Centers Volunteers.

**SYSTEM LOCATION:**

Navy Family Service Centers located at various Naval and Marine Corps activities. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Any person who volunteers to assist at one of the Navy/USMC Family Service Centers (FSC).

**CATEGORIES OF RECORDS IN THE SYSTEM:**

File contains information such as name, home address, home telephone number, date of birth, age and number of children, experience, education, professional qualifications, interests, hobbies, assignments at the FSC, and any other information essential for placing the volunteer in the most appropriate position at the FSC.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301, Departmental Regulations and 10 U.S.C. 1588.

**PURPOSE(S):**

To supervise the performance of individuals who have volunteered to assist in the Navy and Marine Corps Family Service Center Program.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically by disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in file folders.

**RETRIEVABILITY:**

By name or skill of volunteer.

**SAFEGUARDS:**

Records are maintained in monitored or controlled areas accessible only to authorized personnel that are properly cleared and trained. Building/rooms locked outside regular working hours.

**RENTENTION AND DISPOSAL:**

Records are retained for 3 years from the date the individual departs from the Center, and then destroyed.

SYSTEM MANAGERS(S) AND ADDRESS:

Commander, Navy Personnel Command (NPC–661), 5720 Integrity Drive, Millington, TN 38055–6610.

NOTIFICATION PROCEDURE:

Individuals seeks to determine whether information about themselves is contained in this system should address written inquiries to the Naval or Marine Corps activity concerned. Individuals should provide proof of identity, full name, dates of volunteer service, etc.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Naval or Marine Corps activity concerned. Individuals should provide proof of identity, full name, dates of volunteer service, etc.

CONTESTING RECORD PROCEDURES

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is obtained and periodically updated directly from the volunteer FSC employee.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

**N01754–3**

SYSTEM NAME:

Navy Child Development Services Program (October 15, 1997, 62 FR 53604).

CHANGES:

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SYSTEM MANAGERS(S) AND ADDRESS:

Delete paragraph 1, and replace with 'Policy Official: Commander, Navy Personnel Command (NPC–659), 5720 Integrity Drive, Millington, TN 38055–6590.'

* * * * *

N01754–3

SYSTEM NAME:

Navy Child Development Services Program.

SYSTEM LOCATION:

Navy Child Development or Family Service Centers located at various Navy and Marine Corps activities both in CONUS and overseas. Official mailing addresses of Navy and Marine Corps activities are published as an appendix to the Department of the Navy's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Navy and Marine Corps service members and their families or dependents. In certain locations, DOD civilian employees may be eligible for services.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name; Social Security Number; case number; home address and telephone number; insurance coverage; names of parents and children; performance rating; complaints; background information, including medical, educational references, and prior work experience, information from the Naval Criminal Investigative Service (NCIS), the family advocacy program, base security, and state and local agencies; information related to screening, training, and implementation of the Family Child Care program; and reports of fire, safety, housing, and environmental health inspections. Children's records will also include developmental profiles.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 5013, Secretary of the Navy; and E.O. 9397 (SSN).

PURPOSE(S):

To develop child care programs that meet the needs of children and families, provide child and family program eligibility and background information; verify health status of children and verify immunizations, note special program requirements; consent for access to emergency medical care; data required by USDA programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained herein may specially be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To Federal officials involved in Child Care Services, including child abuse for the purpose of investigation and litigation.

To State and local officials involved with Child Care Services if required in the performance of their official duties relating to investigations.

The 'Blanket Route Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and automated records.

RETRIEVABILITY:

By last name of member and Social Security Number.

SAFEGUARDS:

Records are maintained in monitored or controlled areas accessible only to authorized personnel. Building or rooms are locked outside regular working hours. Computer files are protected by software programs that are password protected.

RETENTION AND DISPOSAL:

Records are kept for two years after individual is no longer in the Child Development Program and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Official: Commander, Navy Personnel Command (NPC–659), 5720 Integrity Drive, Millington, TN 38055–6590.

Record Holder: Navy Child Development or Family Service Centers located at various Navy and Marine Corps activities both in CONUS and overseas. Official mailing addresses of Navy and Marine Corps activities are published as an appendix to the Department of the Navy's compilation of systems of records notices.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the appropriate Navy or Marine Corps activity concerned. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

Individuals should provide proof of identity and full name.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the appropriate Navy or Marine Corps activity concerned. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

Individuals should provide proof of identity and full name.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations

are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

**RECORD SOURCE CATEGORIES:**

Information in this system comes from individuals either applying as child care providers or participant of the Family Child Care program; background checks from State and local authorities; housing officers; information from the Family Advocacy program; base security officers and base fire, safety and health officers; and local family child care monitors and parents of children enrolled.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

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 such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 701, subpart G. For additional information contact the system manager.

**N01770–2**

**SYSTEM NAME:**

Casualty Information Support System (February 22, 1993, 58 FR 10725).

**CHANGES:**

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**SYSTEM LOCATION:**

Delete entry and replace with 'Primary System-Navy Personnel Command (NPC–06), 5720 Integrity Drive, Millington, TN 38055–0600; the local activity for which individual is assigned; and the Washington National Records Center, Suiteland, MD. Official mailing addresses are published as an appendix to the Navy's compilation of system of record notices.'

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM**

In line 5, after the word 'reported' delete the remainder of the entry and replace with 'seriously ill/injured in an active duty status.'

* * * * *

**STORAGE:**

In line 2, delete the words 'Magnetic tapes, disc, and drums.' and replace with 'media.'

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**SYSTEM MANAGER(S) AND ADDRESS:**

Delete entry and replace with 'Commander, Navy Personnel Command (NPC–06), 5720 Integrity Drive, Millington, TN 38055–0600.'

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**N01770–2**

**SYSTEM NAME:**

Casualty Information Support System.

**SYSTEM LOCATION:**

Primary System-Navy Personnel Command (NPC–06), 5720 Integrity Drive, Millington, TN 38055–0600; the local activity for which individual is assigned; and the Washington National Records Center, Suitland, MD. Official mailing addresses are published as an appendix to the Navy's compilation of system of record notices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

All Navy military personnel who are reported missing, Missing in Action, Prisoner of War or otherwise detained by armed force; deceased in either an active or inactive duty status; reported seriously ill/injured in an active duty status.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Correspondence, reports, and records in both automated and nonautomated form concerning circumstances of casualty, next-of-kin data, survivor benefit information, personal and service data, and casualty program data.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301, Departmental Regulations; OPNAVINST 1770.1, Casualty Assistance Calls and Funeral Honors Support Program Coordination; and E.O. 9397 (SSN).

**PURPOSE(S):**

To assist in the management of the casualty assistance program and to provide swift accurate responses to beneficiaries and survivors of Navy military personnel; to aid in the efficient settlement of the service member's estate and other affairs.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To officials and employees of the Social Security Administration in connection with eligibility, notification and assistance in obtaining benefits due.

To officials and employees of the Department of Veterans Affairs and the Selective Service Administration in connection with eligibility, notification and assistance in obtaining benefits due.

To officials of other federal, state, and local government agencies in connection with eligibility, notification and assistance in obtaining benefits due.

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems notices apply to this system.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Automated records may be stored on media. Manual records may be stored in paper files, microfiche or microfilm.

**RETRIEVABILITY:**

Records may be retrieved by name and/or Social Security Number.

**SAFEGUARDS:**

Computer files are accessible only to authorized persons that are properly screened, trained and cleared.

Manual records and computer printouts are available only to authorized personnel having a need-to-know.

**RETENTION AND DISPOSAL:**

Records are maintained for seven years and then destroyed.

**SYSTEM MANAGER(S) AND ADDRESS:**

Chief of Naval Personnel (PERS 06), Bureau of Naval Personnel, 2 Navy Annex, Washington, DC 20370–5001.

**NOTIFICATION AND PROCEDURE:**

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commander, Navy Personnel Command (NPC–06), 5720 Integrity Drive, Millington, TN 38055–0600; or to the local activity where assigned. Official mailing addresses are published as an appendix to the Navy's compilation of system of records notices.

The letter should contain full name, Social Security Number (and/or enlisted service number/officer file number), rank/rate, military status, date of casualty and status at time of casualty, and signature of the requester.

The individual may visit the Commander, Navy Personnel Command

(NPC–06), 5720 Integrity Drive, Millington, TN 38055–0600 for assistance with records located in that building; or the individual may visit the local activity for access to locally maintained records. Proof of identification will consist of Military Identification Card for persons having such cards, or other picture-bearing identification.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Commander, Navy Personnel Command (NPC–06), 5720 Integrity Drive, Millington, TN 38055–0600, or to the local activity where assigned. Official mailing addresses are published as an appendix to the Navy's compilation of system of record notices.

The letter should contain full name, Social Security Number (and/or enlisted service number/officer file number), rank/rate, military status, date of casualty and status at time of casualty, and signature of the requester.

The individual may visit the Commander, Navy Personnel Command (NPC–06), 5720 Integrity Drive, Millington, TN 38055–0600, for assistance with records located in that building; or the individual may visit the local activity for access to locally maintained records. Proof of identification will consist of Military Identification Card for persons having such cards, or other picture-bearing identification.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Officials and employees of the Department of the Navy, Department of Defense, Public Health Service, Department of Veterans Affairs and components, in performance of their official duties as specified by current instructions and regulations promulgated by competent authority; casualty reports may also be received from state and local agencies, hospitals and other agencies having knowledge of casualties to Navy personnel; general correspondence concerning member.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

**N03834–1**

SYSTEM NAME:

Special Intelligence Personnel Access File (March 2, 1994, 59 FR 9965).

CHANGES:

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PURPOSE(S):

In paragraph 1, line 1, delete 'a determination' and replace with 'continuing evaluation of an'. In paragraph 2, lines 3 and 4, delete 'Special Compartmented Intelligence' and replace with 'Sensitive Compartmented Information'.

* * * * *

SAFEGUARDS:

Delete entry and replace with 'Access provided on a need-to-know basis only. Manual records are maintained in locked file cabinets under the control of authorized personnel during working hours. The office space in which the file cabinets are located is in a locked, limited access room.'

* * * * *

**N03834–1**

SYSTEM NAME:

Special Intelligence Personnel Access File.

SYSTEM LOCATION:

Office of Naval Intelligence, National Maritime Intelligence Center, ATTN: ONI–OCB2, 4251 Suitland Road, Washington, DC 20395–5720.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All civilian and military personnel of the Department of the Navy and contractors and consultants of the Department of the Navy.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records pertaining to the eligibility of Department of the Navy personnel (civilian, military, contractor and consultant) to the be granted access to Special Intelligence which include documents of nomination, personal history statements, background investigation date and character, narrative memoranda of background investigation, eligibility documents for access to special intelligence, proof of indoctrination and debriefings as applicable and record of hazardous activity restrictions assigned.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Security Act of 1947, as amended; 5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 503, Department of the Navy; 10 U.S.C. 6011, Navy Regulations; 44 U.S.C. 3101, Records Management by Federal Agencies; E.O. 9397 (SSN); and E.O. 12958, Classified National Security Information.

PURPOSE(S):

To permit continuing evaluation of an individual's eligibility for access to Special Intelligence information.

This information may be provided to the Department of Defense and all its components to certify Sensitive Compartmented Information (SCI) access status of naval personnel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To officials and employees of the Central Intelligence Agency, the Federal Bureau of Investigation, the National Security Agency, the Department of Energy, the Department of Treasury, and to any other federal agency in the performance of their official duties, to certify SCI access status of Naval personnel.

The ''Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Active files consist of paper and computerized records. Inactive files are retained on microfiche and optical storage.

RETRIEVABILITY:

Name and Social Security Number.

SAFEGUARDS:

Access provided on a need-to-know basis only. Manual records are maintained in locked file cabinets under the control of authorized personnel during working hours. The office space in which the file cabinets are located is in a locked, limited access room.

RETENTION AND DISPOSAL:

Records are retained indefinitely. Inactive files are retained on microfiche.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Office of Naval Intelligence, National Maritime Intelligence Center, ATTN: ONI–OCB2, 4251 Suitland Road, Washington, DC 20395–5720.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commander, Office of Naval Intelligence, National Maritime Intelligence Center, ATTN: ONI–OCB2, 4251 Suitland Road, Washington, DC 20395–5720.

The request should contain the full name of the requester, home address and date and place of birth. An unsworn declaration in accordance with 28 U.S.C. 1746 or a notarized statement may be required for identity verification.

**RECORD ACCESS PROCEDURES:**

Individuals seeking access to records about themselves should address written inquiries to the Commander, Office of Naval Intelligence, National Maritime Intelligence Center, ATTN: ONI–OCB2, 4251 Suitland Road, Washington, DC 20395–5720.

The request should contain full name, residence address and date and place of birth. An unsworn declaration in accordance with 28 U.S.C. 1746 or a notarized statement may be required for identity verification.

**CONTESTING RECORD PROCEDURES:**

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

**RECORD SOURCE CATEGORIES:**

Personal History Statement and related forms from the individual. Access forms and documents prepared by the system manager. Correspondence between system manager and activities requesting access status.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

Information specifically authorized to be classified under E.O. 12958, as implemented by DoD 5200.1–R, may be exempted pursuant to 5 U.S.C. 552a(k)(1).

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2) and (3), and (c) and (e) and published in 32 CFR part 701, subpart G. For additional information contact the system manager.

**N05100–2**

**SYSTEM NAME:**

Scheduled Parachute Jump Program (February 22, 1993, 58 FR 10746).

**CHANGES:**

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**SYSTEM NAME:**

Delete 'Scheduled'.

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**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Delete entry and replace with 'All Navy and Marine Corps personnel and trainees who participate in the premeditated parachute jumping and air drop activities.'

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Delete entry and replace with 'Unit reports of each jump performed, which includes name of parachutist, Social Security Number, Unit Identification Code (UIC), and model of parachute; total jump activity survey reports; and annual jump activity reports.''

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**PURPOSE(S):**

In first line of first paragraph, delete 'scheduled'. In third paragraph, first line, after the word 'provide' add 'upon request'.

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**N05100–2**

**SYSTEM NAME:**

Parachute Jump Program.

**SYSTEM LOCATION:**

Naval Safety Center, 375 A Street, Norfolk, VA 23511–4399.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

All Navy and Marine Corps personnel and trainees who participate in the premeditated parachute jumping and air drop activities.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Unit reports of each jump performed, which includes name of parachutist, Social Security Number, Unit Identification Code (UIC), and model of parachute; total jump activity survey reports; and annual jump activity reports.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301, Departmental Regulations and E.O. 9397 (SSN).

**PURPOSE(S):**

To track jump activities date for specific individuals or types of parachutes and correlate the information with parachute jump mishap data; analyze information to determine the relationship between various categories and combinations of jump experience and accident involvement.

To provide results of these studies to all echelons within the Navy and Marine Corps having responsibility for jump operations, parachute training, and allocation of resources to and within the parachute jump program.

To provide, upon request, an annual summary of jump activity by parachute type to each reporting individual for his/her verification and personnel records. Upon request, a detailed by jump report for a specified time frame is also provided.

To provide records to the Chief of Naval Personnel for promotional screening, detailing, and compliance with minimum standards.

To provide summaries of jump activity for Marine Corps personnel to the Commandant of the Marine Corps.

To provide records of specific jump designated personnel to contractors, if required, for projects either funded by or deemed potentially valuable to the Department of the Navy.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Magnetic tape and computer printouts.

**RETRIEVABILITY:**

Name, Social Security Number, Unit Identification Code (UIC), and model of parachute.

**SAFEGUARDS:**

Computer area is locked after hours and access is strictly controlled. Hard drive locked to preclude unauthorized access. Only two individuals have a key to access hard drive. Building is under 24 hour watch.

**RETENTION AND DISPOSAL:**

Permanent. Magnetic tape files contain all available records and are never purged.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director of Shore Safety Programs, Naval Safety Center, 375 A Street, Norfolk, VA 23511–4399.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director of Shore Safety Programs, Naval Safety Center, 375 A Street, Norfolk, VA 23511–4399.

The request should include full name, Social Security Number, and address of the individual concerned and should be signed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Director of Shore Safety Programs, Naval Safety Center, 375 A Street, Norfolk, VA 23511–4399.

The request should include full name, Social Security Number, and address of the individual concerned and should be signed.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Navy and Marine Corps jumpers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

**N05350–1**

SYSTEM NAME:

Navy Drug and Alcohol Program System (September 9, 1996, 61 FR 47483).

CHANGES:

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SYSTEM LOCATION:

Delete entry and replace with 'Primary location: Navy Personnel Command (NPC–602), 5720 Integrity Drive, Millington, TN 38055–6000.

Decentralized locations: Navy Alcohol Rehabilitation Centers, Navy Alcohol Rehabilitation Departments in Naval Hospitals, Counseling and Assistance Centers, Personal Responsibility and Values Education and Training Program Offices, Navy Drug Screening Laboratories, Navy Personnel Command (Drug and Alcohol Program Management Activity), and local activities to which an individual is assigned. Addresses are contained in a directory which is available from the Commander, Navy Personnel Command (NPC–602), 5720 Integrity Drive, Millington, TN 38055–6000.'

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delte entry and replace with 'Commander, Navy Personnel Command (NPC–602), 5720 Integrity Drive, Millington, TN 38055–6000.'

* * * * *

**N05350–1**

SYSTEM NAME:

Navy Drug and Alcohol Program System.

SYSTEM LOCATION:

Primary location: Navy Personnel Command (NPC–602), 5720 Integrity Drive, Millington, TN 38055–6000.

Decentralized locations: Navy Alcohol Rehabilitation Centers, Navy Alcohol Rehabilitation Departments in Naval Hospitals, Counseling and Assistance Centers, Personal Responsibility and Values Education and Training Program Offices, Navy Drug Screening Laboratories, Navy Personnel Command (Drug and Alcohol Program Management Activity), and local activities to which an individual is assigned. Addresses are contained in a directory which is available from the Commander, Navy Personnel Command (NPC–602), 5720 Integrity Drive, Millington, TN 38055–6000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Navy personnel (officers and enlisted) who have been identified as drug or alcohol abusers or who are out of Navy body fat standards and may be obese/compulsive over eaters, and who are subsequently screened or referred for remedial education, outpatient counseling, or residential rehabilitation; counselors, counselor interns, and counselor applicants; Navy personnel who attend the Personal Responsibility and Values Education and Training Program for preventive education; dependents and civilians, where authorized, who participate in preventive and remedial education programs, outpatient counseling, and residential rehabilitation; and officer, enlisted, and civilian rehabilitation, and drug testing.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documentation containing demographic data, screening and assessment information, progress notes, medical and laboratory data, narrative summaries of treatment, aftercare plans, and other information pertaining to a member's participation in substance abuse education, counseling, and rehabilitation programs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. para 1090; 42 U.S.C. 290dd–2; and E.O. 9397 (SSN).

PURPOSE(S):

To train, educate, identify, screen, counsel, rehabilitate, and monitor the progress of individuals in drug and alcohol abuse programs and programs for those members who are obese/compulsive over eaters.

Information is used to screen and evaluate the certified counselors, counselor interns, and counselor applicants throughout the course of their duties.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

In order to comply with the provisions of 42 U.S.C. 290dd–2, the Navy's 'Blanket Routine Uses' do not apply to this system of records.

Specifically, records of the identity, diagnosis prognosis, or treatment of any client/patient, irrespective of whether or when he/she ceases to be client/patient, maintained in connection with the performance of any alcohol or drug abuse or obesity/compulsive overeating prevention, education, training, treatment, rehabilitation or research which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, except as provided therein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd–2. This statute takes precedence over the Privacy Act of 1974 in regard to accessibility of such records, except to the individual to whom the record pertains.

The content of any record may be disclosed in accordance with prior written consent of the patient with respect to whom such record is maintained, but only to such extent, under such circumstances, and for such purposes as may be allowed under such prescribed regulations.

Information from records may be released without the member's consent in the following situations:

To medical personnel to the extent necessary to meet a bona fide medical emergency.

To qualified personnel for the purpose of conducting scientific

research, management audits, or program evaluation, but such personnel may not identify, directly, or indirectly any individual patient in any report of such research, audit or evaluation, or otherwise disclose patient identities in any manner.

If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good case therefore. In accessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosures.

The above prohibitions foe not apply to any interchange of records within the Armed Forces or within those components of the Department of Veterans Affairs furnishing health care to veterans or between such components and the Armed Forces.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Automated records may be on computer disks (both hard drive and floppy), magnetic tapes, and drums.

Manual records may be stored in paper file folders, computer printouts, microfiche, or microfilm.

**RETRIEVABILITY:**

Name and Social Security Number.

**SAFEGUARDS:**

Computer facilities are located in restricted areas accessible only to authorized persons that are properly screened, cleared and trained.

Manual records and computer printouts are available only to authorized personnel having a need-to-know.

**RETENTION AND DISPOSAL:**

Manual records are maintained for two years (Level I/II) or three years (Level III) and then retired to the nearest Federal Records Center. Automated records are maintained indefinitely.

**SYSTEM MANAGER(S) AND ADDRESS:**

Commander, Navy Personnel Command (NPC–602), 5720 Integrity Drive, Millington, TN 38055–6000.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commander, Navy Personnel Command (NPC–602), 5720 Integrity Drive, Millington, TN 38055–6000, or to the naval activity providing treatment. Addresses are contained in a directory which is available from the Commander, Navy Personnel Command (NPC–602), 5720 Integrity Drive, Millington, TN 389055–6000.

The letter should contain full name, Social Security Number, rank/rate, military status, and signature of the requester.

The individual may visit the Bureau of Naval Personnel, 2 Navy Annex, Washington, DC 20370–5001, for assistance with records located in that building; or the individual may visit the local activity to which attached for access to locally maintained records. Proff of identification will consist of Military Identification Card for persons having such cards, or other picture-hearing identification.

**RECORD ACCESS PROCEDURES:**

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Commander, Navy Personnel Command (NPC–602), 5720 Integrity Drive, Millington, TN 38055–6000 or to the naval activity providing treatment. Addresses are contained in a directory which is available from the Commander, Navy Personnel Command (NPC–602), 5720 Integrity Drive, Millington, TN 38055–6000.

The letter should contain full name, Social Security Number, rank/rate, military status, and signature of the requester.

The individual may visit the Navy Personnel Command (NPC–602), 5720 Integrity Drive, Millington, TN 38055–6000 for assistance with records located in that building; or the individual may visit the local activity to which attached for access to locally maintained records. Proof of identification will consist of Military Identification Card for persons having such cards, or other picture-bearing identification.

**CONTESTING RECORD PROCEDURES:**

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

**RECORD SOURCE CATEGORIES:**

DOD/DON officials; notes and documents from Service Jackets and Medical Records; and general correspondence concerning the individual.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

**N07401–1**

**SYSTEM NAME:**

Bingo Winners (March 2, 1994, 59 FR 13943).

**CHANGES:**

* * * * *

**SYSTEM LOCATION:**

Delete the second paragraph and replace with 'A list of Navy system managers is available from the Commander, Navy Personnel Command (NPC–655C2), 5720 Integrity Drive, Millington, TN 38055–0000; and a list of Marine Corps activities is available from the Commandant of the Marine Corps, Personal and Family Readiness Division (MRX), 3044 Catlin Avenue, Quantico, VA 22134–5099.'

* * * * *

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Delete entry and replace with '5 U.S.C. 301, Departmental Regulations; Section 6041, Internal Revenue Code; BUPERS Instruction 1710.13A, Regulations, Policies and Procedures for Navy Food, Beverage and Entertainment Operations 1996; MCOP–1700.27, Ch1; NAVSO P–3520; and E.O. 9397 (SSN).'

* * * * *

**SYSTEM MANAGER(S) AND ADDRESS:**

Delete entry and replace with 'Policy Officials: For Navy activities—Commander, Navy Personnel Command (NPC–655C2), 5720 Integrity Drive, Millington, TN 38055–6500; For Marine Corps activities—Commandant of the Marine Corps, Personal and Family Readiness Division (MRX), 3044 Catlin Avenue, Quantico, VA 22134–5099.

Record Holder: Navy and Marine Corps stateside and overseas bases where bingo is authorized and played. A list of Navy system managers for bingo locations is available from the Commander, Navy Personnel Command (NPC–655C2), 5720 Integrity Drive, Millington, TN 38055–6500; a list of Marine Corps systems managers is available from the Commandant of the Marine Corps, Personal and Family Readiness Division (MRX), 3044 Catlin Avenue, Quantico, VA 22134–5099.'

* * * * *

**N07401–1**

**SYSTEM NAME:**

Bingo Winners.

**SYSTEM LOCATION:**

Navy and Marine Corps stateside and overseas bases where bingo is authorized and played.

A list of Navy system managers is available from the Commander, Navy Personnel Command (NPC–655C2), 5720 Integrity Drive, Millington, TN 38055–0000; and a list of Marine Corps activities is available from the Commandant of the Marine Corps, Personal and Family Readiness Division (MRX), 3044 Catlin Avenue, Quantico, VA 22134–5099.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

U.S. citizens 18 years of age and older who are paid monies/prizes of $1,200 or more for one-time winnings associated with bingo.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Bingo payout control sheet indicating individual name, grade, Social Security Number, duty station, dates and amounts of bingo monies paid, and DOT/IRS Forms W2–G and 5754.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301, Departmental Regulations; section 6041, Internal Revenue Code; BUPERS Instruction 1710.13A, Regulations Policies and Procedures for Navy Food, Beverage and Entertainment Operations 1996; MCOP–1700.27, Ch1; NAVSO P–3520; and E.O. 9397 (SSN).

**PURPOSE(S):**

To notify the Internal Revenue Service of all monies and items of merchandise paid to individual winners of bingo games, whose one-time winnings are $1,200 or more.

To provide a means of paying, recording, accounting, reporting, and controlling expenditures and merchandise inventories associated with bingo games.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specially be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Manual records in file cabinets and electronic records on backup discs.

**RETRIEVABILITY:**

Name and Social Security Number.

**SAFEGUARDS:**

Records are kept in occupied rooms which are located during non-working hours.

**RETENTION AND DISPOSAL:**

Records are maintained on site for three years and then shipped to a Federal Records Center for storage for four additional years. After seven years, records are destroyed.

**SYSTEM MANAGER(S) AND ADDRESS:**

Policy Officials: For Navy activities—Commander, Navy Personnel Command (NPC–655C2), 5720 Integrity Drive, Millington, TN 38055–6500; For Marine Corps activities—Commandant of the Marine Corps, Personal and Family Readiness Division (MRX), 3044 Catlin Avenue, Quantico, VA 22134–5099.

Record Holder: Navy and Marine Corps stateside and overseas bases where bingo is authorized and played. A list of Navy system managers for bingo locations is available from the Commander, Navy Personnel Command (NPC–655C2), 5720 Integrity Drive, Millington, TN 38055–6500; a list of Marine Corps systems managers is available from the Commandant of the Marine Corps, Personnel and Family Readiness Division (MRX), 3044 Catlin Avenue, Quantico, VA 22134–5099.

**NOTIFICATION PROCEDURE:**

Individuals are routinely notified via DOT/IRS Form W–2G if their one-time bingo winnings are $1,200 or more. However, individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the commanding officer at the location where the bingo game was played or to the Commander, Navy Personnel Command (NPC–655C2), 5720 Integrity Drive, Millington, TN 38055–6500 (for Navy sponsored bingo games) or the Commandant of the Marine Corps, Personal and Family Readiness Division (MRX), 3044 Catlin Avenue, Quantico, VA 22134–5099 (for Marine Corps sponsored bingo games). A list of system managers by activity is also available from these officials.

**RECORD ACCESS PROCEDURES:**

Individuals seeking access to records about themselves should address written inquiries to the commanding officer at the location where the bingo game was played or to the Commander. Navy Personnel Command (NPC–655C2), 5720 Integrity Drive, Millington, TN 38055–6500 (for Navy sponsored bingo games) or the Commandant of the Marine Corps, Personal and Family Readiness Division (MRX), 3044 Catlin Avenue, Quantico, VA 22134–5099 (for Marine Corps sponsored bingo games). A list of system managers by activity is also available from these officials.

**CONTESTING RECORD PROCEDURES:**

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

**RECORD SOURCE CATEGORIES:**

Individual and bingo payout control sheets.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

[FR Doc. 99–10573 Filed 4–27–99; 8:45 am]

BILLING CODE 5000–04–M

## DEPARTMENT OF EDUCATION

### Submission for OMB Review; Comment Request

**AGENCY:** Department of Education.

**SUMMARY:** The Acting Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

**DATES:** Interested persons are invited to submit comments on or before May 28, 1999.

**ADDRESSES:** Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, N.W., Room 10235, New Executive Office Building, Washington, D.C. 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651, or should be electronically mailed to the internet address Pat__*Sherrill@ed.gov, or should be faxed to 202–708–9346.*

**FOR FURTHER INFORMATION CONTACT:** Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

**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 Acting Leader, 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 at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: April 22, 1999.

**William E. Burrow,**

*Acting Leader, Information Management Group, Office of the Chief Information Officer.*

### Office of Elementary and Secondary Education

*Type of Review:* Revision.

*Title:* Safe and Drug-Free Schools and Communities National Programs—Federal Activities—State and Regional Coalition Grant Competition to Prevent High-Risk Drinking Among College Students.

*Frequency:* Annually.

*Affected Public:* Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

*Reporting and Recordkeeping Hour Burden:* Responses: 50; Burden Hours: 1,600.

*Abstract:* This program supports the implementation and evaluation of State or regional coalitions to develop strategies for reducing and preventing high-risk drinking and related problems among college students.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1890–0001). Therefore, this 30-day public comment period notice will be the only public comment notice published for this information collection.

### Office of Postsecondary Education

*Type of Review:* Reinstatement.

*Title:* William D. Ford Federal Direct Loan Program: Loan Deferment and Permanent Total Disability Cancellation Request Documents.

*Frequency:* On occasion.

*Affected Public:* Individuals or households.

*Reporting and Recordkeeping Burden:* Responses: 259,000; Burden Hours: 51,800.

*Abstract:* These documents will serve as the means of collecting the information needed by the Department of Education to determine whether a Direct Loan borrower qualifies for a loan discharge based on permanent total disability or a loan deferment.

### Office of Postsecondary Education

*Type of Review:* Revision.

*Title:* Federal Family Education Loan (FFEL) Program Loan Deferment Applications.

*Frequency:* Annually.

*Affected Public:* Individuals or households.

*Reporting and Recordkeeping Burden:* Responses: 1,148,818; Burden Hours: 183,811.

*Abstract:* These forms will serve as the means of collecting the information necessary to determine whether a FFEL borrower qualifies for a specific type of loan deferment.

[FR Doc. 99–10603 Filed 4–27–99; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP99–327–000]**

### Equitrans, L.P.; Notice of Request Under Blanket Authorization

April 22, 1999.

Take notice that on April 20, 1999, Equitrans, L.P. (Equitrans), 3500 Park Lane, Pittsburgh, Pennsylvania 15275, filed a request with the Commission in Docket No. CP99–327–000, pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to install 300 feet of three inch pipeline, a tap, metering, electronic flow measurement, and appurtenant facilities, authorized in blanket certificate issued in Docket No. CP86–676–000, all as more fully set forth in the request on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Equitrans proposes to install and operate a tap connection, measuring, and appurtenant facilities for the delivery of gas to Equitable Gas Company in Peters Township, Washington County, Pennsylvania. The estimated annual volume of delivery would be approximately 1,050,000 Dth with a peak day volume of 4,800 Dth. The estimated cost of construction would be approximately $22,700.00, which would be reimbursed by Equitable to Equitrans.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

**David P. Boergers,**

*Secretary.*

[FR Doc. 99–10586 Filed 4–27–99; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP99–326–000]**

### Florida Gas Transmission Co.; Notice of Request Under Blanket Authorization

April 22, 1999.

Take notice that on April 20, 1999, Florida Gas Transmission Company (FGT), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP99–326–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to construct and operate delivery facilities in St. Landry Parish, Louisiana to permit the delivery of gas to Riverside Pipeline Company (Riverside) for gas lift operations, under the blanket certificate issued in Docket No. CP82–553–000, pursuant to Section 7(c) of the Natural

Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

FGT states that Riverside has requested a connection and measurement instrumentation for gas lift operations at an existing well connect, Vermilion Resources Meter Station. It is indicated that two check valves will be added to the existing flange on the riser to connect Riverside's 2-inch delivery meter to measure volumes into Riverside. FGT states that it would also install 15 feet of connecting pipe to be installed from the riser to Riverside's meter station. It is stated that the gas lift gas will fuel Riverside's compressors when their pressure is too low to deliver gas into FGT's system at the existing receipt point. It is further indicated that, when well pressure is high enough to allow gas to enter FGT's system, the proposed delivery point will close, allowing the delivery into the FGT system through the existing meter.

FGT indicates that it will be able to deliver to Riverside up to 250 Mcf per day. FGT estimates that the proposed facilities will cost $30,000, which would be reimbursed by Riverside. FGT also states that the proposed delivery point is not prohibited by the existing tariff.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. if no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

**David P. Boergers,**

*Secretary.*

[FR Doc. 99–10585 Filed 4–27–99; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP99–139–001]**

### KN Interstate Gas Transmission Co.; Notice of Tariff Filing

April 22, 1999.

Take notice that on April 19, 1999, KN Interstate Gas Transmission Co. (KNI) tendered for filing to be part of its FERC Gas Tariff, Third Revised Volume No. 1–B, Substitute Fourth Revised Sheet No. 6, with an effective date of December 5, 1998.

KNI states that this filing is being submitted pursuant to the Commission Staff's request to correct a pagination error. This filing does not modify or change any tariff provision already approved by the Commission.

KNI states that copies of this filing has been served upon all affected firm customers of KNI and applicable state agencies.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

**David P. Boergers,**

*Secretary.*

[FR Doc. 99–10581 Filed 4–27–99; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP99–324–000]**

### Northern Natural Gas Company; Notice of Application

April 22, 1999.

Take notice that on April 16, 1999, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124, filed in Docket No. CP99–324–000, an application pursuant to Section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's Regulations, seeking authorization to revise the certificated capacities of the Cunningham, Lyons and Redfield storage fields as more fully described in the Amendment on file with the Commission and open to public inspection. The Application may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (Call (202) 208–2222 for assistance).

Northern states that it is filing to amend its existing certificates pursuant to the Settlement of its rate case in Docket Nos. RP98–203, *et al.* filed concurrently herewith. Northern says that the settlement provides that Northern will file a Section 7(c) certificate to revise the certificate level for Cunningham and Lyons storage fields to reflect current operations. Northern states it is also requesting authority to amend its certificate of public convenience and necessity to remove the maximum inventory restriction by reservoir at its Redfield underground storage field, while maintaining the total inventory level, in order to provide additional operational flexibility of the field.

Any person desiring to be heard or making any protest with reference to said application should on or before May 13, 1999 file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or person to whom the protests are directed. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents issued by the Commission, filed by the applicant, or filed by all other intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must serve copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as

well as filing an original and 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of such comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents, and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission, and will not have the right to seek rehearing or appeal the Commission's final order to a Federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by Sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northern to appear or be represented at the hearing.

**David P. Boergers,**

*Secretary.*

[FR Doc. 99–10583 Filed 4–27–99; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. MG99–18–000]**

### Northern Natural Gas Company; Notice of Filing

April 22, 1999.

Take notice that on March 4, 1999, Northern Natural Gas Company (Northern Natural) submitted a report that states that it is re-establishing its Pipeline Sales Division. Northern Natural states that it may sell gas pursuant to Rate Schedule SF due to the imbalance cashout mechanism, excess gas on the system or other economic reasons.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before May 7, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**David P. Boergers,**

*Secretary.*

[FR Doc. 99–10587 Filed 4–27–99; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP99–325–000]**

### Tennessee Gas Pipeline Company; Notice of Request Under Blanket Authorization

April 22, 1999.

Take notice that on April 19, 1999, Tennessee Gas Pipeline Company (Tennessee), a Delaware corporation, P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP99–325–000 a request pursuant to Sections 157.205, 157.212 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212 and 157.216) for authorization to convert an existing receipt point in Crawford County, Pennsylvania, to a delivery point in order to make deliveries of natural gas to Range Energy Resources, under Tennessee's blanket certificate issued in Docket No. CP82–413–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection. The application may be viewed on the web at www.ferc.fed.us/online/rims.htm. Call (202) 208–2222 for assistance.

Tennessee proposes to remove an exiting 6-inch orifice meter, install in its place a 4-inch orifice meter, and turn around the existing check valve to allow gas flow from Tennessee's mainline. Range Energy estimates that its average day and peak day requirements are 1,500 Mcf and 5,000 Mcf per day, respectively. The volumes to be delivered to this point will be within the contract quantity and therefore within the certificated entitlements for Range Energy.

Tennessee further states that the facilities will be converted in compliance with 18 CFR, Part 157, Subpart F, and that the proposed activities will not affect Tennessee's ability to service its other existing customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

**David P. Boergers,**

*Secretary.*

[FR Doc. 99–10584 Filed 4–27–99; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP98–181–000]**

### Trunkline Gas Company; Notice of Motion To Vacate

April 22, 1999.

Take notice that on April 16, 1999, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP98–181–000 a request seeking to vacate the authority that Trunkline received in Docket No. CP98–181–000 (prior notice filing) which was filed pursuant to 157.205 and 157.211 on January 13, 1998. This filing may be viewed on the web at www.ferc.fed.us/online/rims.htm (please call (202) 208–2222 for assistance).

The prior notice filing involved a request for authorization to install a 2″

hot tap, check valve, insulating flange and associated facilities on Trunkline's 24″ Line 100–1 in Harris County at milepost 1.53, and install electronic gas measurement equipment to establish a delivery point to Cypress Public Service, L.P. (Cypress), under Trunkline's blanket certificate issued in Docket No. CP83–84–000. The prior notice filing was noticed January 23, 1998, and no protests were filed during the notice period which expired March 9, 1998.

Trunkline states that at the request of the customer, Cypress, Trunkline will not be installing the tap and other associated facilities to establish the new interconnect. Trunkline states that since the requested interconnect is not going to be installed and that the 45-day notice period has expired, Trunkline requests that the authorization filed for in Docket CP98–181–000 be vacated.

Any person desiring to be heard or to make any protest with reference to said motion to vacate should on or before May 13, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protest filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

**David P. Boergers,**

*Secretary.*

[FR Doc. 99–10582 Filed 4–27–99; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP99–316–000]**

### Williams Gas Pipelines Central, Inc.; Notice of Application

April 21, 1999.

Take notice that on April 15, 1999, Williams Gas Pipelines Central, Inc., (Williams), formerly named Williams Natural Gas Company, P.O. Box 3288, Tulsa, Oklahoma, 74101, filed an application pursuant to Section 7(b) and Section 7(c) of the Natural Gas Act (NGA) for an order permitting and approving (1) the abandonment by reclaim of two 230 horsepower Ajax compressor units and appurtenant facilities and (2) the installation of a replacement 310 horsepower compressor unit and appurtenant facilities at the South Welda booster station located in Anderson County, Kansas, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Specifically, Williams seeks authority to abandon by reclaim the two 230 horsepower compressor units and replace them with a 310 horsepower compressor unit on the existing station site. The project cost is estimated to be approximately $257,414.

Any person desiring to participate in the hearing process or to make any protest with reference to said application should on or before May 12, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or parties directly involved. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by every one of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Williams to appear or be represented at the hearing.

**David P. Boergers,**

*Secretary.*

[FR Doc. 99–10672 Filed 4–27–99; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

April 22, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11704–000.

c. *Date filed:* March 15, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Boyd Dam Hydro Project.

f. *Location:* At the existing Boyd Dam located on the East Branch of Fish Creek, near the Towns of Point Rock, Tabert, and West Leyden, Lewis County, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. *FERC Contact:* Ed Lee (202) 219–2808 or E-mail address at Ed.Lee@FERC.fed.us.

j. *Deadline for filing motions to intervene and protest:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules and Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears 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.

k. This application is not ready for environmental analysis at this time.

l. *Description of Project:* The proposed run-of-river project would consist of the following facilities: (1) an 83.5-foot-high existing combination concrete gravity and earth embankment dam; (2) a 210-acre reservoir with pool elevation of 1280 feet msl; (3) two 180-foot-long steel penstocks; (4) a new powerhouse to be constructed on the downstream side of the dam housing two generating units for a total installed capacity of 2.6 megawatts; (5) a new 4-mile-long, 14.7-kilovolt transmission line; and (6) appurtenant facilities. The proposed average annual generation is estimated to be 16 gigawatthours. The cost of the studies under the permit will not exceed $1,000,000.

m. *Available Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 North Capitol Street, N.E., Room 2–A, Washington, D.C. 20426, or by calling (202) 219–1371. A copy is also available for inspection and reproduction at Universal Electric Power Corp., Mr. Ronald S. Feltenberger, 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115. A copy of the application may also be viewed or printed by accessing the Commission's website on the Internet at http://www.ferc.fed.us/online/rims.htm or call (202) 208–2222 for assistance.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.32(a) and (b)(1).

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application (see 18 CFR 4.36). Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.32(a), (b), and (c).

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

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 and .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.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''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 and an additional copy must be sent to Director, Division of Project Review, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

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.

**David P. Boergers,**

*Secretary.*

[FR Doc. 99–10588 Filed 4–27–99; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## Notice of Application Accepted for Filing and Soliciting Motions to Intervene and Protests

April 22, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11705–000.

c. *Date filed:* March 15, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Rome Dam Hydro Project.

f. *Location:* At the existing Rome Dam located on the West Branch of Ausable

River, near the Town of Ausable Forks, Clinton and Essex Counties, New York.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. *FERC Contact:* Ed Lee (202) 2808 or E-mail address at Ed.Lee@FERC.fed.us.

j. *Deadline for filing motions to intervene and protest:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

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 whose name appears 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.

k. *This application is not ready for environmental analysis at this time.*

l. *Description of Project:* The proposed run-of-river project would consist of the following facilities: (1) a 29-foot-high existing concrete dam; (2) a 150 acre-feet reservoir with pool elevation of 657 feet msl; (3) four 80-foot-long steel penstocks; (4) a new powerhouse to be constructed on the downstream side of the dam housing four generating units for a total installed capacity of 7.75 megawatts; (5) a new 300-foot-long, 14.7-kilovolt transmission line; and (6) appurtenant facilities. The proposed average annual generation is estimated to be 46 gigawatt hours. The cost of the studies under the permit will not exceed $1,500,000.

m. *Available Locations at Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 North Capitol Street, NE, Room 2–A, Washington, DC 20426, or by calling (202) 219–1371. A copy is also available for inspection and reproduction at Universal Electric Power Corp., Mr. Ronald S. Feltenberger, 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115. A copy of the application may also be viewed or printed by accessing the Commission's website on the Internet at http://www.ferc.fed.us/online/rims.htm or call (202) 208–2222 for assistance.

n. *Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.*

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.32(a) and (b)(1).

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application (see 18 CFR 4.36). Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.32(a) (b), and (c).

Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

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 and .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 intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENT'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'' ''PROTEST'', ''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 and an additional copy must be sent to Director, Division of Project Review, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

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.

**David P. Boergers,**

*Secretary.*

[FR Doc. 99–10589 Filed 4–27–99; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

April 22, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11716–000.

c. *Date Filed:* April 5, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Brookville Lake Dam Hydroelectric Project.

f. *Location:* On the East Fork of the Whitewater River near the town of Brookville, in Franklin County, Indiana. The project would utilize the U.S. Army Corps of Engineers Brookville Lake Dam and reservoir.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Ronald S. Feltenberger, Universal Electric Power Corporation, 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. *FERC Contact:* Tom Dean, thomas.dean@ferc.fed.us, 202–219–2778.

j. *Deadline for filing comments, motions to intervene, and protests:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedures require all intervenors filing documents with the Commission to serve a copy of the 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 affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *The project would be located at the existing U.S. Army Corps of Engineers Brookville Lake Dam and would consist of the following proposed facilities:* (1) A 220-foot-long, 108-inch-diameter penstock; (2) a powerhouse on the tailrace side of the dam housing three turbine generating units with a total installed capacity of 9.0 MW; (3) a 400-foot-long, 14.7 kV transmission line; and (4) other appurtenances.

Applicant estimates that the average annual generation would be 55,000 MWh and that the cost of the studies under the permit would be $2,000,000.

l. 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) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.32 (a) and (b)(1).

Preliminary Permit—Any qualified development application desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application (see 18 CFR 4.36). Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.32 (a), (b), and (c).

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

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 and .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.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''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 and an additional copy must be sent to Director, Division of Project Review, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

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.

**David P. Boergers,**

*Secretary.*

[FR Doc. 99–10590 Filed 4–27–99; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

April 22, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11717–000.

c. *Date Filed:* April 5, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Mississinewa Lake Dam Hydroelectric Project.

f. *Location:* On the Mississinewa River near the town of Peru, in Miami County, Indiana. The project would utilize the U.S. Army Corps of Engineers Mississinewa Lake Dam and reservoir.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Ronald S. Feltenberger, Universal Electric Power Corporation, 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. *FERC Contact:* Tom Dean, thomas.dean@ferc.fed.us, 202–219–2778.

j. *Deadline for filing comments, motions to intervene, and protests:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedures require all intervenors filing documents with the Commission to serve a copy of the 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 affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. The project would be located at the existing U.S. Army Corps of Engineers Mississinewa Lake Dam and would consist of the following proposed facilities: (1) a 130-foot-long, 78-inch-diameter penstock; (2) a powerhouse on the tailrace side of the dam housing two turbine generating units with a total installed capacity of 3.0 MW; (3) a 800-foot-long, 14.7 kV transmission line; and (4) other appurtenances.

Applicant estimates that the average annual generation would be 18,000 MWh and that the cost of the studies under the permit would be $1,000,000.

l. 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) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.32(a) and (b)(1).

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application (see 18 CFR 4.36). Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.32(a), (b), and (c).

Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

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 and .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.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''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 and an additional copy must be sent to Director, Division of Project Review, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

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.

**David P. Boergers,**

*Secretary.*

[FR Doc. 99–10591 Filed 4–27–99; 8:45 am]

BILLING CODE 6717–01–M

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6332–2]**

## Agency Information Collection Activities: Continuing Collection; Comment Request; Pre-award Compliance Review Report for all Applicants Requesting Federal Financial Assistance, Agency Information Collection Activities up for Renewal

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Pre-award Compliance Review Report for all Applicants Requesting Federal Financial Assistance, EPA ICR No. 0275.07, EPA Form 4700–4, OMB Control No. 2090–0014, expiration date 30 April 1999. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collections as described below.

**DATES:** Comments must be submitted on or before June 28, 1999.

**ADDRESSES:** Office of Civil Rights, Mail Code 1201, U.S. EPA, Waterside Mall (WSM), 401 M Street, SW, Washington, DC 20460. Interested parties may receive a copy of the ICR without charge by writing to this address or by calling the Office of Civil Rights at (202) 260–4575.

**FOR FURTHER INFORMATION CONTACT:** Office of Civil Rights, at the above address, by telephone at (202) 260–4575, or by fax at (202) 260–4580.

**SUPPLEMENTARY INFORMATION:**

*Affected entities:* Entities potentially affected by this action are all grant and loan applicants, including state, local and tribal governments, universities; associations, and non-profits, which must complete a simple form with the requested data when applying for financial assistance.

*Title:* Pre-award Compliance Review Report for all Applicants Requesting Federal Financial Assistance, EPA ICR No. 0275.07, EPA Form 4700–4, OMB Control No. 2090–0014, expiration date 30 April 1999.

*Abstract:* The information request and gathering is part of the requirement of 40 CFR part 7, ''Nondiscrimination in Programs Receiving Federal Assistance from the Environmental Protection

Agency,'' at 40 CFR 7.80. The regulation implements statutes which prohibit discrimination on the bases of race, color, national origin, sex and handicap. This information is also required, in part, by the Department of Justice regulations, 28 CFR 42.406 and 28 CFR 42.407. The information is collected on a short form from grant and loan applicants as part of the application. The EPA Director of Civil Rights manages the data collection through a regional component or delegated state, both of whom also carry out the data analysis and make the recommendation on the respondent's ability to meet the requirements of the regulation, as well as the respondent's current compliance with the regulation. The information and analysis is of sufficient value for the Director to determine whether the applicant is in compliance with the regulation. Analysis of the data allows EPA to determine:

(1) Whether there appears to be discrimination in the provision of program or activity services between the minority and non-minority population. This allows EPA to determine whether any action is necessary by it before the award of the grant or loan.

(2) Whether the respondent is designing grant or loan financed facilities to be accessible to handicapped individuals or whether a regulatory exemption is applicable. This allows EPA to determine whether design changes are necessary prior to the award of the grant or loan, which can save the respondent a significant amount of money, e.g., ensuring a facility is accessible to the handicapped is much less costly if this requirement is included in the design rather than after construction has begun.

(3) Whether the respondent receives or has applied for financial assistance from other Federal agencies. This information allows EPA to canvass these other agencies to avoid conducting duplicate compliance audits, reviews, or complaint investigations and is a reduction of burden on respondents. Responses to the collection of information are required to obtain a grant or loan and are kept on file by the state distributing the funds.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 40 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

*Burden Statement:* The form is part of the grant or loan application package. The information currently exists in the respondent's operation. The data collected on this form is compiled and reported from the applicant's existing information. The information as gathered and reported on the form specifically applies to the grant or loan application. The only burden experienced by the respondent is that of completing the form. The Agency's past experience has shown that it requires one half-hour to complete the form. The form is usually completed by the applicant's packager or a clerk assistant. The average salary range of the combined or single individual has historically been about $30,000.00 per year. The Agency's information comes from direct experience in carrying out the task. Therefore the capital cost would be $0 and the labor for ½ hour would be about $7.21 per year. At about 13,100 applications per year, the total cost for all applicants combined would be about $94,300.00 per year. Burden means total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose, or provide information to or for a Federal agency. This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: April 20, 1999.

**Ann E. Goode,**

*Director, Office of Civil Rights.*

[FR Doc. 99–10628 Filed 4–27–99; 8:45 am]

BILLING CODE 6560–50–P

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## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6332–4]**

## Regional Workshops on Performance-Based Measurement System

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of public meeting.

**SUMMARY:** With the assistance of EPA, the Global Institute of Environmental Scientists (GIES) will be holding a series of one-day workshops on implementing the Performance-Based Measurement System (PBMS) approach to environmental compliance monitoring. The workshops are designed to assist the public in learning about this new regulatory initiative.

**DATES:** Workshops will be held in the following cities:

- Philadelphia, PA, May 6, 1999.
- Atlanta, GA, June 8, 1999.
- Kansas City, MO, June 9, 1999.
- Seattle, WA, June 15, 1999.
- Las Vegas, NV, June 17, 1999.

**FOR FURTHER INFORMATION CONTACT:** Workshop arrangements are being made by GIES. For information on registration and hotel rates call the GIES coordinator, Sheila Way, at (202) 887–0457 (email: gies@acil.org). If you have questions regarding the conference program, contact the GIES Program Coordinators, Jerry Parr at (303) 670–7823 (email: catalyst@eazy.net) or Anthony Pagliaro at (202) 887–5872 (tpagliaro@acil.org).

**SUPPLEMENTARY INFORMATION:** In the United States, historical approaches to environmental compliance monitoring have: not fully capitalized on opportunities to reduce the cost for laboratory analysis and compliance monitoring; may have served as barriers to the development and use of innovative, faster, less costly measurement technologies and methods; and sometimes may have resulted in data of less than desired quality or defensibility. The United States Environmental Protection Agency (EPA) plans to address some of these problems by incorporating the Performance Based Measurement System (PBMS) into its regulatory programs. On October 6, 1997 (62 FR 52098), EPA announced its plans to implement the PBMS approach to the

extent feasible in all of its media programs.

PBMS is an approach where the regulated facility may use any scientifically appropriate analytical technique to demonstrate compliance with regulatory levels. The facility, however, must demonstrate that their technique meets the performance requirements that have been established for the application. Under PBMS, the regulations focus on the quality of data needed for the particular program or project (the system performance) rather than on what measurement method should be used (the technology). Where performance requirements can be met or exceeded by more than one method, PBMS allows selection of the least costly, simplest or most practical method, limited only by the programmatic data needs.

The workshops will explain how PBMS will work and how it differs from EPA's current regulatory approach. They will review what EPA is doing to implement the change and the status of these efforts under the various regulatory programs. With PBMS, EPA expects: improved data quality, reduced cost of compliance and enforcement monitoring, and stimulation of the development and use of new technology.

The PBMS Regional Workshops have been designed to bring together representatives of regulated industry, commercial environmental laboratories, state and federal regulators, and environmental consultants and contractors that they may better understand EPA's plans.

Participants will obtain information on:

- The status of EPA's PBMS implementation efforts;
- How PBMS can result in high quality, legally defensible data;
- Concepts of method validation, on-going quality control and documentation processes under PBMS;
- How to audit laboratories who have implemented PBMS;
- How PBMS will affect State regulatory agencies, the regulated community, and laboratories; and
- The cost of doing business under PBMS.

Dated: April 22, 1999.

**Henry L. Longest II,**

*Deputy Assistant Administrator for Management, Office of Research and Development.*

[FR Doc. 99–10629 Filed 4–27–99; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[OPP–00580; FRL–6055–1]**

## Pesticides; Request for Comment on Pesticide Registration Proposal for Isomeric Active Ingredients

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This **Federal Register** notice solicits comments on how the Agency should handle the registration of pesticide active ingredients (AI's) that are composed of chemical isomers. In particular the Agency intends to clarify its approach on how it will determine whether a particular isomeric pesticide is a new active ingredient or not. This **Federal Register** notice describes issues associated with the registration of pesticide active ingredients that are composed of chemical isomers and how you can submit your comments to the Agency.

**DATES:** Written comments, identified by the docket control number ''OPP–00580'', must be received on or before June 28, 1999.

**ADDRESSES:** Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit IV. of the ''SUPPLEMENTARY INFORMATION'' section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Alan Dixon, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 703–305–7237, Fax: 703–305–6920, e-mail: dixon.alan@epa.gov.

**SUPPLEMENTARY INFORMATION:**

### I. Does this Notice Apply to Me?

You may be potentially affected by this notice if you are applying for a registration or amended registration of a pesticide product that contains isomeric active ingredients and in particular a product purified for one or more (usually more chemically active) isomers. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

### II. Why is EPA Issuing this Notice?

The Office of Pesticide Program (OPP) is soliciting comments on how the Agency should handle the registration of pesticide active ingredients that are composed of chemical isomers. In particular, OPP is interested in learning the various opinions on the question of whether an AI originally registered at a particular proportion of isomers should be subsequently registered as a new AI when purified for one or more (usually more chemically active) isomers.

In the past the Agency has treated some purified isomeric compounds as new formulations and some purified isomeric compounds as new AI's. Examples of purified isomeric compounds treated as new formulations are: Fluazifop butyl and fluazifop-p-butyl, fenoxaprop-ethyl and fenoxaprop-p-ethyl, 2,4-DP and 2,4-DP-p, and MCPP to MCPP-p. Examples of purified isomeric compounds treated as new AI's are: Metolachlor and alpha-metolachlor, and metalaxyl and mefenoxam. Some recent regulatory decisions caused the Agency to re-evaluate its policy on isomeric active ingredients.

The Agency is considering three options:

1. To continue determining case by case whether an isomeric compound is a new AI.
2. To consider all purified isomeric compounds not as new AI's but as new formulations.
3. To consider all purified isomeric compounds as new active ingredients.

### III. How Can I Get Additional Information or Copies of this Document or Other Documents?

*A. Electronic Availability*

You may obtain electronic copies of this document from the EPA internet Home Page at http://www.epa.gov/. On the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register** - Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

*B. In Person or By Phone*

If you have any questions or need additional information about this action, you may contact the technical person identified in the ''FOR FURTHER INFORMATION CONTACT'' section. In addition, the official record for this notice, including the public version, has been established under docket control number ''OPP–00580''. A public version of this record, including printed, paper versions of any electronic comments, which does not include any information claimed as Confidential Business Information (CBI), is available for inspection in Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal

holidays. The Public Information and Records Integrity Branch telephone number is 703–305–5805.

## IV. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. Be sure to identify the appropriate docket control number, ''OPP–00580'', in your correspondence.

*A. By Mail*

Submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

*B. In Person or By Courier*

Deliver written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

*C. Electronically*

Submit your comments and/or data electronically by e-mail to: opp-docket@epa.gov. Do not submit any information electronically that you consider to be CBI. Submit electronic comments as an ASCII file, avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard computer disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number ''OPP–00580''. Electronic comments on this notice may also be filed online at many Federal Depository Libraries.

## V. How Should I Handle CBI Information that I Want to Submit to the Agency?

You may claim information that you submit in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult with the technical person identified in the ''FOR FURTHER INFORMATION CONTACT'' section.

## VI. What Should I Consider as I Prepare My Comments for EPA?

*A. General Tips for Preparing Your Comments*

We invite you to provide your views on the various options we propose, new approaches we haven't considered, the potential impacts of the various options (including possible unintended consequences), and any data or information that you would like the Agency to consider during the development of the final action. You may find the following suggestions helpful for preparing your comments:

- Explain your views as clearly as possible.
- Describe any assumptions that you used.
- Provide solid technical information and/or data to support your views.
- If you estimate potential burden or costs, explain how you arrived at the estimate.
- Tell us what you support, as well as what you disagree with.
- Provide specific examples to illustrate your concerns.
- Offer alternative ways to improve the rule or collection activity.
- Make sure to submit your comments by the deadline in this notice.
- At the beginning of your comments (e.g., as part of the ''Subject'' heading), be sure to properly identify the document you are commenting on. You can do this by providing the docket control number assigned to the notice, along with the name, date, and **Federal Register** citation.

*B. Specific Issues for Your Consideration*

In answering the specific questions in Unit VI.C., you might consider the following:

1. There are substantial benefits for the registration holder of a new active ingredient. With a new active ingredient the registrant has 10 years exclusive use of the data used to support the chemical. In practice this likely amounts to several more years of exclusive distribution or sale of the pesticide given the time it may take subsequent applicants to develop their own data. If potential follow-on applicants do not generate their own data this exclusive period is obviously much longer.

2. One of Congress's intentions on giving preferential status to data submitted on new AI's was to reward innovation that provides significant benefits to agriculture, the environment, and the public. There may be cases where a modified isomeric mixture may truly be innovative and provide substantial benefits to agriculture, the environment, and the public. On the other hand, if new AI status was granted to purified isomers, economic competition might be reduced by creating a regulatory barrier to other companies wishing to enter the market by registering competing products.

3. The public, growers, and environment stand to benefit from new active ingredients if the pesticide is effective against pests that no other pesticide controls, and/or substantially outperforms alternative pesticides, and/or is safer for human health and the environment than alternative pesticides, and/or is substantially less expensive than alternative pesticides. Some purified isomeric mixtures may have these benefits.

4. In some instances a purified isomeric mixture may reduce environmental burden by reducing the total pesticide application rate. Take for example the case of a 50–50 racemic mixture purified to 95 percent of the active isomer and 5 percent of the less active isomer and then applied at one-half the rate. If both isomers present some risk concerns, the new formulation would reduce the risk associated with the product since there is half the total pounds of product applied. On the other hand, if there is little risk concern for the less active isomer, only the environmental burden (pounds product applied) will be reduced since there is half the total pounds of product applied.

5. The reduction in risk in for purified isomeric compounds may be negligible if there is little concern for the less active isomer. In this case there is no change in the amount of the active isomer (isomer of risk concern) applied. For this instance, the risk of using the purified isomeric mixture remains the essentially the same as the original unpurified isomeric mixture.

6. There are other environmental benefits from a significant reduction in the total use of pesticides. The environmental burden from transportation is reduced as is the environmental burden associated with packaging and disposal.

7. Some companies have requested and been granted reduced risk status for their purified isomeric compounds citing arguments similar to items 4. and 6.

8. The Agency may determine that additional types of information on the isomeric composition of active ingredients is necessary prior to registration of the product. Information that might be necessary could include:

- Isomers present and their percentages.

• Relative activity of each isomer.

• Relative toxicology of each isomer (human health and environmental effects).

• Relative environmental fate of each isomer.

*C. Specific Questions for Commenters*

1. Under what circumstances should the Agency register an isomeric AI purified for one or more (usually more chemically active isomers) as a new AI?

2. Under what circumstances should the Agency not register an isomeric AI purified for one or more (usually more chemically active isomers) as a new AI?

3. What would be the advantages or disadvantages to the regulated community, the Agency, growers, the environment, the general public, and other interest groups from your answer to questions 1. and 2.?

4. If isomerically purified AI's were not treated as new AI's but as new formulations, what incentives could the Agency create to promote these innovations?

5. What information might the Agency need for initial and subsequent registrations of isomeric AI's?

6. Under what circumstances should the Agency grant reduced risk pesticide status to an isomeric AI purified for one or more (usually more chemically active isomers)?

**List of Subjects**

Environmental protection, Pesticides.

Dated: April 19, 1999.

**James Jones,**

*Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 99–10522 Filed 04–27–99; 8:45 am]

BILLING CODE 6560–50–F

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## ENVIRONMENTAL PROTECTION AGENCY

**[OPP–30476; FRL–6076–6]**

## Uniroyal Chemical Inc.; Applications to Register Pesticide Products

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces receipt of applications to register pesticide products containing new active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

**DATES:** Written comments must be submitted by May 28, 1999.

**ADDRESSES:** By mail, submit written comments identified by the document control number [OPP–30476] and the file symbols to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under ''SUPPLEMENTARY INFORMATION.'' No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. The public docket is available for public inspection in Rm. 119 at the Virginia address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding holidays.

**FOR FURTHER INFORMATION CONTACT:** By mail: George Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 203, CM #2, 703–308–9397, e-mail: tompkins.george@epamail.epa.gov.

### I. Products Containing Active Ingredients Not Included In Any Previously Registered Products

1. File Symbol: 400–UIR. Applicant: Uniroyal Chemical, Inc., 74 Amity Road, Bethany, CT 06524–3402. Product Name: Floramite. Miticide. Active ingredient: Bifenazate: hydrazine carboxylic acid, 2-(4-methoxy-[1,1-biphenyl]-3-yl)-1 methylethyl ester at 50%. Proposed classification/Use: None. For use to control a variety of mite pests on greenhouse, shadehouse, nursery, field, landscape and interiorscape grown ornamentals.

2. File Symbol: 400–UIN. Applicant: Uniroyal. Product Name: Bifenazate Technical. Miticide. Active ingredient: Bifenazate: hydrazine carboxylic acid, 2-(4-methoxy-[1,1-biphenyl]-3-yl)-1 methylethyl ester at 91.7%. Proposed classification/Use: None. For formulation into end-use miticides.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

### II. Public Record and Electronic Submissions

The official record for this notice, as well as the public version, has been established for this notice under docket number [OPP–30476] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official notice record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:
opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–30476]. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

**Authority:** 7 U.S.C. 136.

**List of Subjects**

Environmental protection, Pesticides and pest, Product registration.

Dated: April 13, 1999.

**James Jones,**

*Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 99–10389 Filed 4–27–99; 8:45 am]

BILLING CODE 6560–50–F

## EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

### SES Performance Review Board Members

**AGENCY:** Equal Employment Opportunity Commission (EEOC).

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given of the names of the members of the SES Performance Review Board of EEOC for FY 1998 and 1999.

**FOR FURTHER INFORMATION CONTACT:** Patricia Cornwell Johnson, Director, Office of Human Resources, Equal Employment Opportunity Commission, 1801 L Street, NW, Washington, DC, 20507, (202) 663–4306.

**SUPPLEMENTARY INFORMATION:** Pursuant to the requirement of section 4314(c)(1), Chapter 43 Title 5 U.S.C., membership of the SES Performance Review Board is as follows: Ms. Gwendolyn Reams, Associate General Counsel, Appellate Services, Equal Employment Opportunity Commission (Chairperson); Mr. Spencer H. Lewis, Director, New York District Office, Equal Employment Opportunity Commission; Mr. Federico Costales, Director, Miami District Office, Equal Employment Opportunity Commission; Ms. Peggy Mastrioanni, Associate Legal Counsel, Coordination and Guidance Programs, Equal Employment Opportunity Commission (Alternate).

Signed at Washington, D.C. on this 19th day of April 1999.

For the Commission.

**Ida L. Castro,**

*Chairwoman.*

[FR Doc. 99–10569 Filed 4–27–99; 8:45 am]

BILLING CODE 6570–06–M

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 24, 1999.

**A. Federal Reserve Bank of Minneapolis** (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

*1. First Interstate BancSystem, Inc.*, Billings, Montana;to acquire 100 percent of the voting shares of Security State Bank Shares, Polson, Montana, and thereby indirectly acquire Security State Bank and Trust Company, Polson, Montana.

**B. Federal Reserve Bank of Kansas City** (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

*1. FirstBank Holding Company of Colorado ESOP*, Lakewood, Colorado, and FirstBank Holding Company of Colorado, Lakewood, Colorado; to acquire 100 percent of the voting shares of FirstBank of Adams County, Thorton, Colorado.

Board of Governors of the Federal Reserve System, April 23, 1999.

**Robert deV. Frierson,**

*Associate Secretary of the Board.*

[FR Doc. 99–10643 Filed 4–27–99; 8:45 am]

BILLING CODE 6210–01–F

## FEDERAL RESERVE SYSTEM

### Notice of Proposals to Engage in Nonbanking Activities or to Acquire Companies that are Engaged in Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or indirectly, in a nonbanking activity. These activities will be conducted worldwide.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 21, 1999.

**A. Federal Reserve Bank of New York** (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001, and **Federal Reserve Bank of Chicago** (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

*1. Barclays PLC and Barclays Bank PLC*, both of London, England; Bayerische Hypo- und Vereinsbank AG, Munich, Germany; Deutsche Bank AG, Frankfurt, Germany; and Stichting Prioriteit ABN AMRO Holding, Stichting Administratiekantoor ABN AMRO Holding, ABN AMRO Holding N.V., and ABN AMRO Bank N.V., all of Amsterdam, The Netherlands (collectively, Notificants) to engage *de novo* in digital certification and data processing and data transmission activities, as described below. Notificants also propose to engage in activities that they maintain are incidental to permissible digital certification and data processing and data transmission activities.

Notificants propose to acquire more than 5 percent of the outstanding voting interests in Global Trust Organization, LLC, New York, New York (Company), a *de novo* limited liability company. Other investors in Company would include national banks and state member banks. Company would serve as the rulemaking authority for a network of participating financial institutions (Network), which would include Notificants, future equity investors in Company, and other financial institutions that elect to participate in the Network (collectively, Participants). The Network is designed to allow Participants to certify electronically the identity of parties conducting business or communicating electronically through the internet or otherwise. Participants in the Network would, among other things, issue to customers ''digital certificates'' that authenticate messages electronically sent by the customer, and confirm the validity of digital certificates issued by Participants. Participants also may issue warranties to customers who request

verification of digital certificates issued by Participants, and post collateral to secure claims under any warranty issued by the Participant.

Company would develop, maintain, and enforce the rules governing the operation of, and participation in, the Network, and provide other services designed to facilitate the certification activities of Participants and operation of the Network. These activities would include issuing digital certificates to Participants and maintaining a current database of digital certificates that have been issued. Company and Participants would engage in a wide range of data processing and data transmission activities in connection with their proposed activities. A more complete description of the proposed activities of Company, Notificants, and other Participants is contained in the notices.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity that the Board has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto. The Board previously has determined that certain data processing and data transmission services are closely related to banking for purposes of section 4(c)(8) of the BHC Act, pursuant to § 225.28(b)(14) of Regulation Y. Notificants contend that all of the proposed activities are so closely related to banking as to be a proper incident thereto, or are activities that are incidental to permissible activities, pursuant to § 225.21(a)(2) of Regulation Y.

In determining whether the proposal satisfies the proper incident to banking standard of section 4(c)(8) of the BHC Act, the Board must consider whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' 12 U.S.C. 1843(c)(8). Notificants contend that consummation of the proposal will facilitate the development of electronic commerce and will have a beneficial effect on competition for identity certification and related services.

In publishing the proposal for comment, the Board does not take a position on the issues raised by the proposal. Notice of the proposal is published solely to seek the views of interested persons on the issues presented by the proposal and does not represent a determination by the Board that the proposal meets, or is likely to meet, the standards of the BHC Act. The notices are available for immediate inspection at the Federal Reserve Banks indicated above and at the offices of the Board of Governors. Any request for a hearing on the notices must be accompanied by a statement of reasons explaining why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Board of Governors of the Federal Reserve System, April 23, 1999.

**Robert deV. Frierson,**

*Associate Secretary of the Board.*

[FR Doc. 99–10642 Filed 4–27–99; 8:45 am]

BILLING CODE 6210–01–F

## GENERAL ACCOUNTING OFFICE

### Appointments to the Medicare Payment Advisory Commission

**AGENCY:** General Accounting Office.

**ACTION:** Notice of appointments.

**SUMMARY:** The Balanced Budget Act of 1997 establishes the Medicare Payment Advisory Commission, with members to be appointed by the Comptroller General. A recent amendment to the Act expanded the membership of the Commission from 15 to 17. This notice announces five appointments to fill the vacancies occurring this year, and two appointments to carry out the expansion.

**DATES:** Appointments effective May 1, 1999.

**ADDRESSES:** The General Accounting Office is at 441 G St. NW, Washington, DC 20548. The Office of the Chairman of the Medicare Payment Advisory Commission is at Suite 800, 1730 K St., NW, Washington DC 20006.

**FOR FURTHER INFORMATION CONTACT:** General Accounting Office: Paul T. Wagner, 202–512–7257; Medicare Payment Advisory Commission: Murray N. Ross, 202–653–7220.

**SUPPLEMENTARY INFORMATION:** This announces the appointment of seven members of the Medicare Payment Advisory Commission, effective May 1, 1999.

The Commission originally comprised 15 members, appointed by the Comptroller General. A recent amendment expanded the membership of the Commission to 17. Members are generally appointed to 3-year terms, except that some terms of members are staggered in order to spread term expiration dates.

All terms now end on April 30 of the year in which they expire. This year, the terms of five of the original members will expire.

To fill the five impending vacancies, expand the Commission's membership to 17, and to comply with the requirement for staggered terms, we announce the following seven appointments, effective May 1, 1999:

Beatrice S. Braun, M.D.; Floyd D. Loop, M.D.; Janet Newport; Carol Raphael; and Mary K. Wakefield, Ph.D.; to 3-year terms, which expire April 30, 2002; Spencer Johnson, to a 2-year term, which expires April 30, 2001; and Donald T. ''Ted'' Lewers, M.D., to a 1-year term, which expires April 30, 2000.

**David M. Walker,**

*Comptroller General of the United States.*

[FR Doc. 99–10621 Filed 4–27–99; 8:45 am]

BILLING CODE 1610–02–U

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

### Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of Health and Human Services (DHHS), has submitted to the Office of Management and Budget (OMB) the following request for emergency review. We are requesting an emergency review because the collection of this information is needed prior to the expiration of the normal time limits under OMB's regulations at 5 CFR Part 1320 and is essential to the mission of the Department. The Balanced Budget Act of 1997 authorized the Department of Labor (DoL) to implement a new grant program to fund state and local efforts to get the hardest-to-serve welfare recipients into employment. The statute directs the Secretary of the Department of Health and Human Services, in consultation with the Secretary of Labor and the Secretary of Housing and Urban Development, to develop a plan to evaluate how Welfare-to-Work (WtW) grants to states and tribes have been used. An interim evaluation report is due to Congress by January 1, 1999, and a final report is due by January 1, 2001.

Implementation of the WtW programs among grantees has proven slower than

expected. This has delayed early exploratory site visits under the evaluation, which in turn has delayed development of the protocols for in-depth site visits which draw on information gathered from exploratory visits. Following normal clearance procedures would affect later phases of contract work and cause delays in the delivery of future reports.

DHHS is requesting that OMB grant 180 day emergency approval by May 14, 1999.

*Title and Description of Information Collection:* Site Visit Protocols for the Multi-site Evaluation of the Welfare-to-Work Grants Program—NEW—As required by the Balanced Budget Act of 1997, DHHS is conducting an evaluation of the effectiveness of welfare-to-work initiatives undertaken through competitive and formula grants awarded by the US Department of Labor (DoL). DHHS' Office of the Assistant Secretary for Planning and Evaluation, in conjunction with DoL and the US Department of Housing and Urban Development (HUD), has designed an evaluation that will involve several rounds of data collection from grantees, affiliated agencies and grant program participants. The information collection instruments in this request for OMB approval consist of discussion protocols and focus group guides for site visits to WtW grantees that are part of the core evaluation's process and implementation analysis, and protocols for the tribal component of the evaluation. *Respondents:* State, Local, or Tribal Governments, Not-for-profit Institutions; Burden Information for the Discussion Protocols—*Number of Respondents:* 300; *Number of Responses per Respondent:* one; *Average Burden per Response:* one hour; *Total Burden for Discussion Protocols:* 300 hours—Burden Information for Focus Groups—*Number of Respondents:* 360; *Number of Responses per Respondent:* one; *Average Burden per Response:* 1.5 hours; *Total Burden for Focus Groups:* 540 hours. Burden Information for the Tribal Evaluation Instruments—*Number of Respondents:* 220; *Number of Responses per Respondent:* one; *Average Burden per Response:* .86 hour; *Total Burden for Tribal Evaluation Instruments:* 190 hours. Total Burden: 1,030 hours.

To request more information or a copy of the proposed data collection, please contact Alana Landey on 202–401–6636.

*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.

Written comments and recommendations for the proposed information collections should be immediately sent directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503. Comments may be faxed to Ms. Eydt at 202–395–5167.

Please send a copy of your comments to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue SW, Washington, DC, 20201.

Dated: April 21, 1999.

**Dennis P. Williams,**

*Deputy Assistant Secretary, Budget.*

[FR Doc. 99–10568 Filed 4–27–99; 8:45 am]

BILLING CODE 4150–04–M

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Centers for Disease Control and Prevention

**[Program Announcement 99088]**

## State Grants To Support the Evaluation of 5 A Day Nutrition Programs; Notice of Availability of Funds

### A. Purpose

The Centers for Disease Control and Prevention (CDC) in partnership with the National Cancer Institute (NCI) announces the availability of fiscal year (FY) 1999 funds for a grant program to support the evaluation of 5 A Day Nutrition Programs. This program addresses the ''Healthy People 2000'' priority area of Nutrition (please see background section included in appendix).

The purpose of the program is to support State efforts to evaluate 5 A Day nutrition intervention programs.

### B. Eligible Applicants

Eligible applicants are the official public health agencies of States or their bona fide agents. This includes the District of Columbia, American Samoa, the Commonwealth of Puerto Rico, the Virgin Islands, the Federated States of Micronesia, Guam, the Northern Mariana Islands, the Republic of the Marshall Islands, the Republic of Palau, and federally recognized Indian tribal governments, that are licensed by NCI for the 5 A Day Program; and have established, clearly-defined, measurable, long-range 5 A Day for Better Health projects in a specific community channel (e.g., supermarkets, schools, etc.).

### C. Availability of Funds

Approximately $535,000 is available in FY 1999, to fund approximately 7 awards. It is expected that the average award will be $75,000, ranging from $55,000 to $90,000. It is expected that the awards will begin on or about September 30, 1999, and will be made for a 12-month budget period within a project period of up to 1 year. Funding estimates may change.

*Recipient Financial Participation*

Awards under this announcement will not be sufficient to fully support an applicant's proposed activities, but are meant to be used in conjunction with other resources—whether direct funding or in-kind contributions—that the applicant may have available.

### D. Program Requirements

Applicants should propose an evaluation plan for a clearly defined, established, long-range effort (e.g., sustainable after program funding under this announcement ends) in one or more specific community channels in accordance with the following definitions:

*1. Clearly Defined Objectives*

Intervention objectives are clearly stated; activities necessary to accomplish objectives are described, to include who is responsible for each activity and when they will be accomplished; and work is done within a specific channel with a defined target audience.

*2. Established 5 A Day Program*

The applicant has a developed, ongoing 5 A Day Program. Evaluating pretested or piloted interventions is desirable.

*3. Evaluation Plan*

Clear, measurable evaluation objectives and expected outcomes are defined with appropriate statistical power. Use of current theoretical frameworks to guide the evaluation study is desirable. A combination of process and impact objectives is also desirable, with outcome objectives where feasible. In designing the study, consideration should be given to the

number of individuals or groups needed to detect realistic changes in post-intervention outcome measures when compared with pre-intervention measures. Sample sizes should give adequate power (80 percent) to detect these changes. If the appropriate design expertise does not exist within the State health department, inclusion of an organization with the necessary design expertise on the project team, such as a university affiliate, is recommended.

*4. Long Range Sustainability*

The program is not just a single activity at one point in time, but sustained effort and on-going program plans involving appropriate behavior change strategies that are capable of continuing after funding under this announcement ends. Programs including environmental approaches and administrative changes are encouraged.

*5. Program Emphasis Will be Placed on*

(a) Evaluation of a community intervention's impact on knowledge, attitude, awareness and behavioral change in minority-based population groups (such as elderly, young children or low-income groups, and ethnic groups such as, but not exclusive to, American Indians, Asians, Pacific Islanders, African Americans or Hispanics) which have low fruit and vegetable intakes or have a disproportionately greater risk for cancer;

(b) Testing the effects of culturally sensitive and linguistically appropriate strategies within a community intervention designed to increase the consumption of fruits and vegetables in minority population subgroups and promote other related lifestyle behaviors which are recognized covariates that influence fruit and vegetable consumption; or

(c) Evaluation of communication channels (radio, tv, print media) which target the specific minority population subgroups identified as part of 5 A Day-based community intervention campaigns.

**E. Application Content**

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 10 double-spaced pages, printed on one side, with one inch margins, and unreduced font and must contain the following information:

*1. Background*

Provide a brief but clear description of a current project in one or more specific community channels including project goals and objectives, target group, methodology of intervention, and length of time of the current project.

*2. Program Plan*

Provide a realistic, time phased, and specific work plan including evaluation goals, objectives, methods, and outcomes to be achieved during the 12-month period; and a clear plan to evaluate the current long-range effort in a particular channel or channels and assess the impact of those activities with measures of process and outcomes related to the targeted audience. Examples of potential evaluation projects might include but are not limited to the following:

a. Evaluation of the process and impact of instituting a community neighborhood 5 A Day project targeting for example minority, elderly, youth, or low-income groups and its effect on perceived barriers, attitudes, beliefs, dietary behaviors and fruit and vegetable consumption.

b. Evaluation of innovative measurement techniques appropriate for targeted minority audiences and their perceptions/response to the current 5 A Day Program recommendations of 5 to 9 servings of fruits and vegetables daily.

c. Evaluate the impact of a 5 A Day media and/or education campaign on knowledge, attitudes, and behaviors of targeted minority community members, with a focus on issues of awareness translating to action/behavioral stages of change and changes in fruit and vegetable consumption. (e.g. food assistance program like Women Infant Children (WIC) or other community-based program combined with a media intervention).

d. Evaluate an intervention that promotes healthy dietary choices (5 A Day) and physical activity in a defined community setting with a focus on the effect of affiliated environmental change(s) on behavior.

*3. Capacity*

Document the expertise of the evaluation team by including the curriculum vitae (limited to 1 page attachment per person) for key members of the team. If sufficient evaluation expertise is not available in the State health department, States are strongly encouraged to work with an academic institution in the design, data collection, and analysis activities for this evaluation. For interventions involving administrative changes, describe the infrastructure that is or will be in place to support the administrative change once made in the defined setting.

*4. Human Subjects*

Documentation that human subject assurances are met, either through copies of approved protocols or notation of the institutional review committee that will review the project. Should human subjects review be required, the proposed work plan should incorporate time lines for such development and review activities.

*5. Women, Racial, and Ethnic Minorities*

Describe and provide for the inclusion of women, ethnic, and racial groups in the proposed research to include:

a. The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representations.

b. The proposed justification when representation is limited or absent.

c. A statement whether the design of the study is adequate to measure differences when warranted.

*6. Budget*

Provide a detailed budget and line-item justification that is consistent with the stated objectives, purpose, and planned activities of the project. (Not to be counted as part of the 10 page narrative.)

An original and two copies of the application are required. Pages should be numbered, and an index to the application and appendix must be included. The original and each copy of the application must be submitted unstapled and unbound. Materials that should be part of the basic plan will not be accepted if placed in the appendix. Appendix material should not exceed 25 pages. Please do not include reports (or portions thereof), journal articles, mass media articles, or presentations of national statistical data.

**F. Submission and Deadline**

*Application*

Submit the original and two copies of CDC Form 0.1246(E). Forms are in the application kit. On or before June 28, 1999, submit the application to: Lucy Picciolo, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 99088, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, Georgia 30341–4146.

*Deadline:* Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the review panel. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

*Late Applications:* Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

**G. Evaluation Criteria**

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

Applications will be reviewed and evaluated according to the following criteria:

*1. Background: (25 Points)*

The degree to which the applicant clearly describes a long-range, clearly defined, measurable project, including a description of the intervention targeted population, method, and community channel(s).

*2. Program Plan: (40 Points)*

The adequacy of the applicant's plan to carry out the evaluation within the 12-month time period, including the specific objectives, methods, and measures to be used in the evaluation.

*3. Capacity: (30 Points)*

The capabilities of the personnel (including consultants where appropriate) to carry out the evaluation.

*4. Women, Racial, and Ethnic Minorities (5 Points)*

The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research.

This includes:

a. The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representations.

b. The proposed justification when representation is limited or absent.

c. A statement whether the design of the study is adequate to measure differences when warranted.

*5. Human Subjects: (Not Weighted)*

Whether or not exempt from the Department of Health and Human Services (HHS) regulations, are procedures adequate for the protection of human subjects? Recommendations on the adequacy of protections include: (1) Protections appear adequate and there are no comments to make or concerns to raise, (2) protections appear adequate, but there are comments regarding the protocol, (3) protections appear inadequate and there are concerns related to human subjects, or (4) disapproval of the application is recommended because the research risks are sufficiently serious and protection against the risks are inadequate as to make the entire application unacceptable.

Does the application adequately address the requirements of Title 45 CFR Part 46 for the protection of human subjects?

____Yes ____No

Comments: _____

*6. Budget: (Not Weighted)*

The extent to which the applicant provides a detailed budget and line-item justification that is consistent with the evaluation plan.

**H. Other Requirements**

*Technical Reporting Requirements*

Provide CDC with original plus two copies of

1. Annual progress report; The progress reports must include the following for each program, function, or activity involved: (1) A comparison of the actual accomplishments to the goals established for the period; (2) the reasons for slippage if established goals were not met; and (3) other pertinent information including, when appropriate, analysis and explanation of unexpectedly high costs for performance.

2. Financial status report, no more than 90 days after the end of the budget period; and

3. Final financial status and performance reports, no more than 90 days after the end of the project period.

Send all reports to: Lucy Picciolo, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR–1 Human Subjects Requirements

AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research

AR–7 Executive Order 12372 Review

AR–9 Paperwork Reduction Act Requirements

AR–10 Smoke-Free Workplace Requirements

AR–11 Healthy People 2000

AR–12 Lobbying Restrictions

**I. Authority and Catalog of Federal Domestic Assistance Number**

This program is authorized under section 301 (a) and 317(k)(2) [42 U.S.C. 241 (a) and 247b (k)(2)] of the Public Health Service Act, as amended. The Catalog of Federal Domestic Assistance number is 93.283.

**J. Where to Obtain Additional Information**

Please refer to Program Announcement [99088] when you request information. For a complete program description, information on application procedures and business management assistance, contact: Lucy Picciolo, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 99088, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone (770) 488–2757, Email address lip6@cdc.gov.

See also the CDC home page on the Internet in order to find information on application procedures and an application package: http://www.cdc.gov.

For program technical assistance, contact: Sarah Kuester, MS, RD, Public Health Nutritionist, Division of Nutrition and Physical Activity, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC), 3005 Chamblee-Tucker Road, Room 5157, Atlanta, GA, 30341–4133, Telephone (770) 488–6019, Fax (770) 488–6000, Email address: sak2@cdc.gov.

To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest.

Dated: April 22, 1999.

**John L. Williams,**

*Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).*

[FR Doc. 99–10616 Filed 4–27–99; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

### Notice of Hearing: Reconsideration of Disapproval of Minnesota State Plan Amendment (SPA) 98–10

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Notice of hearing.

**SUMMARY:** This notice announces an administrative hearing on June 9, 1999; 10:00 a.m.; Twenty-First floor; 105 W. Adams Street; Chicago, Illinois 60603 to reconsider our decision to disapprove Minnesota State Plan Amendment (SPA) 98–10.

**CLOSING DATE:** Requests to participate in the hearing as a party must be received by the presiding officer by May 13, 1999.

**FOR FURTHER INFORMATION CONTACT:** Stanley Katz, Hearings Officer, HCFA, C1–09–13, 7500 Security Boulevard, Baltimore, Maryland 21244, Telephone: (410)–786–2661

**SUPPLEMENTARY INFORMATION:** This notice announces an administrative hearing to reconsider HCFA's decision to disapprove Minnesota State Plan Amendment 98–10 submitted March 30, 1998.

Section 1116 of the Social Security Act (the Act) and 42 CFR Part 430 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. These requirements are made applicable under Title XIX. The Health Care Financing Administration (HCFA) is required to publish a copy of the notice to the State that informs the State of the time and place of the hearing and the issues to be considered. If we subsequently notify the State of additional issues that will be considered at the hearing, we will also publish that notice.

Any individual or group that wants to participate in the hearing as a party must petition the presiding officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the presiding officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c). If the hearing is later rescheduled, the presiding officer will notify all participants.

Minnesota submitted this State Plan Amendment (SPA) on March 30, 1998. The issue is whether the State's proposal to adopt several less restrictive Medicaid financial eligibility methodologies for the group of low income families with children under section 1931 of the Social Security Act comports with the requirements of section 1902(a)(17)of the Act that a state use reasonable standards which are comparable for all groups in determining eligibility for and the amount of medical assistance.

Specifically, the State proposed to disregard earned income and resources used to determine a grant under the Temporary Assistance for Needy Families (TANF) program. If these proposals mean that the types of income and resources which TANF would count will be disregarded in determining the eligibility of all individuals under Section 1931, HCFA would have no objections. However, HCFA understands that the intent of these provisions was to disregard the earned income and resources only in situations in which the family receives a TANF grant. Given this understanding, these proposed disregards are not in accordance with Federal law. HCFA concluded that these provisions violate the requirement in Section 1902 (a)(17).

Section 1931(b)(2)(C)of the Act permits a State to use less restrictive income and resource methodologies in determining eligibility than it used under its Aid to Families with Dependent Children (AFDC) State plan in effect on July 16, 1996. Nevertheless, HCFA believes this language must be read in context of other title XIX requirements rather than in a vacuum. Therefore, the requirements of section 1902 (a)(17) apply.This section requires States to have reasonable standards for determining eligibility for Medicaid assistance which are ''comparable for all groups.'' A disregard which treats the same types of income or the same amounts of resources differently whether or not an individual participates in the TANF program, does not result in comparable treatment of income and resources for all individuals under the 1931 group. If two individuals have identical amounts of income from the same source, that income would be counted in determining the eligibility of an individual who applied only for Medicaid but would be disregarded if the individual received a TANF grant in addition to applying for Medicaid. This does not comport with the comparability requirements of Section 1902(a)(17). Therefore, the proposal to disregard earned income used in determining a TANF grant and to disregard resources used in determining a TANF grant was disapproved by HCFA. The deficiencies described above left HCFA no choice but to recommend disapproval of Minnesota SPA 98–10.

The notice to Minnesota announcing an administrative hearing to reconsider the disapproval of its SPA reads as follows:

Mary B. Kennedy, State Medicaid Director, Assistant Commissioner Health Care Administration, Minnesota Department of Health Services, 444 Lafayette Road North, Saint Paul, Minnesota 55155.

Dear Ms. Kennedy: I am responding to your request for reconsideration of the decision to disapprove Minnesota State Plan Amendment (SPA) 98–10. The issue is the State's proposal to adopt several less restrictive methodologies for the group of low income families with children eligible under Section 1931 of the Social Security Act.

Specifically, the State proposed to disregard earned income and resources used in determining a grant under the Temporary Assistance for Needy Families (TANF) program. If these proposals mean that the types of income and resources which TANF would count will be disregarded in determining the eligibility of all individuals under section 1931, HCFA would have no objections. However, HCFA understands that the intent of these provisions is to disregard the earned income and the resources only in situations in which the family receives a TANF grant. Given this understanding, these proposed disregards are not in accordance with Federal law. These provisions violate the requirement in section 1902(a)(17) that all individuals in a group be subject to comparable standards for determining eligibility.

Section 1931(b)(2)(C) of the Act permits a State to use less restrictive income and resource methodologies in determining eligibility than it used under its Aid to Families with Dependent Children (AFDC) State plan in effect on July 16,1996. Nevertheless, this language must be read in context of other title XIX requirements rather than in a vacuum. The comparability requirements of Section 1902(a)(17) must apply. This section requires States to have reasonable standards for determining eligibility for Medicaid assistance which are ''comparable for all groups.'' A disregard which treats the same types of income or the same amounts of resources differently whether or not an individual participates in the TANF program, does not result in comparable treatment of income and resources for all individuals under the 1931 group. If two individuals have identical amounts of income from the same source, that income would be counted in determining the eligibility of an individual who applied only for Medicaid but would be disregarded if the individual received a TANF grant in addition to applying for Medicaid. This does not comport with the comparability requirements of section 1902(a)(17). Therefore, the proposal to disregard earned income used in determining a TANF grant and to disregard resources used in determining a TANF grant was disapproved by HCFA. The deficiencies described above left HCFA no choice but to

recommend disapproval of Minnesota SPA 98–10.

I am scheduling a hearing on your request for reconsideration to be held on June 9, 1999 on the Twenty-First Floor; 105 W. Adams Street; Chicago, Illinois 60603. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed at 42 CFR, part 430.

I am designating Mr. Stanley Katz as the presiding officer. If these arrangements present any problems, please contact the presiding officer. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the presiding officer to indicate acceptability of the hearing date that has been scheduled and provide names of the individuals who will represent the State at the hearing. The presiding officer may be reached at (410)-786–2661.

Sincerely,

Nancy-Ann Min DeParle,

*Administrator.*

(Section 1116 of the Social Security Act (42 U.S.C. section 1316); 42 CFR section 430.18) (Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: April 22, 1999.

**Nancy Ann Min DeParle,**

*Administrator, Health Care Financing Administration.*

[FR Doc. 99–10610 Filed 4–27–99; 8:45 am]

BILLING CODE 4120–01–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

**[HCFA–1073–N]**

### Medicare Program; May 13, 1999, Meeting of the Competitive Pricing Advisory Committee

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces a meeting of the Competitive Pricing Advisory Committee (the CPAC) on May 13, 1999. Section 4012 of the Balanced Budget Act of 1997 requires the Secretary of the Department of Health and Human Services (the Secretary) to create the CPAC. The CPAC meets periodically and makes recommendations to the Secretary, including the designation of areas for inclusion in the Medicare+Choice competitive pricing demonstration project and suggests appropriate research designs for implementing the project. This meeting is open to the public.

**DATES:** The meeting is scheduled for May 13, 1999, from 10 a.m. until 4 p.m.

**ADDRESSES:** The meeting will be held at the Ramada Hotel at the Metropolitan Airport in Detroit, 8270 Wickham Road, Romulus, Michigan 48174, (734) 729–6300.

**FOR FURTHER INFORMATION CONTACT:** Sharon Arnold, Ph.D., Executive Director, Competitive Pricing Advisory Committee, Health Care Financing Administration, 7500 Security Boulevard C4–14–17, Baltimore, Maryland 21244–1850, (410) 786–6451.

**SUPPLEMENTARY INFORMATION:** Section 4011 of the Balanced Budget Act of 1997, (BBA) (Public Law 105–33) requires the Secretary of the Department of Health and Human Services (the Secretary) to establish a demonstration project under which payments to Medicare+Choice organizations in designated areas are determined in accordance with a competitive pricing methodology. Section 4012(a) of the BBA requires the Secretary to appoint a Competitive Pricing Advisory Committee (the CPAC) to meet periodically and make recommendations to the Secretary concerning the designation of areas for inclusion in the project and appropriate research designs for implementing the project. In previous meetings, the CPAC designated the Kansas City metropolitan area and Maricopa County in Arizona as demonstration sites.

Section 4012(b) of the BBA requires the Secretary to appoint an Area Advisory Committee (AAC) in each demonstration site included in the project to advise the Secretary on the implementation of the demonstration. The Kansas City metropolitan area AAC met on March 26, 1999, and April 8, 1999. The Maricopa County AAC met on March 31, 1999. Additional meetings are scheduled for the Kansas City metropolitan area AAC on April 22, 1999, and May 12, 1999, and for the Maricopa County AAC on April 20, 1999, and May 20, 1999.

The CPAC consists of 15 individuals who are independent actuaries; experts in competitive pricing and the administration of the Federal Employees Health Benefit Program; and representatives of health plans, insurers, employers, unions, and beneficiaries. In accordance with section 4012(a)(5) of the BBA, the CPAC will terminate on December 31, 2004.

The CPAC held meetings on May 7, 1998, June 24 and 25, 1998, September 23 and 24, 1998, October 28, 1998, and January 6, 1999. The CPAC members are: James Cubbin, Executive Director, General Motors Health Care Initiative; Robert Berenson, M.D., Director, Center for Health Plans and Providers, HCFA; John Bertko, CEO and Senior Actuary, PM-Squared Inc.; Dave Durenberger, Senior Health Policy Fellow, University of St. Thomas and Founder of Public Policy Partners; Gary Goldstein, M.D., CEO, The Oschner Clinic; Samuel Havens, Healthcare Consultant and Chairman of Health Scope/United; Margaret Jordan, President and CEO, The Margaret Jordan Group; Chip Kahn, CEO, The Health Insurance Association of America; Cleve Killingsworth, President, Health Alliance Plan; Nancy Kichak, Director, Office of Actuaries, Office of Personnel Management; Len Nichols, Principal Research Associate, The Urban Institute; Robert Reischauer, Senior Fellow, The Brookings Institute; John Rother, Director, Legislation and Public Policy, American Association of Retired Persons; Andrew Stern, President, Service Employees International Union, AFL–CIO; and Jay Wolfson, Director, The Florida Information Center, University of South Florida. The Chairperson of the CPAC is James Cubbin and the Co-Chairperson is Robert Berenson, M.D.

The agenda for May 13, 1999, CPAC meeting will include—

- A discussion of a letter to the Congress requesting a change in the demonstration's budget neutrality provision; and
- An update and discussion of decisions made by the two local AACs. This will include a discussion and decision on a request from the Maricopa County AAC to delay the demonstration for one year and a discussion and decision on a request from the Kansas City metropolitan area AAC to permit an additional year to consider alternative methods of risk adjustment.

Individuals or organizations that wish to make 5-minute oral presentations on the agenda issues should contact Sharon Arnold, CPAC Executive Director, by 12 noon, May 6, 1999, to be scheduled. The number of oral presentations may be limited by the time available. A written copy of the oral remarks should be submitted to the Executive Director no later than 12 noon, May 11, 1999. Anyone who is not scheduled to speak may submit written comments to the Executive Director by 12 noon, May 11, 1999.

The meeting is open to the public, but attendance is limited to the space available.

(Section 4012 of the Balanced Budget Act of 1997, Public Law 105–33 (42 U.S.C.1395w–23 note) and section 10(a) of Public Law 92–463 (5 U.S.C. App.2, section 10(a))

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital

Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: April 22, 1999.

**Nancy-Ann Min DeParle,**

*Administrator, Health Care Financing Administration.*

[FR Doc. 99–10609 Filed 4–27–99; 8:45 am]

BILLING CODE 4120–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Center for Substance Abuse Prevention; Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Drug Testing Advisory Board of the Center for Substance Abuse Prevention in June 1999.

The first day (June 7) of the Drug Testing Advisory Board meeting will be closed from 8:30 a.m. until 4:30 p.m. and involves the review of sensitive National Laboratory Certification Program (NLCP) internal operating procedures and program development issues. Therefore, this portion of the meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with 5 U.S.C. 552b(c)(2), (4), and (6) and 5 U.S.C. App.2, § 10(d).

The second day (June 8) of the Drug Testing Advisory Board meeting will be open from 8:00 a.m. until 3:30 p.m. The open session will include a roll call, general announcements, and a discussion of the information submitted by industry representatives regarding the use of alternative matrices (hair, sweat, oral fluids) and on-site tests to test for drugs of abuse. A public comment period will be scheduled during the open session. If anyone needs special accommodations for persons with disabilities please notify the Contact listed below.

An agenda for this meeting and a roster of board members may be obtained from: Ms. Giselle Hersh, Division of Workplace Programs, 5600 Fishers Lane, Rockwall II, Suite 815, Rockville, MD 20857, Telephone: (301) 443–6014.

Substantive program information may be obtained from the contact whose name and telephone number is listed below.

*Committee Name:* Drug Testing Advisory Board.

*Meeting Date:* June 7—8, 1999.

*Place:* Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

*Closed:* June 7, 1999; 8:00 a.m.—4:30 p.m.

*Open:* June 8, 1999; 8:00 a.m.—3:30 p.m.

*Contact:* Donna M. Bush, Ph.D., Executive Secretary, Telephone: (301) 443–6014 and FAX: (301) 443–3031.

**Sandi Stephens,**

*Team Leader, Division of Extramural Activities, Policy, and Review, Extramural Activities Team, SAMHSA.*

[FR Doc. 99–10617 Filed 4–27–99; 8:45 am]

BILLING CODE 4162–20–P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4441–N–24]**

### Submission for OMB Review: Comment Request

**AGENCY:** Office of the Assistant Secretary for Administration, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** Comments due date: May 28, 1999.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–1305. 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).

This 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 names and telephone numbers of agency official familiar with the proposal and of the OMB Desk Officer for the Department.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: April 21, 1999.

**David S. Cristy,**

*Director, ISP and Management.*

*Title of Proposal:* Housing Counseling Services.

*Office:* Housing.

*OMB Approval Number:* 2502–0261.

*Description of the Need for the Information and Its Proposed Use:* The information to be collected is used to determine the qualifications of grant applications and to monitor the continued performance of grantees as Housing Counseling Services providers under Housing Counseling Grants to Fiscal Year 1997 through the present.

*Form Number:* HUD–9900–A, 9900–B, 9900–C, 9902, 9903, 9908, and 9921.

*Repondents:* State, Local or Tribal Government Not-For-Profit Institutions.

*Frequency of Submission:* On Occasion.

| Reporting burden | Number of respondents | × | Frequency of response | × | Hours per response | = | Burden hours |
|---|---|---|---|---|---|---|---|
| HUD–9900A | 75 | | 1 | | 2 | | 150 |
| HUD–9900B | 75 | | 1 | | 8 | | 600 |
| HUD–9900C | 10 | | 1 | | 2 | | 20 |
| HUD–9902 | 650 | | 1 | | 1.17 | | 761 |
| HUD–9903 | 15,000 | | 1 | | 5 | | 1,200 |

| Reporting burden | Number of respondents | × | Frequency of response | × | Hours per response | = | Burden hours |
|---|---|---|---|---|---|---|---|
| HUD–9908 | 1,500 | | 1 | | 10 | | 240 |
| HUD–9921 | 431 | | 200 | | 10 | | 12,930 |
| *Total Estimated Burden Hours* | 15,901 | | | | | | |

*Status:* Reinstatement, with changes.

*Contact:* Alan R. Staley, HUD, (202) 708–0317 and Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: April 21, 1999.

[FR Doc. 99–10577 Filed 4–27–99; 8:45 am]

BILLING CODE 4210–01–M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4488–D–01]**

## Redelegation of Authority to Housing-Federal Housing Administration Comptroller

**AGENCY:** Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

**ACTION:** Notice of redelegation of authority.

**SUMMARY:** The Assistant Secretary for Housing-Federal Housing Commissioner is redelegating to the Housing-Federal Housing Administration Comptroller certain responsibilities that pertain to the financial operations administered by the Assistant Secretary. Under this legislation, the Housing-FHA Comptroller will be able to designate disbursing officials, within the Office of Housing, who may, in turn, disburse public money in connection with federal obligations under HUD's single family property disposition program.

**EFFECTIVE DATE:** March 5, 1999.

**FOR FURTHER INFORMATION CONTACT:** Victoria L. Bateman, Housing-FHA Comptroller, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW., room 5132, Washington, DC 20410. Telephone (202) 401–8800. Persons with hearing or speech impairments may call HUD's TTY number (202) 708–1455 or the Federal Information Relay Service's TTY number at (800) 877–8339. Other than the ''800'' number, the telephone and TTY numbers listed are not toll-free.

**SUPPLEMENTARY INFORMATION:** In the routine administration of the single family property disposition program, the Office of Housing must make a broad range of expenditures in connection with the properties that it owns. Payees include utility companies, taxing authorities, and individual vendors that provide maintenance services.

Authority to disburse public money is vested in the United States Treasury Department, which authority may be delegated to officers and employees of other executive agencies. To facilitate and promote the efficiency of HUD's property disposition program, on February 24, 1999, the Treasury Department issued a delegation of disbursing authority to the Housing Assistant Secretary. On March 5, 1999, the Assistant Secretary signed the delegation instrument, thereby indicating his acceptance and making it effective. The delegation is set forth as an appendix to this **Federal Register** notice.

The disbursing authority, set forth in the delegation instrument, is subject to limitations. For example, disbursements can only be made from a particular account that is identified in the delegation and utilized for the single family property disposition program. The account must be in the name of the FHA, and can only be drawn upon by the disbursing officials designated under the delegation. The disbursing authority may be redelegated to the Housing-FHA Comptroller, who can designate disbursing officials. However, authority to make disbursements cannot be redelegated to non-federal personnel, including contractors.

Accordingly, the Assistant Secretary for Housing-Federal Housing Commissioner redelegates the following authority:

### Section A. Authority Redelegated

The Assistant Secretary for Housing-Federal Housing Commissioner redelegates to the Housing-Federal Housing Administration Comptroller the authority to disburse public money, and to designate disbursement officials from within the Office of Housing-Federal housing Administration, subject to the following terms and limitations:

This delegation of disbursing authority is limited to disbursements currently being made from the Controlled Disbursement Account authorized by the Financial Management Service on January 30, 1989, due to the unique administrative program processes of the single family property disposition program involving the payment requirements of utility companies and taxing authorities to be paid in a certain manner and the high number of individual vendors. Funds held outside of the U.S. Treasury must be approved by the Federal Management Service in accordance with 31 CFR Part 202. The Controlled Disbursement Account shall be in the name of the Federal Housing Administration, U.S. Department of Housing and Urban Development, and shall be drawn upon only by the disbursing official specifically designated by the Housing-Federal Housing Administration Comptroller pursuant to this delegation.

### Section B. Authority Excepted

The authority delegated in section A does not include the authority to issue regulations.

### Section C. No Further Redelegation

The authority delegated in Section A may not be further redelegated by the Housing-FHA Comptroller.

### Section D. Revocation of Delegation

The authority delegated in Section A may be revoked by the Assistant Secretary for Housing-Federal Housing Commissioner at any time. In addition, however, the authority shall be automatically revoked (1) at such time as the FHA has effected changes to the single family property disposition program that eliminate the need for the Controlled Disbursement Account or (2) upon a determination of the U.S. Chief Disbursing Officer, Department of the Treasury, to revoke, for any reason, the delegation of authority issued to the Assistant Secretary for Housing-Federal Housing Commissioner. Notice of any revocation of this authority will be published in the **Federal Register**.

**Authority:** Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); Section 3321, ''Money and Finance'', Enactment as title 31, United States Code, 31 U.S.C. 3321.

Dated: March 5, 1999.

**William C. Apgar,**

*Assistant Secretary for Housing-Federal Housing Commissioner.*

[FR Doc. 99–10578 Filed 4–27–99; 8:45 am]

BILLING CODE 4210–27–M

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Notice of Availability for Comments of a Draft Comprehensive Conservation Plan (CCP) and Associated Draft Environmental Assessment for Deep Fork National Wildlife Refuge, Okmulgee, OK

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice.

**SUMMARY:** This notice advises the public that the U.S. Fish and Wildlife Service (Service) has prepared the Draft Comprehensive Conservation Plan (CCP) and associated Draft Environmental Assessment for the Deep Fork National Wildlife Refuge, Okmulgee, Oklahoma, pursuant to the National Wildlife Refuge System Improvement Act of 1997, and National Environmental Policy Act of 1969, and its implementing regulations.

**DATES:** The Service will be open to written comments through May 30, 1999.

**ADDRESSES:** Copies may be obtained by writing to: April Fletcher, Refuge Program Specialist, Division of Refuges, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, NM 87103–1306. Comments on the draft documents should be submitted to Mr. Tom Baca, Chief of Refuge Planning, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, NM 87103–1306.

**SUPPLEMENTARY INFORMATION:** It is Service policy to have all lands within the National Wildlife Refuge System managed in accordance with an approved CCP. The CCP guides management decisions and identifies refuge goals, objectives, and strategies for achieving refuge purposes. The planning process has considered many elements, including habitat and wildlife management, habitat protection and acquisition, public and recreational uses, and cultural resources. Public input into this planning process has assisted in the development of the draft document. The CCP will provide other agencies and the public with a clear understanding of the desired conditions for the refuge and how the Service will implement management strategies.

The Service intends to consider comments and advice generated in response to the draft document prior to the preparation of a final CCP. The Service is furnishing this notice in compliance with Service CCP policy: (1) to advise other agencies and the public of the availability of the draft document, and (2) to obtain suggestions and recommendations for consideration in preparation of the final document.

The Service anticipates that the final CCP document and any associated NEPA documents will be available by September 1, 1999.

Dated: April 16, 1999.

**Geoffrey L. Haskett,**

*Acting Regional Director.*

[FR Doc. 99–10574 Filed 4–27–99; 8:45 am]

BILLING CODE 4510–55–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Notice of Issuance of Five Permits for Incidental Take of Threatened and Endangered Species

**SUMMARY:** Between October 1, 1998, and March 31, 1999, Region 2 of the Fish and Wildlife Service issued five permits for the incidental take of threatened and endangered species, pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). Of the five permits issued, two are associated with the Balcones Canyonlands Preserve. Copies of the five permits and associated decision documents are available upon request. Four additional permits had minor administrative amendments between October 1, 1998, and March 31, 1999.

**ADDRESSES:** If you would like copies of any of the above documents, please contact the U.S. Fish and Wildlife Service, Ecological Services, P.O. Box 1306, Albuquerque, New Mexico.

**FOR FURTHER INFORMATION CONTACT:** Leslie Dierauf, Habitat Conservation Plan Coordinator, at the above address, 505–248–6651.

**SUPPLEMENTARY INFORMATION:** Section 9 of the Act and Federal Regulation prohibits the ''take'' of wildlife species listed as threatened or endangered species. Under the Act, the term ''take'' means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed wildlife, or to attempt to engage in any such conduct. The Service may, under limited circumstances, issue permits to authorize incidental take, i.e. that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Regulations governing permits for endangered species are at 50 CFR 17.22.

TWO INCIDENTAL TAKE PERMITS ISSUED ASSOCIATED WITH THE BALCONES CANYONLANDS PRESERVE

| Permittee | Permit No. | Date of issuance |
|---|---|---|
| BRE/Baldwin Ranch, L.P. (TX) | TE–003593–0 | 03/31/99 |
| Hogan (TX) | TE–005497–0 | 02/26/99 |

THREE INCIDENTAL TAKE PERMITS ISSUED IN OTHER LOCATIONS IN THE SOUTHWEST REGION

| Permittee | Permit No. | Date of issuance |
|---|---|---|
| Misstex Properties, L.C. (TX) | TE–003596–0 | 03/01/99 |
| Lazy K Bar Ranch, LKB, LLC (AZ) | TE–003597–0 | 12/03/98 |
| City of Austin (Barton Springs) (TX) | PRT–839031 | 10/05/98 |

THREE MINOR ADMINISTRATIVE AMENDMENTS WERE MADE TO THE FOLLOWING INCIDENTAL TAKE PERMITS

| Permittee | Permit No. | Date of amendment |
|---|---|---|
| Yaupon Great Hills | PRT–782832 | 3/5/99 |

THREE MINOR ADMINISTRATIVE AMENDMENTS WERE MADE TO THE FOLLOWING INCIDENTAL TAKE PERMITS—Continued

| Permittee | Permit No. | Date of amendment |
|---|---|---|
| Volente | PRT–806831 | 12/22/98 |
| Spicewood | PRT–783564 | 11/19/98 |

Dated: April 22, 1999.

**Geoffery L. Haskett,**

*Acting Regional Director, Region 2, Albuquerque, New Mexico.*

[FR Doc. 99–10618 Filed 4–27–99; 8:45 am]

BILLING CODE 4510–55–P

## INTERNATIONAL TRADE COMMISSION

**[USITC SE–99–017]**

### Emergency Notice of Rescheduling of Meeting and Additional Agenda Item; Sunshine Act Meeting Notice

**AGENCY HOLDING THE MEETING:** United States International Trade Commission.

**ORIGINAL TIME AND DATE:** April 26, 1999 at 2:00 p.m.

**NEW DATE AND TIME:** April 29, 1999 at 11:00 a.m.

**PLACE:** Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

**STATUS:** Open to the public.

**ADDITIONAL AGENDA ITEM:** 6. Inv. No. 731–TA–787 (Final)(Extruded Rubber Thread from Indonesia)—briefing and vote.

**Note:** Outstanding action jackets becomes agenda item 7.

Under 19 C.F.R. 201.35 (c)(1) of the Commission's rules, the Commission has determined to reschedule the meeting of Monday, April 26, 1999 to Thursday, April 29, 1999. Thus, the meeting of April 26, 1999 is rescheduled and the additional agenda item schedule for April 29, 1999 is as listed above. The deadline for transmission of the Commission's determination and views to Commerce is hereby changed from the administrative deadline of Monday, May 3, 1999 to the statutory deadline of Friday, May 7, 1999. In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: April 26, 1999.

By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 99–10784 Filed 4–26–99; 3:46 pm]

BILLING CODE 7020–02–P

## INTERNATIONAL TRADE COMMISSION

**[USITC SE–99–018]**

### Sunshine Act Meeting Notice

**AGENCY HOLDING THE MEETING:** United States International Trade Commission.

**TIME AND DATE:** May 10, 1999 at 2:00 p.m.

**PLACE:** Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:**

1. Agenda for future meeting: none.
2. Minutes.
3. Ratification List.
4. Inv. No. 731–TA–326 (Review)(Frozen Concentrated Orange Juice from Brazil)—briefing and vote. (The Commission will transmit its determination to the Secretary of Commerce on May 17, 1999.)
5. Inv. Nos. 731–TA–781–786 (Final)(Stainless Steel Round Wire from Canada, India, Japan, Korea, Spain, and Taiwan)—briefing and vote.
6. Outstanding action jackets:

(1) Document No. GC–99–027: Approval of initial determination terminating the investigation based on withdrawal of the complaint in Inv. No. 337–TA–411 (Certain Organic Photoconductor Drums and Products Containing Same).

(2) Document No. GC–99–030: Approval of annual *Federal Register* notice on investigations of Administrative Protective Order (APO) violations.

(3) Document No. ID–99–007: Approval of 1999 annual report in Inv. No. 332–345 (Recent Trend in U.S. Services Trends).

(4) Document No. INV–99–062: Approval of staff report in Inv. No. TA–204–1 (Broom Corn Brooms: Evaluation of the Effectiveness of Import Relief).

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: April 26, 1999.

By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 99–10785 Filed 4–26–99; 3:48 pm]

BILLING CODE 7020–02–P

## INTERNATIONAL TRADE COMMISSION

**[USITC SE–99–019]**

### Sunshine Act Meeting Notice

**AGENCY HOLDING THE MEETING:** United States International Trade Commission.

**TIME AND DATE:** May 12, 1999 at 11:00 a.m.

**PLACE:** Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:**

1. Agenda for future meeting: none.
2. Minutes.
3. Ratification List.
4. Inv. No. TA–201–69 (Certain Steel Wire Rod)(Injury Phase)—briefing and vote.
5. Outstanding action jackets:

(1) Document No. GC–99–027: Approval of initial determination terminating the investigation based on withdrawal of the complaint in Inv. No. 337–TA–411 (Certain Organic Photoconductor Drums and Products Containing Same).

(2) Document No. GC–99–030: Approval of annual **Federal Register** notice on investigations of Administrative Protective Order (APO) violations.

(3) Document No. ID–99–007: Approval of 1999 annual report in Inv. No. 332–345 (Recent Trend in U.S. Services Trends).

(4) Document No. INV–99–062: Approval of staff report in Inv. No. TA–204–1 (Broom Corn Brooms: Evaluation of the Effectiveness of Import Relief).

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: April 26, 1999.

By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 99–10786 Filed 4–26–99; 3:50 pm]

BILLING CODE 7020–02–P

## NATIONAL SCIENCE FOUNDATION

### Sunshine Act Meeting Notice

**AGENCY HOLDING MEETING:** National Science Foundation, National Science Board.

**DATE AND TIME:** May 6, 1999: 11:30 a.m. Closed Session; 1:15 p.m. Open Session. May 7, 1999: 8:30 a.m. Open Session; 10:30 a.m. Closed Session.

**PLACE:** The National Science Foundation, 4201 Wilson Boulevard, Room 1235, Arlington, VA 22230.

**STATUS:** Part of this meeting will be open to the public. Part of this meeting will be closed to the public.

**MATTERS TO BE CONSIDERED:**

**Thursday, May 6, 1999**

*Executive Closed Session (11:30 a.m.–11:45 a.m.)*

Closed Session Minutes
Personnel
Election of Executive Committee

*Closed Session (12:45 p.m.–1:15 p.m.)*

Awards and Agreements

*Open Session (1:15 p.m.–5:30 p.m.)*

Swearing in NSB nominees
Minutes, February, March 1999
Closed Session Items for July 1999
Chairman's Report
Director's Report
COSEPUP Report on GPRA
Presentations by Honorary Award Recipients
Discussion of NSB Committee Structure
Planning and Budget—FY2001
NSB Commendation to U.S. Navy for Antarctic Support

**Friday, May 7, 1999**

*Open Session (8:30 a.m.–10:30 a.m.)*

Annual NSB Business:
NSB Calendar for 2000
Executive Committee Annual Report
Cost-Sharing Policy
Committee Reports
Report of the NSB/CPP Task Force on the Environment

*Closed Session (10:30 a.m.–11:00 a.m.)*

NSF Long Range Planning and FY 2001 Budget

**Marta Cehelsky,**

*Executive Officer.*

[FR Doc. 99–10679 Filed 4–26–99; 12:54 pm]

BILLING CODE 7555–01–M

## NUCLEAR REGULATORY COMMISSION

### Sunshine Act Meeting Notice

**AGENCY HOLDING THE MEETING:** Nuclear Regulatory Commission.

**DATE:** Weeks of April 26, May 3, 10, and 17, 1999.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and Closed.

**MATTERS TO BE CONSIDERED:**

*Week of April 26*

Monday, April 26

2:00 p.m.—Affirmation Session (Public Meeting)

a. Shieldalloy Metallurgical Corp. (Cambridge, Ohio Facility), Docket No. 40–8948–MLA, Memorandum and Order (Denying Petition to Intervene), LBP–99–12 (Feb. 23, 1999)

b. International Uranium (USA) Corporation Petition for Review of LBP–99–5

c. Aharon Ben-Haim, Ph.D., Docket No. IA–97–068, LBP–99–4, Initial Decision (Affirming Enforcement Order with Modifications) (Feb. 8, 1999)

d. Proposed License to Export High Enriched Uranium (HEU) for Production of Medical Isotopes at the Canadian Maple Reactors

e. North Atlantic Energy Service Corp. (Seabrook Station, Unit 1), Docket No. 50–443, Draft Commission Memorandum and Order Terminating the Proceeding

f. Boston Edison Company and Energy Nuclear Generation Company (Pilgrim Nuclear Power Station), Docket No. 50–293, Draft Commission Memorandum and Order Terminating the Proceeding

*Week of May 3—Tentative*

Tuesday, May 4

9:00 a.m.—**Meeting on NRC Response to Stakeholders' Concerns (Public Meeting)

**Please Note: The room location for the Meeting on NRC Response to Stakeholders' Concerns, scheduled for Tuesday, May 4, is in the NRC auditorium, Bldg 2, NRC Headquarters, Rockville, MD.

2:00 p.m.—Meeting on Planning, Budgeting and Performance Management Process (PBPM) And Institutionalizing Change (Public Meeting) (Contact: Jim Blaha, 201–415–1703)

Wednesday, May 5

10:00 a.m.—Briefing on Safeguards Performance Assessment (Public Meeting)

1:30 p.m.—Discussion of Intragovernmental Issues (Closed-ex. 9b)

2:30 p.m.—Briefing on Status of Maintenance Rule (Public Meeting)

Thursday, May 6

9:30 a.m.—Briefing on Operating Reactors and Fuel Facilities (Public Meeting) (Contact: Glenn Tracy, 301–415–1725)

11:30 a.m.—Affirmation Session (Public Meeting) (if needed)

*Week of May 10—Tentative*

There are no meetings scheduled for the week of May 10.

*Week of May 17—Tentative*

There are no meetings scheduled for the Week of May 17.

* 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: Bill Hill, (301) 415–1661.

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/SECY/smj/schedule.htm*.

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 it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661). 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 wmh@nrc.gov or *dkw@nrc.gov*.

Dated: April 26, 1999.

**William M. Hill, Jr.,**

*Secy, Tracking Officer, Office of the Secretary.*

[FR Doc. 99–10677 Filed 4–26–99; 11:37 am]

BILLING CODE 7590–01–M

## OFFICE OF MANAGEMENT AND BUDGET

### Cumulative Report on Rescissions and Deferrals

April 1, 1999.

This report is submitted in fulfillment of the requirement of Section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) requires a monthly report listing all budget

authority for the current fiscal year for which, as of the first day of the month, a special message had been transmitted to Congress.

This report gives the status, as of April 1, 1999, of three rescission proposals that have been pending for less than 45 days and three deferrals contained in two special messages for FY 1999. These messages were transmitted to Congress on October 22, 1998, and February 1, 1999.

**Rescissions (Attachments A and C)**

As of April 1, 1999, three rescission proposals totaling $35 million have been transmitted to the Congress. Attachment C shows the status of the FY 1999 rescission proposals.

**Deferrals (Attachments B and D)**

As of April 1, 1999, $1.0 billion in budget authority was being deferred from obligation. Attachment D shows the status of each deferral reported during FY 1999.

**Information From Special Messages**

The special messages containing information on the rescission proposals and deferrals that are covered by this cumulative report are printed in the editions of the **Federal Register** cited below:

63 FR 63949, Tuesday, November 17, 1998

64 FR 6721, Wednesday, February 10, 1999

**Jacob J. Lew,**

*Director.*

Attachments.

BILLING CODE 3110–01–P

## ATTACHMENT A

### STATUS OF FY 1999 RESCISSIONS
(in millions of dollars)

| | Budgetary Resources |
|---|---|
| Rescissions proposed by the President | 35.0 |
| Rejected by the Congress | --- |
| Currently before the Congress | 35.0 |

## ATTACHMENT B

### STATUS OF FY 1999 DEFERRALS
(in millions of dollars)

| | Budgetary Resources |
|---|---|
| Deferrals proposed by the President | 1,680.7 |
| Routine Executive releases through March 1999. (OMB/Agency releases of $651.2 million, partially offset by a cumulative positive adjustment of $0.9 million) | -650.3 |
| Overturned by the Congress | --- |
| Currently before the Congress | 1,030.4 |

**ATTACHMENT C**
**Status of FY 1999 Rescission Proposals - As of April 1, 1999**
**(Amounts in thousands of dollars)**

| Agency/Bureau/Account | Rescission Number | Amounts Pending Before Congress: Less than 45 days | Amounts Pending Before Congress: More than 45 days | Date of Message | Previously Withheld and Made Available | Date Made Available | Amount Rescinded | Congressional Action |
|---|---|---|---|---|---|---|---|---|
| **DEPARTMENT OF THE INTERIOR** | | | | | | | | |
| Bureau of Land Management | | | | | | | | |
| Management of Lands and Resources | R99-1 | 6,800 | | 2-1-99 | * | | | |
| **EXECUTIVE OFFICE OF THE PRESIDENT** | | | | | | | | |
| Unanticipated Needs | | | | | | | | |
| Unanticipated Needs for Natural Disasters | R99-2 | 10,000 | | 2-1-99 | * | | | |
| **INTERNATIONAL ASSISTANCE PROGRAMS** | | | | | | | | |
| International Security Assistance | | | | | | | | |
| Foreign Military Financing Loan Program Account | R99-3 | 18,240 | | 2-1-99 | * | | | |
| **TOTAL, RESCISSIONS** | | **35,040** | | | | | | |

* No funds are being withheld.

**ATTACHMENT D**
**Status of FY 1999 Deferrals - As of April 1, 1999**
**(Amounts in thousands of dollars)**

| Agency/Bureau/Account | Deferral Number | Amounts Transmitted: Original Request | Amounts Transmitted: Subsequent Change (+) | Date of Message | Releases(-): Cumulative OMB/ Agency | Releases(-): Congressionally Required | Congressional Action | Cumulative Adjustments | Amount Deferred as of 4-1-99 |
|---|---|---|---|---|---|---|---|---|---|
| **DEPARTMENT OF STATE** | | | | | | | | | |
| Other | | | | | | | | | |
| United States Emergency Refugee and Migration Assistance Fund | D99-1 | 82,858 | 17,724 | 10-22-98 | 32,724 | | | | 67,858 |
| **INTERNATIONAL ASSISTANCE PROGRAMS** | | | | | | | | | |
| International Security Assistance | | | | | | | | | |
| Economic Support Fund | D99-2 | 84,777 | | 10-22-98 | | | | | |
| | | | 1,310,376 | 2-1-99 | 500,478 | | | 881 | 895,557 |
| Agency for International Development | | | | | | | | | |
| International Disaster Assistance | D99-3 | 185,000 | | 2-1-99 | 118,000 | | | | 67,000 |
| **TOTAL, DEFERRALS** | | **352,635** | **1,328,100** | | **651,201** | | | **881** | **1,030,415** |



[FR Doc. 99–10608 Filed 4–27–99; 8:45 am]
BILLING CODE 3110–01–C

## SECURITIES AND EXCHANGE COMMISSION

**[Investment Company Act Release No. 23808; 812–11522]**

## The Gabelli Equity Trust Inc., et al.; Notice of Application

April 23, 1999.

**AGENCY:** Securities and Exchange Commission (''SEC'').

**ACTION:** Notice of an application under section 17(b) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 17(a) of the Act and for an order under section 17(d) of the Act and rule 17d–1 under the Act.

**APPLICANTS:** The Gabelli Equity Trust Inc. (the ''Trust''), the Gabelli Utility Fund (the ''Utility Fund''), and Gabelli Funds, LLC (''Gabelli'').

**SUMMARY OF APPLICATION:** Applicants seek an order to permit the Trust to transfer a portion of its assets to the Utility Fund, a newly formed, wholly-owned subsidiary that is a registered closed-end investment company and to distribute to the Trust's shareholders the shares of the Utility Fund.

**FILING DATES:** The application was filed on February 26, 1999, and amended on April 23, 1999.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 13, 1999, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, One Corporate Center, Rye, New York 10580.

**FOR FURTHER INFORMATION CONTACT:** Bruce R. MacNeil, Staff Attorney, at (202) 942–0634, or Michael W. Mundt, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (tel. no. 202–942–8090.

### Applicants' Representations

1. The Trust is a non-diversified, closed-end management investment company registered under the Act. The Utility Fund was formed on February 25, 1999, and filed a notification of registration on Form N–8A on February 26, 1999, to register under the Act as a non-diversified, closed-end management investment company. The Utility Fund will file a registration statement under the Act on Form N–2 on or before May 21, 1999. Application will be made to list the Utility Fund's shares for trading on the New York Stock Exchange. Gabelli is registered as an investment adviser under the Investment Advisers Act of 1940 and serves as the investment adviser to the Trust and the Utility Fund.

2. The Trust owns 10,000 shares of the Utility Fund's common stock. These shares were issued in respect of the Trust's contribution to the Utility Fund of $100,000 of initial capital. The persons who currently serve as the Trust's directors are also the Utility Fund's directors, and the Trust's principal executive officers hold the same offices with the Utility Fund.

3. The Board of Directors of the Trust (''Board'') has approved, subject to the requested relief and subsequent shareholder approval, the contribution of a segment of the Trust's net assets having a value of approximately $75 million to the Utility Fund in exchange for additional shares of common stock of the Utility Fund, which together with the 10,000 shares currently held by the Trust will constitute all of the shares of common stock of the Utility Fund. It is anticipated that the contributed assets will consist largely or exclusively of cash and short-term fixed income instruments. All the shares of the common stock of the Utility Fund then will be distributed by the Trust as a dividend to its shareholders at a rate of one share of the Utility Fund common stock for every fourteen shares held of the Trust. The contribution of the Trust assets to the Utility Fund and the subsequent distribution of the Utility Fund shares to the Trust shareholders are referred to as the ''Transaction.''

4. The Board, including all of its directors who are not ''interested persons'' as defined by section 2(a)(19) of the Act (the ''Disinterested Directors''), found, among other things, that the Transaction will result in the following benefits to Trust shareholders: (a) shareholders will receive shares of an investment company with a different risk-return profile than the Trust; (b) shareholders will acquire the Utility Fund shares at a much lower cost than is typically the case for a newly-organized closed-end equity fund since there will be no underwriting discounts or commissions; and (c) shareholders will be able to seek income and capital appreciation opportunities presented by the Utility Fund market segment.

5. The Trust does not expect that it will recognize significant taxable gain on its contribution of cash and securities to the Utility Fund in exchange for shares of the Utility Fund. The Utility Fund has been advised by counsel that the distribution of shares of the Utility Fund to Trust shareholders likely will be a taxable event for Trust shareholders and, under certain circumstances, will be a taxable event for the Trust. However, the Transaction is not expected to increase significantly the total amount of taxable distributions received by the Trust's shareholders for the year in which the Transaction is consummated and is not expected to result in the recognition of significant taxable gain by the Trust. The Board, including all of the Disinterested Directors, considered the tax consequences of the Transaction and found that the benefits of the Transaction outweigh any adverse tax consequences to the Trust and its shareholders.

6. The costs of organizing the Utility Fund and effecting the distribution of the Utility Fund's shares to the Trust's shareholders, including the fees and expense of counsel and accountants and printing, listing, and registration fees, are estimated to be approximately $330,000 and will be borne by the Trust. The Trust will bear the costs of soliciting its shareholders' approval of the Transaction and the costs incurred in connection with this application for exemptive relief. In addition, the Utility Fund will incur operating expenses on an ongoing basis, including legal, auditing, transfer agency, and custodian expenses that, when aggregated with the fees payable by the Trust for similar services after the distribution, will likely exceed the fees currently payable by the Trust for those services. The Board, including the Disinterested Directors, found that it is appropriate for the Trust to bear the Transaction's cost inasmuch as the benefits of the Transaction will be for the Trust's shareholder and because absorption of such expenses will eliminate any decrease in the net asset value of the Utility Fund's shares in comparison to the amount of the distribution, which may assist in the pricing of the Utility Fund shares on the New York Stock

Exchange. It is not expected that the Transaction will have significant effect on the annual expenses of the Trust as a percentage of its assets.

**Applicants' Legal Analysis**

1. Section 17(a) of the Act generally prohibits sales or purchases of securities between a registered investment company and an affiliated person. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include (a) any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person, (b) any person 5% or more of whose voting securities are directly or indirectly owned, controlled or held with the power to vote by the other person, and (c) any person directly or indirectly controlling, controlled by, or under common control with, the other person. The Trust may be viewed as an affiliated person of the Utility Fund under section 2(a)(3) since the Trust will own 100 percent of the Utility Fund's voting securities until the consummation of the Transaction. The Utility Fund may similarly be considered an affiliated person of the Trust since 100 percent of the Utility Fund's voting securities will be owned by the Trust. The Trust and the Utility Fund also may be viewed as an affiliated persons of each other to the extent that they may be deemed to be under the common control of Gabelli and because the same persons serve as the directors and officers of both companies. As a result of the affiliation between the Trust and the Utility Fund, section 17(a) would prohibit the Transaction.

2. Applicants request an exemption pursuant to section 17(b) of the Act from the provisions of section 17(a) in order to permit the Trust to effect the Transaction. Section 17(b) authorizes the SEC to issue such an exemptive order if the SEC finds that the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any persons concerned, and the proposed transaction is consistent with the policy of each registered investment company and the general purposes of the Act.

3. Applicants assert that the terms of the Transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching by any person concerned. Applicants state that the proposed sale by the Trust of a portion of its assets to the Utility Fund in exchange for the securities of the Utility Fund will be based on the fair value of those assets computed on the day of the proposed transfer in the same manner as for purposes of the daily net asset valuation for the Trust. Applicants further state that such assets are anticipated to consist largely or exclusively of cash and short-term fixed income instruments and thus will likely pose few, if any, issues with respect to valuation. The Utility Fund stock distributed by the Trust in the Transaction will be valued based on the value of the Utility Fund's assets. ''Value'' for those purposes will be determined in accordance with the provisions of section 2(a)(41) of the Act and rule 2a–4 under the Act.

4. With respect to the Transaction, the Board, including a majority of the Disinterested Directors, found that the participation in the Transaction is in the best interests of the Trust and that the interests of the existing shareholders of the Trust will not be diluted as a result of the Transaction. These findings, and the basis upon which the findings were made, will be recorded fully in the minutes book of the Trust.

5. Applicants state that the Transaction will be consistent with the stated investment policies of the Trust and the Utility Fund as disclosed to shareholders. The distribution of the Utility Fund shares will not change the position of the Trust's shareholders with respect to the underlying investments that they then own. A proxy statement/prospectus of the Trust and the Utility Fund is being used to solicit the approval of the Trust's shareholders of the Transaction following the issuance of the exemptive relief. The Trust's shareholders will have the opportunity to vote on the Transaction after having received disclosure concerning the Transaction.

6. Applicants also seek an order under section 17(d) of the Act and rule 17d–1 under the Act. Section 17(d) and rule 17d–1 prohibit affiliated persons from participating in joint arrangements with a registered investment company unless authorized by the SEC. In passing on applications for these orders, rule 17d–1 provides that the SEC will consider whether the participation of the investment company is consistent with the provisions, policies and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of the other participants. Applicants request an order pursuant to rule 17d–1 to the extent that the participation of the applicants in the Transaction may be deemed to constitute a prohibited joint transaction.

7. Applicants state that the Transaction will not place any of the Trust, the Utility Fund, or existing shareholders of the Trust in a position less advantageous than that of any other of such persons. As noted, the value of the Trust's assets transferred to the Utility Fund (and the shares received in return) will be based on their fair value as computed on the day of the transfer in accordance with the requirements of the Act. The shares of the Utility Fund will be distributed as a dividend to the shareholders leaving the shareholders in the same investment posture immediately following the Transaction as before, subject only to changes in market price of the underlying assets subsequent to the Transaction.

8. Applicants assert that the Transaction has been proposed in order to benefit the shareholders of the Trust as well as the Utility Fund, and neither Gabelli nor any other affiliated person of the Trust or the Utility Fund will receive fees solely as a result of the Transaction. The fee indirectly payable to Gabelli by the Utility Fund's shareholders will be the same as the fee currently indirectly payable to Gabelli by the Trust's shareholders. In addition, by creating the Utility Fund through the Transaction, the Trust is effectively enabling its shareholders to receive securities without the costs associated with a public offering.

For the Commission, by the Division of Investment Management, under delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 99–10645 Filed 4–27–99; 8:45 am]

BILLING CODE 8010–01–M

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## SECURITIES AND EXCHANGE COMMISSION

**[Investment Company Act Release No. 23807; 812–11496]**

## Nations Fund Trust, et al.; Notice of Application

April 22, 1999.

**AGENCY:** Securities and Exchange Commission (''SEC'').

**ACTION:** Notice of an application under section 17(b) of the Investment Company Act of 1940 (''Act'') for an exemption from section 17(a) of the Act.

**SUMMARY OF THE APPLICATION:** Applicants request an order to permit certain series of Nations Fund Trust (''NFT''), Nations Fund, Inc. (''NFT''), Nations Institutional Reserves (''NIR'') and Nations Master Investment Trust (''NMIT'') to acquire all of the assets and liabilities of all of the series of Pacific Horizon Funds, Inc. (''Pacific Horizon'') and Master Investment Trust, Series (''MIT'').

**APPLICANTS:** NFT, NFI, NIR, and NMIT, NationsBanc Advisors, Inc. (''NBAI''), Pacific Horizon, and MIT.

**FILING DATES:** The application was filed on February 3, 1999. Applicants have agreed to file an amendment to the application, the substance of which is reflected in this notice, during the notice period.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 12, 1999 and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Applicants: NFT, NFI, NIR, NMIT and NBAI, One Bank of America Plaza, 101 South Tryon Street, Charlotte, NC 28255; Pacific Horizon and MIT, P.O. Box 8968, Wilmington, DE 19899.

**FOR FURTHER INFORMATION CONTACT:** Janet M. Grossnickle, Attorney-Adviser, (202) 942–0526, or Mary Kay Frech, Branch Chief, (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549–0102 (telephone (202) 942–8090).

## Applicants' Representations

1. Pacific Horizon, a Maryland corporation, and MIT, a Delaware business trust, are open-end management series investment companies registered under the Act. Pacific Horizon currently offers shares in seventeen series (the ''Pacific Horizon Funds''), and MIT currently consists of two master portfolios (together with the Pacific Horizon Funds, the ''Acquired Funds'').

2. NFT and NIR, each a Massachusetts business trust, NFI, a Maryland corporation, and NMIT, a Delaware business trust, are open-end management investment companies registered under the Act. Each company offers shares in certain series, some of which constitute the ''Acquiring Funds'' (together with the Acquired Funds, the ''Funds''). NFT offers shares in thirty-nine series, three of which are Acquiring Funds. NFI offers shares in nine series, three of which are Acquiring Funds. NIR offers shares in five series, four of which are Acquiring Funds. NIR is organizing six new shell series, which also will be Acquiring Funds.[1] NMIT has established two shell master portfolios which are Acquiring Funds.

3. Bank of America National Trust and Savings Association (''Bank of America'') is the investment adviser to the Acquired Funds. Bank of America, a national bank, is exempt from registration under the Investment Advisers Act of 1940 (''Advisers Act'') pursuant to section 202(a)(11)(A) of the Advisers Act. Bank of America is a wholly-owned subsidiary of BankAmerica Corporation.

4. NBAI is registered under the Advisers Act and is the investment adviser for the Acquiring Funds. NBAI is a wholly-owned subsidiary of BankAmerica Corporation. As of the date of the publication, NBAI, Bank of America and their affiliates, all of which are part of a common control group (the ''BankAmerica Group''), held of record, in their name and in the names of their nominees, more than 5% (and with respect to certain of the Funds more than 25%) of the outstanding voting securities of certain of the Funds. All of these securities are held for the benefit of others in trust, agency, custodial, or other fiduciary or representatives capacity, except that certain companies of the BankAmerica Group may, from time to time, own economic interests in certain money market Funds for its own account.

5. On December 2, 1998, and January 14, 1999, respectively, the boards of directors and trustees of NFT, NFI, NIR, and NMIT (the ''Acquired Funds' Boards'') and the boards of directors and trustees of Pacific Horizon and MIT (the ''Acquired Funds' Boards''), including their disinterested directors and trustee (''Disinterested Trustees''), unanimously approved Agreements and Plans of Reorganization Between each of Pacific Horizon and MIT and each of NFT, NFI, NIR, and NMIT (each a ''Reorganization Plan'' and collectively, the ''Reorganization Plans''). Pursuant to the Reorganization Plans, each Acquiring Fund will acquire all of the assets and liabilities[2] of the corresponding Acquired Fund in exchange for shares of designated classes of the Acquiring Fund (the ''Reorganizations'').[3] The number of Acquiring Fund shares to be issued to shareholders of the Acquired Fund will be determined by dividing the aggregate net assets of each Acquired Fund class by the net asset value per share of the corresponding Acquiring Fund class, each computed as of the close of business on the closing date (''Closing Date''). The Reorganization Plans provide that these Acquiring Fund shares will be distributed *pro rata* to the shareholders of record in the applicable Acquired Fund class, determined as of the close of business on the closing date(''Closing Date''). The Reorganization Plans provide that these Acquiring Fund shares will be distributed *pro rata* to the shareholders of record in the applicable Acquired Fund class, determined as of the close of business on the Closing Date. This distribution will be accomplished by issuing the Acquiring Fund shares to open accounts on the share records of the Acquiring Funds in the names of the Acquired Fund shareholders. Simultaneously, all issued and outstanding shares of the Acquired Funds will be canceled on the books of the Acquired Funds. Each Acquired Fund, Pacific Horizon, and MIT

[1] A registration statement for the six shell Acquiring Funds was filed with the SEC on February 17, 1999 and it is anticipated that it will be declared effective on or about May 3, 1999. These Acquiring Funds are expected to commerce operations upon the consummation of the Reorganization (as defined below).

[2] Prior to implementation of the Reorganization Plans, the Acquired Funds intend to discharge substantially all of their liabilities. Each Acquiring Fund will assume all remaining liabilities of its corresponding Acquired Fund.

[3] The Acquired Funds and the corresponding Acquiring Funds are: (i) Pacific Horizon Flexible Income Fund and Nations Diversified Income Fund; (ii) Pacific Horizon Short-Term Government Funds and Nations Short-Intermediate Government Fund; (iii) Pacific Horizon National Municipal Bond Fund and Nations Municipal Income Fund; (iv) Pacific Horizon Aggressive Growth Fund and Nations Small Company Growth Fund; (v) Pacific Horizon International Equity Fund and Nations International Equity Fund; (vi) Pacific Horizon U.S. Government Securities Fund and National Government Securities Fund; (vii) Pacific Horizon Prime Fund and Nations Cash Reserves; (viii) Pacific Horizon Government Fund and Nations Government Reserves; (ix) Pacific Horizon Treasury Fund and Nations Treasury Reserves; (x) Pacific Horizon Treasury Only Fund and Nations Government Reserves; (xi) Pacific Horizon Tax-Exempt Money Fund and Nations Municipal Reserves; (xii) Pacific Horizon California Municipal Bond Fund and Nations California Municipal Bond Fund (shell); (xiii) Pacific Horizon California Tax-Exempt Money Market Fund and Nations California Tax-Exempt Reserves (shell); (xiv) Pacific Horizon Asset Allocation Fund and Nations Asset Allocation Fund (shell); (xv) Pacific Horizon Capital Income Fund and Nations Capital Income Fund (shell); (xvi) Pacific Horizon Intermediate Bond Fund and Nations Intermediate Bond Fund (shell); (xvii) Pacific Horizon Blue Chip and Nations Blue Chip Fund (shell); (xviii) Blue Chip Master Portfolio and Nations Blue Chip Master Portfolio (shell); and (xix) Investment Grade Master Portfolio and Nations Intermediate Bond Master Portfolio (shell).

thereafter will be dissolved. Applicants anticipate that the Closing Date will be on or around May 14, 1999.

6. The Acquiring Funds fall into two categories. First, there are five money market Acquiring Funds that offer or, after the Reorganizations, will offer shares in some or all of eight classes (Adviser, Capital, Liquidity, Market, Trust, Service, Investor, and Daily) (''Nations Money Market Funds''). Second, there are eleven non-money market Acquiring Funds that offer or, after the Reorganizations, will offer shares in some or all of six classes (Primary A, Primary B, Investor A, Investor B, Investor C, and Seafirst) (''Nations Non-Money Market Funds''). Shares in the following classes will be issued in the reorganizations: Daily, Service, Adviser, Capital, and Investor shares in the Nations Money Market Funds; Investor A, Investor B, Investor C, and Seafirst shares in Nations Non-Money Market Funds. The NMIT master portfolios will consist of an unlimited number of units of beneficial interest representing an interest in NMIT.

7. The Daily, Service, and Investor shares in the Nations Money Market Funds are subject to distribution and shareholder servicing fees under rule 12b–1 plans. Adviser shares in the Nations Money Market Funds are subject to shareholder servicing fees under a rule 12b–1 plan, but no distribution fees. No distribution or shareholder servicing fees are paid by the Capital shares in the Nations Money Market Funds. Investor A, Investor B, and Investor C shares in the Nations Non-Money Market Funds are subject to distribution and shareholder servicing fees under rule 12b–1 plans. Seafirst shares in the Nations Non-Money Market Funds also are subject to shareholder servicing fees, but not distribution fees. None of the Nations Money Market Funds is subject to a front-end or contingent deferred sales charge. Investor A shares in the Nations Non-Money Market Funds are subject to a maximum sales load of 5.75%, and certain holders of Investor A shares are subject to a maximum contingent deferred sales charge of 1.00%. Investor B shares in the Nations Non-Money Market Funds are subject to a maximum contingent deferred sales charge of 5.00%. Investor C shares in the Nations Non-Money Market Funds are subject to a maximum contingent deferred sales charge of 1.00%. Seafirst shares of the Nations Non-Money Market Funds are not subject to front-end or contingent deferred sales charges.

8. The Acquired Funds also fall into two categories. First, there are six money market Acquired Funds that offer shares in some or all of six classes (S, X, Y, Horizon, Pacific Horizon, and Horizon Service) (''Pacific Horizon Money Market Funds''). Second, there are eleven non-money market Acquired Funds that offer shares in some or all of four classes (A, B, K, and SRF) (''Pacific Horizon Non-Money Market Funds''). The MIT master portfolios consist of an unlimited number of units of beneficial interest representing an interest in MIT.

9. The S, X, and Y shares in the Pacific Horizon Money Market Funds are subject to distribution and servicing fees. Horizon Service and Pacific Horizon shares in the Pacific Horizon Money Market Funds are subject to servicing fees, but no distribution fees. No distribution or servicing fees are paid by the Horizon shares in the Pacific Horizon Money Market Funds. B and K shares in the Pacific Horizon Non-Money Market Funds are subject to distribution and shareholder servicing fees. A and SRF shares in the Pacific Horizon Non-Money Market Funds also are subject to servicing fees, but not distribution fees. None of the Pacific Horizon Money Market Funds is subject to a front-end or contingent deferred sales charge. A shares in the Pacific Horizon Non-Money Market Funds are subject to maximum sales loads ranging from 3.25% to 5.75%, and a maximum contingent deferred sales charge of 1.00%. B shares in the Pacific Horizon Non-Money Market Funds are subject to a maximum contingent deferred sales charge of 5.00%. K and SRF shares of the Pacific Horizon Non-Money Market Funds are not subject to front-end or contingent deferred sales charges.

10. As a result of the Reorganizations, holders of the S and X shares of the Pacific Horizon Money Market Funds will become holders of the Daily shares of the Nations Money Market Funds. Holders of the Y, Horizon, Pacific Horizon, and Horizon Service shares of the Pacific Horizon Money Market Funds will become holders, respectively, of Service, Capital, Investor, and Adviser shares of the Nations Money Market Funds. Holders of the A, B, K, and SRF shares of the Pacific Horizon Non-Money Market Funds will become holders, respectively, of Investor A, Investor B, Investor C, and Seafirst shares of the Nations Non-Money Market Funds. Applicants state that the rights and obligations of each class of shares of the Acquired Funds are substantially similar to those of the corresponding class of shares of the Acquiring Funds. No sales load or contingent deferred sales charge will be imposed with respect to the shares of the Acquiring Funds to be issued in the Reorganizations. For purposes of calculating contingent deferred sales charges, shareholders of the A and B shares of the Acquired Funds will be deemed to have held Investor A and Investor B shares of the corresponding Acquiring Fund since the date the shareholders initially purchased the shares of the Acquired Fund. No contingent deferred sales charges will apply to Investor C shares issued in the Reorganizations.

11. Applicants state that the investment objectives, policies, and restrictions of each Acquired Fund and its corresponding Acquiring Fund are substantially similar.

12. The Acquiring Funds' Boards and the Acquired Funds' Boards (collectively, the ''Boards''), including all of their Disinterested Trustees, found that participation in the Reorganizations is in the best interest of each Fund and that the interests of existing shareholders in the Funds will not be diluted as a result of the Reorganizations. In approving the Reorganizations, the Boards considered, among other things: (a) the terms and conditions of the Reorganization Plans; (b) the capabilities, practices, and resources of NBAI and other service providers to the Acquiring Funds; (c) the expected cost savings for certain of the Acquired Funds; (d) the relative performance of the Funds and the compatibility of their investment objectives, policies, and limitations; (e) the anticipated tax-free status of the Reorganizations; (f) the number of investment portfolio options that would be available to shareholders after the Reorganizations; (g) the shareholder services of the Acquiring Funds; and (h) the investment advisory and other fees paid by the Acquiring Funds, and the historical and projected expense ratios of the Acquiring Funds as compared with those of the Acquired Funds. In addition, the Acquired Funds' Boards considered that the Acquired Funds' shareholders would benefit from the distribution and shareholder servicing plans of the Acquiring Funds, as well as their shareholder services. Further, the Acquired Funds' Boards considered that, as a result of the Reorganizations, Acquired Fund shareholders should benefit from improved economies of scale and will have access to a larger and more diverse family of mutual funds. NBAI will assume all customary expenses incurred by the Funds in connection with the Reorganizations.

13. The Reorganization Plans may be terminated by mutual written consent of the Acquiring Fund and the respective Acquired Fund at any time prior to the Closing Date. In addition, either party

may terminate the Reorganization Plan if: (a) The closing has not occurred prior to December 31, 1999; (b) the other party materially fails to perform its obligations; (c) the other party materially breaches its representations, warranties, or covenants; or (d) a condition precedent to the party's obligations cannot be met.

14. Registration statements on Form N–14 (''N–14 Registration Statements'') were filed with the SEC on December 23, 1998 and December 31, 1998, and became effective on January 23, 1999 and January 30, 1999, respectively. Applicants mailed prospectus/proxy statements to shareholders of the Acquired Funds on or about February 8, 1999. A special meeting of the Acquired Fund shareholders will be held on or about May 3, 1999.

15. The consummation of the Reorganizations is subject to the following conditions, as set forth in the Reorganization Plans: (a) The N–14 Registration Statements with regard to the Acquiring Funds, other than two master portfolios, will have become effective; (b) the Acquired Fund shareholders will have approved the Reorganization Plans; (c) applicants will have received exemptive relief from the SEC with respect to the issues in the application; (d) the applicants will have received an opinion of counsel concerning the federal income tax aspects of the Reorganizations; and (e) each Acquired Fund will have declared a dividend or dividends to distribute substantially all of its investment company taxable income and net capital gain, if any, to its shareholders. Applicants agree not to make any material changes to the Reorganization Plans that affect the applicant without prior SEC approval.

### Applicants' Legal Analysis

1. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of that person, acting as principal, from selling any security to, or purchasing any security from, the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include (a) any person that directly or indirectly owns, controls, or holds with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by, or under common control with the other person; and (d) if the other person is an investment company, any investment adviser of that company.

2. Rule 17a–8 under the Act exempts from the prohibitions of section 17(a) mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons solely by reason of having a common investment adviser, common directors/trustees, and/or common officers, provided that certain conditions set forth in the rule are satisfied.

3. Applicants believe that they may not rely on rule 17a–8 because the Funds may be affiliated for reasons other than those set forth in the rule. First, the BankAmerica Group holds of record more than 5% of the outstanding voting securities of certain of the Funds. Because of this ownership, certain of the Funds may be deemed an affiliated person of Bank America under section 2(a)(3)(B). Second, NBAI and Bank of America are under the common ownership and control of Bank-America Corporation. Because of this ownership, each Acquiring Fund may be deemed an ''affiliated person of an affiliated person'' of each Acquired Fund under sections 2(a)(3)(C) and (E) of the Act. Third, BankAmerica Group holds of record, with power to vote, more than 25% of certain Funds. These Funds may be deemed to be under common control, and thus affiliated persons under section 2(a)(3)(C). Accordingly, the Reorganizations may not meet the ''solely by reason of'' requirement of rule 17a-8. Applicants thus are requesting an order pursuant to section 17(b) of the Act exempting them from section 17(a) to the extent necessary to consummate the Reorganizations.

4. Section 17(b) of the Act provides that the SEC may exempt a transaction from the provisions of section 17(a) if the evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

5. Applicants submit that the terms of the Reorganizations satisfy the standards set forth in section 17(b). Applicants note that the Boards, including a majority of the Disinterested Trustees, found that participation in the Reorganizations is in the best interest of each Fund and that the interests of the existing shareholders of each Fund will not be diluted as a result of the Reorganizations. Applicants also note that the exchange of the Acquired Funds' assets for shares in the Acquiring Funds will be based on the Fund's relative net asset values.

For the SEC, by the Division of Investment Management, under delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 99–10624 Filed 4–27–99; 8:45 am]

BILLING CODE 8010–01–M

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## SECURITIES AND EXCHANGE COMMISSION

**[Investment Company Act Release No. 23809; 812–11488]**

## STI Classic Funds, et al.; Notice of Application

April 23, 1999.

**AGENCY:** Securities and Exchange Commission (''Commission'').

**ACTION:** Notice of an application under section 17(b) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 17(a) of the Act.

**SUMMARY OF THE APPLICATION:** Applicants request an order to permit certain series of STI Classic Funds to acquire all of the assets and liabilities of certain series of CrestFunds, Inc. and The Arbor Fund (the ''Reorganization''). Because of certain affiliations, applicants may not rely on rule 17a–8 under the Act.

**APPLICANTS:** STI Classic Funds (''STI''), CrestFunds, Inc. (''CrestFunds''), the Arbor Fund (''Arbor'') and SunTrust Banks, Inc. (''Adviser'').

**FILING DATES:** The application was filed on February 1, 1999. Applicants have agreed to file an amendment to the application during the notice period, the substance of which is reflected in this notice.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on May 13, 1999, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESSES:** Secretary, Commission, 450 Fifth Street, N.W., Washington, D.C.

20549–0609. Applicants, c/o W. John McGuire, Esq., Morgan Lewis & Bockius LLP, 1800 M Street, N.W., Washington, DC 20036–5869.

**FOR FURTHER INFORMATION CONTACT:** John K. Forst, Attorney-Advisor, at (202) 942–0569 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee from the Commission's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549–0102 (telephone (202) 942–8090).

## Applicants' Representations

1. STI, a Massachusetts business trust, is registered under the Act as an open-end management investment company comprised of 34 series, 17 of which (the ''Acquiring Funds'') will participate in the Reorganization. CrestFunds, a Maryland corporation, is registered under the Act as an open-end management investment company and is currently comprised of 15 series, all of which will participate in the Reorganization. Arbor is a Massachusetts business trust registered under the Act as an open-end management investment company and is currently comprised of 13 series, 2 of which will participate in the Reorganization (participating series of the CrestFunds and Arbor are referred to as the ''Selling Funds'').

2. The adviser is a Georgia corporation and a bank holding company. STI Capital Management, N.A. (''STI Capital''), Trusco Capital Management, Inc. (''Trusco''), and SunTrust Bank, Atlanta (''SunTrust Bank''), each an indirect wholly-owned subsidiary of the Adviser, are investment advisers to the STI Funds. Trusco is registered under the Investment Adivsers Act of 1940 (the ''Advisers Act''). STI Capital and SunTrust Bank are banks and are not required to register under the Advisers Act. Crestar Asset Management Company (''CAMCO'') is an indirect, wholly-owned subsidiary of the Adviser and is registered under the Advisers Act. CAMCO is the investment adviser to the CrestFunds and the Arbor Selling Funds. On the Closing Date, as defined below, the Adviser, through its bank subsidiaries, as fiduciary for its customers, may own of record more than 5% (in some cases 25% or more) of the Acquiring and Selling Funds.

3. On February 17, 19, and 22, 1999, the boards of trustees/directors of STI, CrestFunds, and Arbor Funds, respectively, (together, the ''Boards''), including all of the trustees/directors who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (''Independent Directors''), unanimously approved an agreement and plan of reorganization (''Plan''). Under the Plan, on one of the dates of the exchange (each a ''Closing Date'' and collectively, the ''Closing Dates''), which are currently anticipated to be May 17 and 24, 1999, each Acquiring Fund will acquire all of the assets and liabilities of the respective Selling Fund in exchange for shares of the Acquiring Fund that have an aggregate net asset value (''NAV'') equal to the aggregate NAV of the Selling Fund as of the close of business on the business day preceding the Closing Date.[1] As soon as practical after the applicable Closing Date, each Selling Fund will liquidate and distribute *pro rata* the shares of the corresponding Acquiring Fund to the shareholders of the Selling Fund. The value of the assets of the Funds will be determined in the manner set forth in the Funds' then-current prospectuses and statements of additional information.

4. Applicants state that the investment objectives, restrictions, and limitations of each Acquiring Fund are substantially similar or identical to those of each corresponding Selling Fund. STI offers shares in four classes: Trust Shares, Investor Shares, Flex Shares, and Institutional Shares. Trust Shares are not subject to a front end sales load, contingent deferred sales charge (''CDSC''), or asset-based distribution fee (''12b–1 Fee''). Certain Investor Shares are subject to a front end load and/or a 12b–1 Fee but none are subject to a CDSC. Flex shares are subject to a CDSC and a 12b–1 Fee but no front end load. Institutional Shares are not subject to a front end load, CDSC, or 12b–1 Fee. CrestFunds offers shares in three classes: Trust Class Shares, Investor Class A Shares (''A Shares''), and Investor Class B Shares (''B Shares''). Certain Trust Class Shares are subject to a 12b–1 Fee and none are subject to a front end load or CDSC. Certain A Shares are subject to a front end load; all A shares are subject to a 12b–1 Fee; and no A Shares are subject to a CDSC. B Shares are subject to CDSC and 12b–1 Fees, but are not subject to a front end load. The participating series of Arbor offer a single class that is not subject to a 12b–1 Fee, a front end load, or a CDSC. Holders of Trust Class Shares will receive Trust Shares; holders of A Shares will receive Investor Shares (except for holders of A Shares of the Special Equity Fund who will receive Trust Shares of the corresponding STI Fund); holders of B Shares will receive Flex Shares (Except for holders of B Shares of the Cash Reserve Fund who will receive Investor Shares of the corresponding STI Fund); and holders of Arbor shares will receive Institutional Shares. No front end load or CDSC will be imposed in connection with the Reorganization.

5. Reorganization expenses will be borne by the CrestFunds and the STI, as determined by their respective Boards. The Arbor Board determined that the payment of reorganization expenses by Arbor would not be appropriate. The Adviser and its affiliates will pay Reorganization expenses that the respective Boards did not authorize Selling Funds or Acquiring Funds to pay.

6. The Boards, including all of the Independent Trustees, determined that the Reorganization is in the best interests of the shareholders of each Selling Fund and its respective Acquiring Fund, and that the interests of the existing shareholders of each Selling Fund and its respective Acquiring Fund would not be diluted by the Reorganization. In assessing the Reorganization, the Boards considered various factors including: (a) the terms and conditions of the Reorganization; (b) compatibility of the Funds' objectives and policies; (c) performance of the corresponding Acquiring Funds; (d) experience and resources of the advisers for the corresponding Acquiring Funds; (e) expense ratios of the combined Funds; (f) potential economies of scale to be gained from the Reorganization; (g) advantages of increased investment opportunities for the Selling Funds' shareholders; (h) tax-

[1] Selling Funds and the corresponding Acquiring Funds are: 1. CrestFund Capital Appreciation Fund and STI Capital Appreciation Fund, 2. CrestFund Special Equity Fund and STI Small Cap Growth Stock Fund, 3. CrestFund Intermediate Bond Fund and STI Investment Grade Bond Fund, 4. CrestFund Cash Reserve Fund and STI Prime Quality Money Market Fund, 5. CrestFund Government Bond Fund and STI U.S. Government Securities Fund, 6. CrestFund Limited Term Bond Fund and STI Short-Term Bond Fund, 7. CrestFund U.S. Treasury Money Fund and STI U.S. Treasury Money Market Fund, 8. CrestFund Tax Free Money Fund and STI Tax-Free Money Market Fund, 9. CrestFund Value Fund and STI Growth and Income Fund, 10. CrestFund Virginia Municipal Bond Fund and STI Virginia Municipal Bond Fund, 11. CrestFund Virginia Intermediate Municipal Bond Fund and STI Virginia Intermediate Municipal Bond Fund, 12. CrestFund Maryland Municipal Bond Fund and STI Maryland Municipal Bond Fund, 13. CrestFund Maximum Growth Portfolio and STI Life Vision Maximum Growth Portfolio, 14. CrestFund and Income Portfolio and STI Life Vision Growth and Income Portfolio, 15. CrestFund Balanced Portfolio and STI Life Vision Balanced Portfolio, 16. Arbor Prime Obligations Fund and STI Classic Institutional Cash Management Money Market Fund, and 17. Arbor U.S. Government Securities Money Fund and STI Classic Institutional U.S. Government Securities Money Market Fund.

free nature of the Reorganization; (i) service features available to shareholders of the respective Acquiring Funds and Selling Funds; and (j) the assumption by the Acquiring Funds of the identified liabilities of the Selling Funds. The Board of each Selling Fund that is a series of CrestFunds also considered that the Fund will be required to pay its pro-rata portion of the Reorganization expenses.

7. The Reorganization is subject to a number of conditions precedent, including that: (a) the Reorganization is approved by the Boards and each of the Selling Funds' shareholders in the manner required by applicable law; (b) the Acquiring and Selling Funds receive opinions of counsel that the Reorganization will not result in federal income taxes for each Fund or its shareholders; and (c) applicants receive from the Commission an exemption from section 17(a) of the Act for the Reorganization. The plan may be terminated and the Reorganization abandoned by mutual consent of the Boards or by either party in case of a breach of the Plan. Applicants agree not to make any material changes to the Plan without prior Commission approval.

8. Definitive proxy solicitation materials have been filed with the Commission and were mailed to shareholders of the Selling Funds on April 7, 1999. A special meeting of shareholders is scheduled for May 7, 1999.

**Applicant's Legal Analysis**

1. Section 17(a) generally prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, acting as principal, from selling any security to, or purchasing any security from, the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include (a) any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose securities are directly or indirectly owned, controlled, or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by or under common control with the other person; and (d) if the other person is an investment company, any investment adviser of that company.

2. Rule 17a–8 under the Act exempts from the prohibitions of section 17(a) mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions set forth in the rule are satisfied.

3. Applicants believe that they may not rely on rule 17a–8 in connection with the Reorganization because the Funds may be deemed to be affiliated by reasons other than having a common investment adviser, common directors, and/or common officers. Applicants state that at the Closing Date, the Adviser, through its bank subsidiaries, as fiduciary for its customers, may own of record more than 5% (in some cases 25% or more) of the Acquiring and Selling Funds.

4. Section 17(b) of the Act provides that the Commission may exempt a transaction from the provisions of section 17(a) if the evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

5. Applicants request an order under section 17(a) of the Act exempting them from section 17(a) to the extent necessary to complete the Reorganization. Applicants submit that the Reorganization satisfies the standards of section 17(a) of the Act. Applicants believe that the terms of the Reorganization are fair and reasonable and do not involve overreaching. Applicants state that the Reorganization will be based on the relative NAVs of the corresponding Acquiring and Selling Funds' shares. Applicants also state that the investment objectives, policies and restrictions of the corresponding Selling and Acquiring Funds are identical or substantially similar. In addition, applicants state that the Boards, including all of the Independent Trustees, have made the requisite determinations that the participation of the corresponding Acquiring and Selling Funds in the Reorganization is in the best interests of each Fund and that such participation will not dilute the interests of shareholders of the Funds.

For the Commission, by the Division of Investment Management, under delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 99–10646 Filed 4–27–99; 8:45 am]

BILLING CODE 8010–01–M

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–41304; File No. SR–PCX–99–06)**

## Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. Relating to a Consolidated Limit Order Book for Equity Securities

April 16, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 1, 1999, as amended on April 16, 1999,[3] the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change to implement a consolidated limit order book (''CLOB'') as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to implement a CLOB for orders for equity securities that are entered into the Exchange's P/COAST trading system. Proposed new language is italicized; proposed deletions are in brackets.[4]

* * * * *

**¶ 3995 Orders: Other Floor**

Rule 5.8(a). [Should an order to buy or sell be received from the other Floor for entering in the specialist's book] *When an order is entered into the Consolidated Limit Order Book* at the same price at which a floor bid or offer is being made at the specialist's post, the floor bid or offer shall maintain priority so long as the bidder or offeror remains within the immediate vicinity of the post to which the security involved is assigned or the order is

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Michael Pierson, Director, Regulatory Policy, PCX to Michael Walinskas, Deputy Associate Director, Division of Market Regulation, Commission, dated April 16, 1999 (''Amendment No. 1''). Amendment No. 1 made technical changes to the filing and further described the functioning of the CLOB.

[4] On August 17, 1998, the Exchange filed an earlier version of this proposal with the Commission. *See* File No. SR–PCX–98–39. Since that time, the Exchange modified the original proposal in several respects and accordingly, the Exchange has determined to withdraw SR–PCX–98–39 and refile it as modified.

entered with the specialist. The order *in the Consolidated Limit Order Book will* [from the other Floor entered with the specialist shall] obtain priority should the bidder or offeror leave the immediate vicinity of the Post without entering the order with the specialist. Where a security is traded *by more than one specialist* [on both floors], the specialist *who received the order* will be responsible for properly coordinating and synchronizing orders (and executions) with the specialist on the other Floor.

* * * * *

**¶ 3999 Priority of Bids and Offers**

Rule 5.8(c). When a bid or offer is clearly established as the first made at a particular price [regardless of the floor], the maker shall be entitled to priority and shall have precedence on the next sale at that price, up to the number of shares of stock or principal amount of bonds specified in the bid or offer irrespective of the number of shares of stock or principal amount of bonds specified in such bid or offer.

A member having priority on the floor with a bid or offer may not increase the size of his bid or offer if objection is made by another member. By placing his order with the specialist he may maintain his priority, but in an amount no greater than originally bid for or offered by him on the Floor. Orders so placed may be accepted as and retain the status of open orders if so designated at the time of placement but shall not gain priority over orders existing in the *Consolidated Limit Order Book* [specialist's book] at the time the member secured the Floor with his original bid or offer.

Commentary

.01 No Change.

* * * * *

**P/COAST**

**¶4153 Pacific Computerized Order Access[s] SysTem**

Rule 5.25(a)–(f) No change.

*Consolidated Limit Order Book*

*Rule 5.25(g). Incoming Equity orders entered into the Exchange's P/COAST trading system will be maintained in and executed through the Exchanges Consolidated Limit Order Book (''CLOB''). Incoming market and marketable limit orders are immediately executed against orders in the CLOB based on price and time priority, once they have been displayed for possible price improvement. Incoming orders other than market and marketable limit orders will be maintained in the CLOB, but will be represented by a particular PCX specialist.*

*(1) Manual-Ex Window. A specialist may not permit an order to remain in the Manual-Ex Window of P/COAST for more than two minutes unless:*

*(a) the order is designated: (i) market-on-close; (ii) all-or-none; (iii) a ''tick sensitive'' order (including buy minus, sell plus, sell short, or sell short exempt); (iv) stop; or (v) stop limit; or*

*(b) execution of the order would result in a double-uptick (or double-downtick) or would result in a new high (or new low) price for the day; or*

*(c) the specialist stops the order; or*

*(d) there are extraordinary market conditions or systems problems.*

* * * * *

**¶ 4229 Disclosure of Specialists' Orders Prohibited**

Rule 5.29(d). No specialist shall directly or indirectly, disclose to any person other than *a* [the] co-specialist [on the other Floor], a member of the Floor Trading Committee, or an official of the Exchange, any information in regard to orders entrusted to him as a specialist, except that the specialist may disclose the size of the bid or offer, and may disclose information contained in [his book] *the Consolidated Limit Order Book:*

(i) for the purpose of demonstrating the methods of trading to visitors to the Floor; or

(ii) to other market centers in order to facilitate the operation of ITS or any other Application of the System provided, in either case, that at the same time he makes the information so disclosed available to all members.

Commentary

.01 No change.

* * * * *

**¶ 4253 Specialists' Coordination**

Rule 5.30(b). Specialists registered in the same security which is traded *by more than one specialist will* [on both Floors shall] be responsible for establishing a unified opening sale in such security and thereafter throughout each trading session shall maintain such degree of contact with each other as will [insure] *ensure* the interchange of such information respecting existing or indicated potential bids and offers as may be necessary to maintain fair, orderly and integrated markets in such securities.

**[¶ 4255 Responsibility for Coordination**

Rule 5.30(c). Whenever a specialist's market or the market on his respective Floor equals or betters a competitive market, he will immediately inform the specialist on the other Floor, if technically possible.]

**¶ 4257 Orders *Represented by Specialists* [in the Specialist's Book on One Floor]**

Rule 5.30(d). (1) *A specialist holding manual orders must notify the other specialists trading the security in order for those orders to have standing.* [A specialist on one Floor holding orders in his book shall notify the specialist on the other Floor of such orders to have any standing on the other Floor.]

(2) *If a specialist notifies a contra specialist of orders in P/COAST, or if there are orders in the CLOB, the contra specialist may not execute orders at or through the limit of such orders in P/COAST or the CLOB without all such orders being filled.* [If the specialist on one Floor notifies the specialist on the other Floor of orders in his book, there can be no transactions on the other floor by the specialist for his own account at or through the limit of such orders without all such orders being filled.]

(3) *If a specialist fails to notify the contra specialist of manual orders or orders in P/COAST and the contra specialist executes a transaction at or through the limit of such orders, the specialist failing to notify the contra specialist will be responsible for an execution of the orders in P/COAST. For purpose of this rule, a specialist will be deemed to have notified the contra specialist of the manual orders or orders in P/COAST if they are being represented in the CLOB.* [If the specialist on one Floor fails to notify the specialist on the other Floor of orders in his book and transactions take place on the other Floor at or through the limit of such orders, the specialist failing to notify the specialist on the other Floor will be responsible for an execution of the orders in his book.]

* * * * *

**¶ 4271 Suspend Trading**

Rule 5.31(b)(1). When the flow of orders in a security traded *by more than one specialist* [on both Floors] does not allow [either] *a* specialist to maintain an orderly market in such security, *such* [either] specialist may suspend trading, and he shall announce such suspension:

(i) on his respective Floor,

(ii) to the *other* specialists *in the security* [on the other Floor] who also shall suspend trading,

(iii) on the ticker,

(iv) to *the* ITS Control Center (ICC) for ITS eligible securities.

The specialist first taking action shall immediately notify the Floor Trading Committee Members of his respective Floor of the suspension and trading may

be resumed only at the direction of the Floor Trading Committee.

Rule 5.31(b)(2). When the flow of orders in a security traded *by only one specialist* [only on one Floor] does not allow the specialist to maintain an orderly market in such security, the specialist may suspend trading, and he shall announce such suspension:

(i) on his respective Floor,

(ii) to the other Floor,

(iii) on the ticker,

(iv) to *the* ITS Control Center (ICC) for ITS eligible securities.

The specialist shall immediately notify the Floor Trading Committee Members of his respective Floor of the suspension and trading may be resumed only at the direction of such Committee members.

* * * * *

**¶ 4279 Guaranteeing PMP[5] on Portion of Multiple Orders**

Rule 5.32(b)(1). When a specialist *is representing an order in the Consolidated Limit Order Book* [has an order in his book] and subsequently guarantees the primary market price on a partial of a multiple order, if the effective price on the partial is equal to or through the limit of the order in *the Consolidated Limit Order Book* [his book], the following shall apply:

(i) If the effective price on the partial order is equal to the limit of the order in *the Consolidated Limit Order Book* [his book], the specialist shall give up to the order in *the Consolidated Limit Order Book* [his book];

(ii) If the effective price on the partial order is through the limit of the order in *the Consolidated Limit Order Book* [his book], the specialist shall fill the order in *the Consolidated Limit Order Book* [his book] and record the transaction when a price through the limit appears on the tape, after which when the member for whom he guaranteed the partial reports the execution price on the balance of the multiple order, the specialist shall complete and record the transaction on the partial of the multiple order he has guaranteed.

Rule 5.32(b)(2). No change.

Rule 5.32(b)(3). When a specialist is requested to execute on a PMP basis all or part of a multiple order, he shall notify *all other PCX* [the] specialists [on the other Floor] *registered to trade that issue* if technically possible prior to relinquishing part of the order to other markets.

Rule 5.32(b)(4). No change.

* * * * *

**¶ 4287 Specialists Placing Orders in [Own Book] the *Consolidated Limit Order Book* for Own Account**

Rule 5.33(b). No specialist may place orders in *the Consolidated Limit Order Book* [his own book] for any account in which he or his firm or any participant therein is directly or indirectly interested, except in special situations (e.g., when rights or arbitrage is involved) in which the Floor Trading Committee grants such permission on specific issues.

**[¶ 4289 Specialist's Own Orders in Other Specialist Book Prohibited**

Rule 5.33(c). No specialist on one Floor may place orders for any account in which he or his firm or any participant therein is directly or indirectly interested in the book of the specialist on the other Floor in any security in which he is registered as specialist.]

**¶ 4291 Specialist Options**

[Rule 5.33(d)] *Rule 5.33(c).* No change.

**¶ 4293 Specialist Joint Accounts**

[Rule 5.33(e)] *Rule 5.33(d).* No change.

**¶ 4295 Specialist—Puts—Calls**

[Rule 5.33(f)] *Rule 5.33(e).* No change.

**[¶ 4297 Specialist Stopping Stock for His Own Account**

Rule 5.33(g). A specialist may stop stock in his own book for his own account only under the following conditions:

(1) When he is making the highest bid or the lowest offer if the difference between the bid and offer is more than one applicable trading differential, he may ''stop'' stock for his own account in his own book up to 50% of the number of shares bid for or offered in his book.]

**¶ 4299 Effecting Executions of Stop Orders Held by Specialists**

[Rule 5.33(h)] *Rule 5.33(f).* No specialist shall make a transaction for his own account in a stock in which he is registered that would result in putting into effect any stop order he may have *in the Consolidated Limit Order Book;* [on his book;] provided, however, a specialist may be party to the election of a stop order when (a) his bid or offer, made with the approval of a Floor Official, has the effect of bettering the market, and (b) he guarantees that the stop order will be executed at the same price as the electing sale.

* * * * *

**Minor Rule Plan**

Rule 10.13(a)–(h) No change.

**(i) Minor Rule Plan: Equity Floor Decorum and Minor Trading Rule Violations**

(1)–(12) No change.

*(13) Specialist kept an order in the Manual-Ex Window of P.COAST for more than two minutes (and there is no applicable exemption to this requirement under Rule 5.25(g)(1)).*

* * * * *

**(k) Minor Rule Plan: Recommended Fine Schedule**

(i) No changes.

**(iii) Equity Floor Decorum and Minor Trading Rule Violation[3]**

(1)–(12) No change.

| | No. of Violations | Fine Amount |
|---|---|---|
| **(13) Specialist kept an order in the Manual-Ex Window of P/COAST for more than two minutes (and there is no applicable exemption to this requirement under Rule 5.25(g)(1)).* | *1–5* | *Official Warning* |
| | *6–10* | *$50* |
| | *11+* | *$100* |

[5] ''PMP'' means Primary Market Protection.

[3] Fines for multiple violations of Equity Floor Decorum and Minor Trading Rules are calculated on a running two-year basis, except that violations denoted with an asterisk are calculated on a running one-year basis.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

(1) Purpose

a. *Background.* The Exchange is proposing to change its rules to implement a CLOB for orders for equity securities that are entered into the Exchange's P/COAST [6] trading system. The CLOB has been designed to facilitate the execution of customer orders in time priority pursuant to Exchange Rules.[7]

The Exchange currently operates two equity trading floors, one in San Francisco and one in Los Angeles. For most of the equity securities traded on the Exchange, there are two Registered Specialists continuously making two-sided markets. The Exchange disseminates a consolidated best bid and offer reflecting orders held by both specialists as well as any interest of the specialists for their own proprietary accounts.

The Exchange route orders to a specialist in one city or the other based on arrangements that the specialists have previously made with firms that send orders to the Exchange. For orders for which neither specialist has made specific arrangements with the firm sending the order, the Exchange will generally assure that the orders are transmitted to the two specialists on an alternating basis (*e.g.*, the first order goes to Specialist A, the next order to Specialist B, the next to Specialist A, and so on).

Prior to the CLOB's implementation, if an incoming limit order was sent through the P/COAST system, it would either be placed in a specialist's limit order book or be executed by the specialist who received the order. If a specialist in one city received an order, and if a specialist in the other city held a limit order with time priority that matched against the newly received order, the specialists would be responsible for assuring that the two orders were executed in accordance with PCX's priority rules.[8]

The Exchange developed the CLOB as part of its continuing effort to enhance communication between PCX's two trading floors. All round-lot orders sent to the Exchange through the P/COAST system are initially displayed to the specialist designated to receive them (based on prior arrangements or designation on an alternating basis). Limit orders that are not immediately executed by the designated specialist will be maintained in the CLOB, subject to the exceptions discussed below. Orders in the CLOB continue to be represented by the designated specialist. The CLOB eliminates the need for each specialist to manually match incoming orders against limit orders with priority that are represented by another specialist.

b. *Order Handling Under the CLOB.* 1. *Overview.* Under the P/COAST system, all incoming orders in an equity security are specified for representation by one of the specialists in that issue, and appear on that specialist's computer screen on the automatic-execution (''auto-ex'') window for up to 15 seconds. When market or marketable limit orders appear on the auto-ex window, the specialist will have 15 seconds to move the order to the manual-ex window, where the specialist may improve the execution price.[9] If the specialist does not move the order to the manual-ex window within 15 seconds, the order, in most cases, will automatically execute against any limit orders in the CLOB that are at or better than the National Best Bid or Offer (''NBBO'') according to price and time priority.[10] If there are no limit orders in the CLOB at the NBBO, then the order may execute against a specialist's proprietary quote at the NBBO. A specialist may also cause an incoming market or marketable limit order to execute immediately against a limit order in the CLOB, without waiting for 15 seconds to pass.[11]

Non-marketable limit orders (*i.e.*, orders to buy that are priced below the national best offer and orders to sell that are priced above the national best bid) that arrive through the P/COAST system [12] will move from the auto-ex window into the CLOB after 15 seconds unless the specialist executes the order or moves it to the computer screen's

[6] P/COAST, the ''Pacific Computerized Order Access System,'' is the Exchange's communication, order routing and execution system for equity securities. It operates on a dual processing system, with mainframe computers in San Francisco and Los Angeles. The system allows trading to be integrated from two separate trading floors. *See* PCX Rule 5.25.

[7] *See* PCX Rule 5.8(c).

[8] *See* PCX Rules 5.30(b)-(c). Rule 5.30(b) provides that specialists registered in the same security which is traded on both floors are responsible for establishing a unified opening sale in such security. Moreover, throughout each trading session the specialists must stay in contact with one another to ensure that they maintain fair, orderly and integrated markets in such securities. Rule 5.30(c) provides that whenever a specialist's market or the market on his respective floor equals or betters a competitive market, he will immediately inform the specialist on the other floor, if technically possible.

[9] The practice of moving orders to the manual-ex window, and proposed rule changes associated with that practice, are discussed below.

[10] Generally, if executing an order at the NBBO would result in a double-uptick, double-downtick, new high for the day, or new low for the day, the P/COAST system will send the order to the specialist's manual-ex window for further handling, instead of automatically executing the order at the NBBO. The system will not prevent a specialist from then manually executing the order at the NBBO in those circumstances.

The P/COAST system also uses a ''background execution parameter'' that allows the specialist to program the system to execute all market and marketable limit orders that are smaller than a certain designated size, at the disseminated market price, without first being displayed for price improvement. This feature is typically used for very small orders (generally, those under 100 shares). Currently, the size of the background parameter can only be activated for all securities at a given specialist post and cannot be activated security-by-security. Orders smaller than the background execution parameter will receive an automatic execution at the NBBO, even if that would result in a double-uptick, double-downtick, new high for the day, or new low for the day.

[11] The specialist is also able to cause a market or marketable limit order to execute against orders in the CLOB while simultaneously preventing an execution against the specialist's proprietary account. For example, if there are orders in the CLOB to buy 800 shares at $60, and orders to buy 200 shares at $59 15/16, and a market order to sell 1,000 shares is entered, the specialist can cause the orders in the book at $60 to match against the incoming order to sell, with the remainder of the incoming order (200 shares) sent to the manual-ex window, without causing an execution against the specialist's proprietary account.

[12] Although most orders arrive in the Exchange through the P/COAST system, some orders are sent to floor brokers on the Exchange. Floor brokers currently may enter these orders into the CLOB from a workstation at the floor broker's booth. Because the CLOB has not yet been developed to fully accommodate the processing of manual orders received by floor brokers, the system has limitations that make it difficult for floor brokers to track orders and receive reports on them. The PCX is currently implementing a systems change to facilitate the entry and processing of manual limit orders in the CLOB. The change will allow floor brokers to track their orders more efficiently and to receive reports on their orders directly from the system. The Exchange anticipates that the systems change will be implemented by the end of April 1999. The Exchange currently does not require floor brokers to place limit orders in the CLOB, however.

manual-execution (''manual-ex'') window for further handling.[13]

2. *Execution of Incoming Market Orders.* The CLOB's automatic execution feature executes incoming market orders in the following manner. Assume that Specialist A and Specialist B are both representing non-marketable limit orders in the CLOB to buy XYZ stock at $20, which is the national best bid, and further assume that the orders were entered in the following sequence: one order for Specialist A (100 shares), one order for Specialist B (100 shares), and ten orders for Specialist A (100 shares per order), so that the two specialists are collectively representing 12 orders to buy 1,200 shares of XYZ stock. If an incoming market order to sell 2,000 shares of stock is received for representation by Specialist A, that order will be displayed for 15 seconds on Specialist A's auto-ex window, giving Specialist A the opportunity to improve the price, and then will be executed in time priority sequence against the various orders in the CLOB—*i.e.*, it will first execute against the first order being represented by Specialist A, then against the order being represented by Specialist B, and finally, against the 10 orders being represented by Specialist A. The remaining 800 shares would either be executed at $20, against Specialist A's proprietary account, or be placed in Specialist A's manual-ex window for further handling. If the remainder of the order is placed in Specialist A's manual-ex window, it may be executed against other orders that may be in the CLOB at a lower price (or prices), if that lower price now constitutes the NBBO.

3. *Manual Execution of Limit Orders.* Once a limit order is in the CLOB, the specialist who represents it may manually execute it through the specialist's Limit Order Book Window. The specialist may do this if, for example, there is a trade on the primary market at the limit order price. The P/COAST system will notify both PCX specialists in an issue of the first print on the primary market that occurs at a price equal to the limit price of an order (or orders) in the CLOB. It will also notify both PCX specialists of the first print from another market that trades through the PCX market. If a specialist decides to execute a ''limit alert''[14] at a price based on an execution in the primary market, the CLOB will assure that the order (or orders) will be executed in accordance with time priority. For example, assume that Specialist A and Specialist B are both representing orders to buy XYZ stock at $20, and those orders were entered in the following sequence: one order for Specialist A, one order for Specialist B, and ten orders for Specialist A. If a print at $20 occurs on the primary market and Specialist A attempts to execute all limit orders in his or her custody to buy XYZ stock at $20, the CLOB will allow the first order to be executed, but will prevent the next 10 orders from also being executed simultaneously because the order held by Specialist B has time priority. If Specialist B manually executes the order with priority that he or she is representing from the limit order book, prior to Specialist A's execution of the ''limit alert,'' Specialist A would then be permitted to execute simultaneously all of the other orders at that price. However, Specialist A would immediately receive a CLOB ''violation'' message that Specialist B had executed an order out of time priority sequence. If that occurs, Exchange Surveillance personnel would receive a report that this time or price priority violation had occurred.[15]

4. *Opening of Trading.* At the opening of trading, all market orders that a specialist is representing are executed at the opening price on the primary market. In addition, the P/COAST system electronically checks the limit order file and executes all buy orders priced above the primary market opening price and all sell orders priced below the primary market opening price. These orders are executed at the opening price on the primary market. The system also provides a limit alert to advise the specialists that there are limit orders in the book priced equal to the opening price on the primary market.

c. *Manual Handling of Orders.* The manual-ex window of P/COAST provides specialists with flexibility that is needed in the special handling of customer orders. Specialists may place orders in the manual-ex window for a number of reasons. For instance, doing so allows the specialist greater flexibility in providing price improvement for customer orders and conducting price discovery in other markets when handling market orders on the PCX. Placing an order on the manual-ex window also allows the specialist to continue to work in order that cannot be placed in the CLOB. The practice also allows the specialist to process orders with special instructions from the customer.

The P/COAST system automatically routes certain types of incoming orders from the auto-ex window to the manual-ex window for manual handling. These include:

(a) Marketable limit orders whose execution would result in a double-uptick (or double-downtick),[16] or a new high (or new low) for the day (but only if the firm that entered the order has specifically requested that such executions do not occur on their orders);[17]

(b) Orders that cannot be placed in the book at all (*e.g.*, market, marketable limit, market-on-close, fill or kill, or sell-short at the market);

(c) Market and marketable limit orders that have been partially executed from the auto-ex window (but limit orders in the book that receive a partial execution will not go to the manual-ex window because no orders in the book can go to the manual-ex window); and

(d) Large orders, for more than a number of shares that has been designated by the specialist.[18]

At times, a specialist may place a limit order that would match or improve

[13] A specialist's handling of non-marketable limit orders in the manual-ex window is discussed in more detail below.

Motreover, specialists may reject limit orders that appear clearly erroneous. For example, if the last sale is 122, an order to trade at 22 could be rejected, If an order has been rejected, then depending on the entering firm's previous instructions to the Exchange, the order will be routed: (a) to the contra specialist (*i.e.*, the other specialist in that issue); (b) to the firm that entered the order; or (c) to the Exchange's P/COAST Service Center. If a specialist is in the process of executing an order, the specialist may reject a subsequent request to ''cancel'' or ''CFO'' (''cancel former order'') that order.

[14] A ''limit alert'' is a proxy that groups together all orders in the CLOB that are then being represented by a specialist at a given price. A specialist who executes a ''limit alert'' will, in effect, be attempting to execute all of the limit orders covered by the proxy, without committing a priority violation. Upon the execution of the ''limit alert,'' the CLOB will only allow the execution of orders that may be executed without causing a priority violation to occur. If there are unexecuted limit orders remaining in the CLOB at the same price, the specialist who executed the limit alert will be so notified.

[15] Out of priority executions are further discussed below.

[16] A ''double-uptick'' on the PCX means that a trade has been executed on the PCX at a price that is more than one trading differential away from the last print on the primary market. For example, if the last execution price on the primary market is $20, then a double uptick would occur on the PCX if an order were executed on the PCX at $20 1/8, because currently, the minimum trading differential in 1/16. Conversely, a trade on the PCX at 19 7/8 would be a ''double-downtick'' if the last execution price on the primary market is $20.

[17] When orders are automatically sent to the manual-ex window for one of these reasons, a message is sent to the customer stating that the customer is guaranteed to receive a certain price or better.

[18] The P/COAST system accepts all orders for 10,099 shares or less. The system also provides automatic executions of all market orders for 1,099 shares or less, although order flow providers may set higher parameters for the automatic execution of market orders they send. All non-marketable limit orders, including those over the size designated by an order flow provider, are routed to the CLOB upon time-down or acceptance by the specialist. If an incoming market or marketable limit order exceeds the automatic execution parameter set by an order flow provider, the order will be routed automatically, upon time-down or acceptance, to the specialist's manual-ex window.

the NBBO, into the manual-ex window, rather than placing it into the CLOB. The specialist may do this when conducting price discovery. If the price of a stock is changing rapidly during a busy market, it may be unclear at the time the order is entered what the true market really is. A specialist may not want to execute the order until those conditions have changed, so that the specialist can determine the best price. A specialist may manually change the PCX quote to reflect the limit order. Alternatively, in the course of conducting price discovery, the specialist may lay off a limit order of equal size onto the primary market, in which case the initial limit order would not be reflected in the Exchange''s disseminated quote, but should be reflected in the quote on the primary market.

Exchange rules currently do not require that orders in the manual-ex window to executed within a set period of time. In fact, certain types of orders cannot be placed in the book and, unless executed, will remain in the manual-ex window throughout the trading day. However, the Exchange evaluates specialists on their ''turnaround time'' and the amount of time during which they ''hold orders without action.'' [19] Specialists are subject to remedial action by the Equity Allocation Committee if they have substandard scores on their quarterly performance evaluations.[20]

To assure that orders do not remain in the manual-ex window for undue periods of time, the Exchange is proposing to adopt new Rule 5.25(g)(1) stating that an order may remain in the manual-ex window for a maximum of two minutes, unless:

(a) The order is designated: (i) market-on-close; (ii) all-or-one; (iii) a ''tick sensitive'' order (including buy minus, sell plus, sell short, or sell short exempt); (iv) stop; or (v) stop limit;

(b) Execution of the order would result in a double-uptick (or double-downtick) or would result in a new high (or new low) price for the day;

(c) The specialist stops the order;[21] or

(d) There are extraordinary market conditions or systems problems.

If an order remains in the manual-ex window for more than two minutes, Exchange staff will be altered and will follow up with the specialist. If there is no immediate resolution, Surveillance staff will follow up with the specialist. In any event, a specialist who violates the two minute limit will first be warned and subsequently fined.[22] An order may not remain in a specialist's manual-ex window after the close of a trading day under any circumstances. At the close of trading, the P/COAST system notifies the PCX customer service staff of any orders that are remaining in any specialists' manual-ex windows, and the staff will then notify the specialist so that appropriate action can be taken. If there is a rare circumstance in which an order remains in a specialist's manual-ex window after such notification, due to oversight or error, P/COAST will purge the order from the manual-ex window (but will retain a record of it within the system).

d. *Contra-Specialist Interaction with Orders.* 1. *Incoming Market and Marketable Limit Orders.* If an incoming market or marketable limit order arrives on a specialist's auto-ex window at a time when the contra specialist is representing an order in the CLOB with priority, the contra specialist will receive a ''shadow'' notification of the entry of the new order on the contra specialist's window. Although the P/COAST system does not permit the contra specialist to interact directly with the new order, the ''shadow'' message will serve to notify the contra specialist of the potential execution against the order with priority that he or she is representing. The shadow message will disappear from the specialists' auto-ex window after either a 15-second timedown occurs or the specialist interacts to delete the message. If an order is taken into the manual-ex window, no shadow message is generated.[23] However, if the receiving specialist executes the order out of time priority sequence, both the contra specialist and the Exchange's Surveillance Department will be notified of the priority violation.

2. *View of CLOB.* The CLOB's Limit Order Display Widow allows specialists to view summaries of limit orders residing in the CLOB. Currently, a specialist can view limit orders that the contra specialist represents only to the extent they are priced at or better than the primary market. The PCX intends to effect a systems change [24] to allow all specialists in an issue to view summaries of all orders in the CLOB via the Limit Order Display Window.

3. *Executing Orders in CLOB.* The CLOB does not currently permit a specialist unilaterally to execute an order being represented by a contra specialist. If a specialist seeks to execute an order represented by the contra specialist, the specialist must contact the contra specialist (generally by telephone) and vocalize a bid or offer. The contra specialist may then execute one or more orders on the other specialist's behalf by typing in that specialist's acronym and pressing the ''execute'' key. The Exchange's ''firm quote'' rule would require the contra specialist to effect an execution for the other specialist's account upon that other specialist's request.[25]

The Exchange intends to modify P/COAST to allow a specialist to have direct electronic access to orders represented by a contra specialist. The change will allow the specialist to send an electronic order to the contra specialist that may execute against any order being represented by the contra specialist. Once an order is sent, the contra specialist will be notified electronically. The order that has been sent will be executed after a 15-second time-down, unless the contra order has already been executed. If the order that has been sent is not executed, it will expire after the 15-second time-down

[19] *See* PCX Rule 5.37(a).

[20] *See* PCX Rule 5.37(g).

[21] The term ''stop'' refers to the practice in which a specialist guarantees that an order will receive a specific price or better. At a minimum, the order must receive a price equal to the NBBO at the time the specialist received the order for execution; however, the specialist may also provide an improved price. If an order has been stopped, the customer must always receive the better of: (a) the current NBBO or (b) the stop price. At the PCX when a specialist stops an order, a message is automatically sent to the customer stating that the customer is guaranteed to receive a specific price (*i.e.,* the stopped price) or better. In addition, at the PCX, if an order has been stopped, it must be executed by the end of the trading day.

[22] Specifically, the Exchange is proposing to modify its Minor Rule Plan to add new Rule 10.13(i)(13) to the list of rules eligible for adjudication pursuant to PCX Rule 10.13. The violation will be codified as: ''Specialist kept an order in the Manual-Ex Window of P/COAST for more than two minutes (and there is no applicable exemption to this requirement under Rule 5.25(g)(1)).'' The Exchange is also proposing to modify its Recommended Fine Schedule to add the following sanctions for violations of this provision: For the first five violations, official warnings will be issued; for the sixth through tenth violations, a fine of $50 (per violation); and for eleven or more violations, a $100 fine (per violation). Fines for multiple violations will be calculated on a running one-year basis.

[23] Modifying P/COAST to allow the contra specialist to view orders whenever they are in the receiving specialist's manual-ex window would not be practical due to technology constraints. Specifically, there is a difficulty in maintaining synchronization between the shadow message and the original order due to executions, cancellations and modifications to the order that may occur while it is in the manual-ex window. Accordingly, as an alternative to such a modification of P/COAST, the Exchange intends to place a limit on the amount of time certain orders may remain in the manual-ex window, as discussed above.

[24] The Exchange intends to implement all of the system changes referred to in this filing within one year from the date that the Commission approves this filing.

[25] *See* PCX Rule 5.8(c).

and the specialist who entered the order will be notified electronically.

e. *Out of Priority Executions.* The P/COAST system has been designed to prevent orders from being executed out of time priority sequence, or in cases where they are not electronically prevented, to report the violation to the contra specialist and the Exchange's Surveillance Department. Specifically, if either specialist elects manually to execute a limit order out of priority sequence, the Exchange's Surveillance Department will receive a report of the time or price priority violations. The contra specialist will also receive a report of the violation, if the contra specialist is representing a limit order that had priority over an executed limit order.

The CLOB currently has a ''global execution'' feature that allows a specialist to execute multiple orders simultaneously, including all orders at a specific price that the specialist is representing. However, the Exchange intends to modify its existing ''global execution'' feature so that its use will not result in multiple executions that are out of priority sequence. The P/COAST system also currently has a function (the ''Control Execute E'' function) that allows a specialist to execute a manual order ahead of an order in the CLOB that does not have priority. It was designed, initially, to provide specialists with greater flexibility to execute orders when there are system problems and errors to be resolved. The Exchange surveils all use of the function to detect any priority rule violations. The Exchange now believes that the function is superfluous and intends to disable it.

With the change to the Global Execution function and the elimination of the Control-E function, specialists will be unable to execute individual orders in the CLOB out of priority sequence, and will be unable to execute orders for their own accounts ahead of orders in the CLOB. If there is a limit order in the CLOB with priority, the modified system will not allow another order in P/COAST to be executed ahead of it.

In rare circumstances, some orders in the P/COAST system can be executed out of priority sequence, but only if there are no orders with priority in the CLOB. If multiple orders are being represented by one or more specialists in the auto-ex or manual-ex windows, they may not be executed in the same sequence in which they were received, although they will generally be executed within seconds of one another.

The Exchange notes that whenever orders in P/COAST are executed out of priority sequence, a surveillance report will be generated (although this may depend on certain time parameters). Moreover, to prevent such out-of-priority executions from occurring in the first place, the Exchange is proposing to modify P/COAST to provide a shadow message to a specialist whenever an order is taken into a contra specialist's manual-ex window. Currently, the contra specialist receives a shadow notification when the other specialist receives an order in his or her auto-ex window that could execute against a limit order with priority in the CLOB that the contra specialist is representing.

Moreover, the Exchange believes that specialists currently have little or no incentive to use their manual-ex windows to hide orders from their contra specialists, and that there are financial incentives for not doing so. For example, assume the NBBO is 19⅞–20⅛. If Specialist A is representing a limit order to buy stock at $20 but does not quote it and places it in the manual-ex window, and if Specialist B, in the meantime, executes a sell order in the same stock at 19⅞. Specialist A will be obligated to execute the buy limit order and can only cover the position at a worse price.[26]

f. *Impact of OptiMark.* In January 1999, the Exchange implemented the PCX Application of the OptiMark System.[27] Orders in the CLOB may be placed in the OptiMark System for a potential match against an OptiMark profile. If an order in the CLOB matches against an OptiMark profile, then the Exchange anticipates that in most instances, the response will occur in less than 3 seconds. The system has been designed so that in no event will an order be delayed for more than 12 seconds.

g. *Emergency Deactivation of CLOB.* The CLOB has been designed to allow Floor Operations staff to deactivate the combined book functionality for the entire Exchange. This feature is intended to be a systems safeguard. The Exchange does not anticipate deactivating the CLOB in the absence of highly unusual circumstances such as a disaster or other situation where the Exchange's mainframe computers go out of synchronization.

H. *Rule Text Changes.* The Exchange is proposing to modify the text of the rules on equities trading in several respects so that they will be consistent with the operation of the CLOB. First, the proposal would codify new PCX Rule 5.25(g), entitled ''Consolidated Limit Order Book,'' which provides that incoming Equity orders entered into the Exchange's P/COAST trading system will be maintained in and executed through the CLOB, that incoming market and marketable limit orders are immediately executed against orders in the CLOB based on price and time priority once they have been displayed for possible price improvement, and that incoming orders other than market and marketable limit orders will be maintained in the CLOB, but represented by a particular PCX specialist.

Second, the Exchange is proposing to change several rules by adding references to the CLOB in place of references to individual specialist's books.[28] For example, while Rule 5.33(b) currently refers to placing orders in a specialist's book, the Exchange is proposing to change it so that it refers to placing orders in the CLOB.

Third, the Exchange is proposing to eliminate certain references in the rules to ''Floors'' to make those rules consistent with the operation of the CLOB.[29] For example, in Rule 5.8(a) the Exchange is replacing the phrase ''where a security is traded on both floors'' with the phrase ''where a security is traded by more than one specialist.'' Likewise, the phrase ''regardless of the floor'' in Rule 5.8(c) would be eliminated as superfluous. These changes are being proposed to clarify that the location of orders will be

[26] The Exchange acknowledges that the Commission's ''Display rule,'' 17 CFR 240.11Ac1–4, requires PCX specialists to ''publish immediately'' certain bids and offers as specified in subsection (b)(1)(i)–(ii) of that Rule.

[27] *See generally* Securities Exchange Act Release No. 39086 (September 17, 1997), 62 FR 50036 (September 24, 1997); *see also* Securities Exchange Act Release No. 40551 (October 14, 1998), 63 FR 56282 (October 21, 1998) (order approving PCX rule requiring PCX specialists to ensure that their best bids and offers will be represented in the OptiMark System).

[28] These include amendments to PCX Rule 5.8(a) (priority rules applicable to orders received from the other floor for entering in the specialist's book and order handing procedure for situations where a security is traded on both floors); Rule 5.8(c) (general rule on priority of bids and offers); Rule 5.29(d) (rule on disclosure of information respecting orders in a specialist's custody); Rule 5.31(b)(1) (procedures to follow when a specialist suspends trading of a security); Rule 5.32(b)(1) (procedure for when a specialist has on order in the book and guarantees the primary market price on a partial of a multiple order); Rule 5.33(b) (prohibition of specialists' placing orders in the book for accounts in which they or their firms are interested); Rule 5.33(g) (condition under which specialists may stop stock for their own accounts); and Rule 5.33(h) (prohibition on specialist making a transaction for its own account that puts into effect a stop order in the book).

[29] These include amendments to Rule 5.8(a); Rule 5.8(c); Rule 5.29(d); Rule 5.30(b) (specialist's duty to coordinate markets); Rule 5.31(b)(1)–(2); and Rule 5.32(b)(3) (confirmation price when a specialist guarantees Primary Market Protection on a portion of multiple orders).

in the CLOB rather than on a particular floor.

Fourth, the Exchange is proposing to eliminate Rule 5.30(c), which provides that whenever a specialist's market or the market on his respective floor equals or betters a competitive market, that specialist will immediately inform the specialist on the other floor, if technically possible. PCX believes that this rule is unnecessary because the CLOB allows specialists to view orders being represented by the contra specialist.

Fifth, the Exchange is proposing to replace the text of Rule 5.30(d), which currently requires a specialist to notify the specialist on the floor it has received an order so that the receiving specialist's order can have standing on the other specialist's floor.[30] As modified, proposed Rule 5.30(d)(1) would provide that specialists holding ''manual orders''—meaning orders provided to the specialist by a floor broker—must notify other specialists trading the same security to obtain standing with the other specialists. Proposed Rule 5.30(d)(2) would provide that a specialist may not execute orders at or through (inferior to) the limit price of orders in the CLOB or other limit orders in P/COAST that another specialist is representing (*i.e.*, orders in the other specialist's manual-ex window or auto-ex window), without those limit orders first being filled. Proposed Rule 5.30(d)(3) would provide that if a specialist representing manual orders or orders in P/COAST fails to notify the contra specialist of such orders, and the contra specialist executes a transaction at or through the limit price of those orders, the specialist who failed to notify the contra specialist will be required to execute those orders. A specialist will be deemed to have notified the contra specialist of orders in P/COAST if they are being represented in the CLOB.

Sixth, the Exchange is proposing to eliminate Rule 5.33(c), which provides that no specialist on one floor may place orders for any account in which he or his firm or any participant therein is directly or indirectly interested in the book of the specialist on the other floor in any security in which he is registered as specialist. The Exchange believes that this rule is overly broad and inconsistent with the Exchange's proposal, discussed above, to permit specialists to send orders that would execute against orders being represented by the contra specialists after a 15-second time-down. The Exchange also believes that this rule is unnecessary because PCX Rule 4.5 prohibits specialists from placing orders in the book ahead of customer orders.

Finally, the Exchange is proposing to eliminate Rule 5.33(g), which provides that a specialist may stop stock in his own book for his own account only when he is making the highest bid or the lowest offer and if the difference between the bid and offer is more than one applicable trading differential, in which case he may stop stock for his own account in his own book up to 50 percent of the number of shares bid for or offered in his book. The Exchange believes that this rule is both inconsistent with the operation of the CLOB and currently serves on legitimate purpose.

(2) Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,[31] in general, and furthers the objectives of Section 6(b)(5),[32] in particular, in that it is designed to perfect the mechanisms of a free and open market, to promote just and equitable principles of trade, to facilitate transactions in securities, and in general, to protect investors and the public interest. Specifically, the proposal is intended to promote just and equitable principles of trade by facilitating the execution of customer orders promptly and in order of priority. The proposal will facilitate transactions in securities by automating the trading process for specialists, in general, and by eliminating the need for PCX specialists to manually match incoming orders against limit orders with priority that are represented by another specialist. The proposal will protect investors and the public interest by ensuring that their orders will be processed efficiently, in accordance with Exchange rules, and in accordance with the needs and expectations of PCX customers. Finally, the proposal will ensure that PCX members will be appropriately disciplined for violations of PCX rules, as required by Section 6(b)(6) of the Act.[33]

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments on the proposed rule change were neither solicited nor received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 self-regulatory organization 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 is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–99–06 and should be submitted by June 25, 1999.

[30] As currently written, the rule also provides that if the specialist on one floor fails to notify the specialist on the other floor of orders in his book and if transactions take place on the other floor at or through the limit price of such orders, the specialist failing to notify the specialist on the other floor will be responsible for an execution of the orders in his book.

[31] 15 U.S.C. 78f(b).

[32] 15 U.S.C. 78f(b)(5).

[33] 15 U.S.C. 78f(b)(6).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[34]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 99–10671 Filed 4–27–99; 8:45 am]

BILLING CODE 8010–01–M

[34] 17 CFR 200.30–3(a)(12).

## SMALL BUSINESS ADMINISTRATION

### Reporting and Recordkeeping Requirements Under OMB Review

**AGENCY:** Small Business Administration.

**ACTION:** Notice of reporting requirements submitted for OMB review.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

**DATES:** Submit comments on or before May 28, 1999. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

**COPIES:** Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

**ADDRESSES:** Address all comments concerning this notice to: *Agency Clearance Officer,* Jacqueline White, Small Business Administration, 409 3rd Street, SW, 5th Floor, Washington, DC 20416; and *OMB Reviewer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Jacqueline White, Agency Clearance Officer, (202) 205–6629.

**SUPPLEMENTARY INFORMATION:**

*Title:* Disaster Home Loan.

*Form No's:* 5C and 739.

*Frequency:* On Occasion.

*Description of Respondents:* Applicants requesting Disaster Home Loans.

*Annual Responses:* 56,418.

*Annual Burden:* 89,140.

Dated: April 14, 1999.

**Jacqueline White,**

*Chief, Administrative Information Branch.*

[FR Doc. 99–10613 Filed 4–27–99; 8:45 am]

BILLING CODE 8025–01–P

## SMALL BUSINESS ADMINISTRATION

### Reporting and Recordkeeping Requirements Under OMB Review

**AGENCY:** Small Business Administration.

**ACTION:** Notice of reporting requirements submitted for OMB review.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

**DATES:** Submit comments on or before May 28, 1999. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

**COPIES:** Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

**ADDRESSES:** Address all comments concerning this notice to: *Agency Clearance Officer,* Jacqueline White, Small Business Administration, 409 3rd Street, SW, 5th Floor, Washington, DC 20416; and *OMB Reviewer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Jacqueline White, Agency Clearance Officer, (202) 205–6629.

**SUPPLEMENTARY INFORMATION:**

*Title:* One Stop Capital Shop Customer Satisfaction Comment Card.

*Form No's:* N/A.

*Frequency:* On Occasion.

*Description of Respondents:* SBA Participants.

*Annual Responses:* 1,500.

*Annual Burden:* 4,367.

Dated: April 14, 1999.

**Jacqueline White,**

*Chief, Administrative Information Branch.*

[FR Doc. 99–10614 Filed 4–27–99; 8:45 am]

BILLING CODE 8025–01–P

## SMALL BUSINESS ADMINISTRATION

**[License No. 01/71–0369]**

### RFE VI SBIC, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that RFE VI SBIC, L.P. (''RFE VI SBIC''), 36 Grove Street, New Canaan, CT 06840, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the proposed financing of a small concern is seeking an exemption under section 312 of the Act and section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') Rules and Regulations (13 CFR 107.730 (1998)). An exemption may not be granted by SBA until Notices of this transaction have been published. RFE VI SBIC proposes to provide equity financing to Advanced Technology Services, Inc. (''ATS''), 8201 N. University, Peoria, IL, 61615. The financing is contemplated to fund the redemption of shareholders' (which are not Associates of RFE VI SBIC) interests and to provide a capital base for continued growth. There is no contemplated change in the ATS senior management team as a result of this transaction.

The financing is brought within the purview of section 107.730 (a) (1) of the Regulations because RFE Investment Partners V, L.P., an Associate of RFE VI SBIC, owns greater than 10 percent of ATS and therefore ATS is considered an Associate of RFE VI SBIC as defined in section 107.50 of the Regulations.

Notice is hereby given that any interested person may, not later than fifteen (15) days from the date of publication of this Notice, submit written comments on the proposed transaction to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW, Washington, DC 20416.

A copy of this Notice shall be published, in accordance with section 107.730 (g), in the Peoria Journal Star, in Peoria, Illinois by RFE VI SBIC.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies)

Dated: April 15, 1999.

**Don A. Christensen,**

*Associate Administrator for Investment.*

[FR Doc. 99–10612 Filed 4–27–99; 8:45 am]

BILLING CODE 8025–01–P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–99–5461; Notice 1]**

### General Motors Corporation; Application for Determination of Inconsequential Noncompliance With Federal Motor Vehicle Safety Standard 108—Lamps, Reflective Devices and Associated Equipment

General Motors Corporation (GM) determined that some of the GM 1997 EV1 electric passenger cars fail to meet the turn signal requirements found in Federal Motor Vehicle Safety Standard (FMVSS) No. 108—Lamps, Reflective Devices and Associated Equipment. In accordance with 49 CFR 556.4(b)(6), GM submitted a 49 CFR Part 573.5 noncompliance notification to the agency. Pursuant to 49 U. S. C., sections 30118 and 30120, GM petitioned the National Highway Traffic Safety Administration (NHTSA) for a decision that the noncompliance is inconsequential to motor vehicle safety.

GM states that the EV1 is equipped with an electronic turn signal module that controls turn signal operation. A subset of the module population can be affected by random inputs that cause the internal timing of the electronic circuit to become un-synchronized. If this occurs, it can cause the left turn signal circuit on affected vehicles to operate improperly and not in compliance with FMVSS No. 108. The left front turn signal lamp may flash at a rapid rate while the left rear turn signal lamp illuminates but does not flash. These conditions can continue after the turn signal lever automatically returns to the off position, but stop if the driver manually cancels the turn signal or turns the car off. The right turn signal is not affected.

GM believes that this noncompliance is inconsequential to motor vehicle safety for these reasons:

- The potential for this condition is confined to a very small population of vehicles, 558.
- The condition is not found on every vehicle. Only a subset of vehicles are affected, based on the build variation of the turn signal module.
- GM knows of only eight customers who have reported the condition. The turn signal module in these vehicles has been replaced.
- While it has not been able to determine the exact percentage of affected vehicles (the anomaly is not readily repeatable in the laboratory, and the small production run has severely limited the number of parts available for testing), the likelihood of experiencing the condition is extremely rare. The worst case part, found in laboratory testing, exhibited the anomaly 16 times in 40,000 cycles (0.0004 times per cycle). Other tested parts did not exhibit the condition as often, or at all.
- The left turn signal does not fail completely. An oncoming driver would see the front turn signal flashing at a rapid rate. A following driver would see the left turn signal lamp on, although it would not be flashing. Both of these results are similar to a vehicle that has a burned out turn signal lamp.
- Like a vehicle with a burned out lamp, a driver experiencing this condition is alerted that the turn signal system is not functioning properly because the turn signal indicator light does not flash.
- A turn signal with this condition does not self-cancel, but it can easily be canceled manually.
- GM knows of no accidents or injuries associated with this condition.

Interested persons are invited to submit written data, views, and arguments on the application described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401 Seventh Street, SW, Washington, DC 20590. It is requested but not required that two copies be submitted. Docket hours are 10:00 a.m. to 5:00 p.m.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extend possible. When the application is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: May 28, 1999.

(49 U.S.C. 30118 and 30120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: April 21, 1999.

**L. Robert Shelton,**

*Associate Administrator for Safety Performance Standards.*

[FR Doc. 99–10495 Filed 4–26–99; 8:45 am]

BILLING CODE 4910–59–P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Finance Docket No. 33737]**

### Rio Grande Pacific Corporation—Continuance in Control Exemption—New Orleans & Gulf Coast Railway Company

Rio Grande Pacific Corporation (Rio Grande), a noncarrier, has filed a verified notice of exemption to continue in control of New Orleans & Gulf Coast Railway Company (NOGC), upon its becoming a Class III rail carrier.

The transaction was scheduled to be consummated on or shortly after April 15, 1999.

This transaction is related to STB Finance Docket No. 33736, *New Orleans & Gulf Coast Railway Company—Acquisition Exemption—New Orleans Lower Coast Railroad Company, Inc.*, wherein NOGC seeks to acquire rail lines from New Orleans Lower Coast Railroad Company, Inc. (NOLR).

In addition to NOGC,[1] Rio Grande controls three Class III rail carriers. These carriers are Idaho Northern & Pacific Railroad Company, operating in the states of Idaho and Oregon, Nebraska Central Railroad Company, operating in the state of Nebraska, and Wichita, Tillman & Jackson Railway Company, Inc., operating in the states of Texas and Oklahoma.

Rio Grande states that: (i) the rail lines operated by NOGC do not connect with any railroad in the corporate family; (ii) the transaction is not part of a series of anticipated transactions that would connect NOGC's lines with any railroad in the corporate family; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the notice contains false or misleading information, the exemption

[1] NOGC is a noncarrier corporation formed for the purpose of acquiring 23.688 miles of rail line from NOLR. NOGC will be the exclusive operator of the line.

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. 33737, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Karl Morrell, Esq., Ball Janik LLP, 1455 F Street, NW, Suite 225, Washington, DC 20005.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: April 20, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 99–10417 Filed 4–27–99; 8:45 am]

BILLING CODE 4915–00–P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Finance Docket No. 33736]**

### New Orleans & Gulf Coast Railway Company—Acquisition Exemption—New Orleans Lower Coast Railroad Company, Inc.

New Orleans & Gulf Coast Railway Company (NOGC),[1] a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from New Orleans Lower Coast Railroad Company, Inc. (NOLR), 23.688-miles of rail line currently owned and operated by NOLR, between milepost 0.312 at Gouldsboro Yard, LA, and milepost 24.0 at Myrtle Grove, LA.[2]

The transaction was scheduled to be consummated on or shortly after April 15, 1999.

This transaction is related to STB Finance Docket No. 33737, *Rio Grande Pacific Corporation—Continuance in Control Exemption—New Orleans & Gulf Coast Railway Company,* wherein Rio Grande Pacific Corporation will continue in control of NOGC, upon its becoming a Class III rail carrier.

If the notice 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 does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33736, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Karl Morrell, Esq., Ball Janik LLP, 1455 F Street, NW, Suite 225, Washington, DC 20005.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: April 20, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 99–10416 Filed 4–27–99; 8:45 am]

BILLING CODE 4915–00–P

[1] NOGC will be the exclusive operator of the rail line.

[2] NOGC states that its projected revenues will not exceed those that would qualify it as a Class III rail carrier and its revenues are not projected to exceed $5 million.

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0027]**

### Agency Information Collection Activities Under OMB Review

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before May 28, 1999.

**FOR FURTHER INFORMATION CONTACT:** Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0027.''

**SUPPLEMENTARY INFORMATION:**

*Title:* Application for Accrued Benefits by Veteran's Surviving Spouse, Child, or Dependent Parent, VA Form 21–551.

*OMB Control Number:* 2900–0027.

*Type of Review:* Reinstatement, without change, for a previously approved collection for which approval has expired.

*Abstract:* The form is used to apply for accrued benefits withheld during a veteran's hospitalization or domiciliary care. The information is used by VBA to determine a claimant's entitlement to such benefits.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on December 23, 1998 at page 71189.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 33 hours.

*Estimated Average Burden Per Respondent:* 20 minutes.

*Frequency of Response:* One time for most beneficiaries.

*Estimated Number of Respondents:* 100.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0027'' in any correspondence.

Dated: April 9, 1999.

By direction of the Secretary.

**Donald L. Neilson,**

*Director, Information Management Service.*

[FR Doc. 99–10592 Filed 4–27–99; 8:45 am]

BILLING CODE 8320–01–P

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0052]**

### Agency Information Collection Activities Under OMB Review

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the

nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before May 28, 1999.

**FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT:** Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0052.''

**SUPPLEMENTARY INFORMATION:**

*Title:* Report of Medical Examination for Disability Evaluation, VA Form 21–2545.

*OMB Control Number:* 2900–0052.

*Type of Review:* Reinstatement, without change, of a previously approved collection for which approval has expired.

*Abstract:* The data collected is from a claimant prior to undergoing a VA examination and also findings of the examining physician.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on December 23, 1998 at page 71192.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 45,000 hours.

*Estimated Average Burden Per Respondent:* 15 minutes.

*Frequency of Response:* Generally one time.

*Estimated Number of Respondents:* 180,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0052'' in any correspondence.

Dated: April 9, 1999.

By direction of the Secretary.

**Donald L. Neilson,**

*Director, Information Management Service.*

[FR Doc. 99–10593 Filed 4–27–99; 8:45 am]

BILLING CODE 8320–01–P

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0057]**

## Agency Information Collection Activities Under OMB Review

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before May 28, 1999.

**FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT:** Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0057.''

**SUPPLEMENTARY INFORMATION:**

*Title:* School Attendance Report, VA Form 21–674b.

*OMB Control Number:* 2900–0057.

*Type of Review:* Reinstatement, without change, for a previously approved collection for which approval has expired.

*Abstract:* The form is used to confirm the school attendance of a child for whom VA compensation or pension benefits are being received. The information is used by VBA to determine continued entitlement to benefits.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on December 23, 1998 at pages 71192–71193.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 3,292 hours.

*Estimated Average Burden Per Respondent:* 5 minutes.

*Frequency of Response:* One time for most beneficiaries.

*Estimated Number of Respondents:* 39,500.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0057'' in any correspondence.

Dated: April 9, 1999.

By direction of the Secretary.

**Donald L. Neilson,**

*Director, Information Management Service.*

[FR Doc. 99–10594 Filed 4–27–99; 8:45 am]

BILLING CODE 8320–01–P

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0075]**

## Agency Information Collection Activities Under OMB Review

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

**DATE:** Comments must be submitted on or before May 28, 1999.

**FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT:** Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0075.''

**SUPPLEMENTARY INFORMATION:**

*Title:* Statement in Support of Claim, VA Form 21–4138.

*OMB Control Number:* 2900–0075.

*Type of Review:* Reinstatement, without change, of a previously approved collection for which approval has expired.

*Abstract:* The data collected is used by claimants to provide self-certified statements in support of various types of claims processed by the agency.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on December 23, 1998 at page 71193.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 188,000 hours.

*Estimated Average Burden Per Respondent:* 15 minutes.

*Frequency of Response:* Generally one time.

*Estimated Number of Respondents:* 752,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0075'' in any correspondence.

Dated: April 20, 1999.

By direction of the Secretary.

**Donald L. Neilson,**

*Director, Information Management Service.*

[FR Doc. 99–10596 Filed 4–27–99; 8:45 am]

BILLING CODE 8320–01–P

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0115]**

## Agency Information Collection Activities Under OMB Review

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

**DATE:** Comments must be submitted on or before May 28, 1999.

**FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT:** Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0115.''

**SUPPLEMENTARY INFORMATION:**

*Title:* Supporting Statement Regarding Marriage, VA Form 21–4171.

*OMB Control Number:* 2900–0115.

*Type of Review:* Reinstatement, without change, of a previously approved collection for which approval has expired.

*Abstract:* The data collected is used to determine if a marital relationship has been established and benefits are payable based on a claim of common law marriage.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on December 23, 1998 at pages 71193–71194.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 800 hours.

*Estimated Average Burden Per Respondent:* 20 minutes.

*Frequency of Response:* Generally one time.

*Estimated Number of Respondents:* 2,400.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0115'' in any correspondence.

Dated: April 9, 1999.

By direction of the Secretary.

**Donald L. Neilson,**

*Director, Information Management Service.*

[FR Doc. 99–10597 Filed 4–27–99; 8:45 am]

BILLING CODE 8320–01–P

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0324]**

## Agency Information Collection Activities Under OMB Review

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before May 28, 1999.

**FOR FURTHER INFORMATION CONTACT:** Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0324.''

**SUPPLEMENTARY INFORMATION:**

*Title:* Supplemental Physical Examination Report.

*Form Numbers:*

a. Supplemental Physical Examination Report (Gall Bladder or Gastrointestinal), VA Form 29–8137.

b. Supplemental Physical Examination Report (Neurological—Psychological), VA Form 29–8142.

c. Supplemental Physical Examination Report, VA Form 29–8146.

d. Supplemental Physical Examination Report (Three Day Urinalyses Series), VA Form 29–8148.

e. Supplemental Physical Examination Report (Tumor or Cyst), VA Form 29–8152.

f. Supplemental Physical Examination Report (Arthritis or Rheumatism), VA Form 29–8155.

g. Attending Physician's Statement, VA Form 29–8158.

h. Supplemental Physical Examination Report (Diabetes—Physicians Report), VA Form 29–8160.

*OMB Control Number:* 2900–0324.

*Type of Review:* Reinstatement, without change, of a previously approved collection for which approval has expired.

*Abstract:* The forms are used by VBA to obtain complete information as to the physical and/or mental condition of a veteran who has submitted an application for Government Life Insurance or reinstatement of eligibility. The information is used to process the insured's request.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on December 23, 1998 at pages 71189–71190.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 1,080 hours.

*Estimated Average Burden Per Respondent:* 45 minutes.

*Frequency of Response:* Generally one time.

*Estimated Number of Respondents:* 1,440.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0324'' in any correspondence.

Dated: April 9, 1999.

By direction of the Secretary.

**Donald L. Neilson,**

*Director, Information Management Service.*

[FR Doc. 99–10598 Filed 4–27–99; 8:45 am]

BILLING CODE 8320–01–P

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0383]**

## Agency Information Collection Activities Under OMB Review

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

**DATE:** Comments must be submitted on or before May 28, 1999.

**FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT:** Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0383.''

**SUPPLEMENTARY INFORMATION:**

*Title:* Application for Educational Assistance Test Program Benefits, VA Form 22–8889.

*OMB Control Number:* 2900–0383.

*Type of Review:* Extension of a currently approved collection.

*Abstract:* The data collected is used to determine eligibility for and entitlement to Educational Assistance Test Program benefits.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on January 29, 1999 at page 4747.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 100 hours.

*Estimated Average Burden Per Respondent:* 30 minutes.

*Frequency of Response:* Generally one time.

*Estimated Number of Respondents:* 200.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0383'' in any correspondence.

Dated: April 9, 1999.

By direction of the Secretary.

**Donald L. Neilson,**

*Director, Information Management Service.*

[FR Doc. 99–10599 Filed 4–27–99; 8:45 am]

BILLING CODE 8320–01–P

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0501]**

## Agency Information Collection Activities Under OMB Review

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

**DATE:** Comments must be submitted on or before May 28, 1999.

**FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT:** Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0501.''

**SUPPLEMENTARY INFORMATION:**

*Title and Form Number:* Veterans Mortgage Life Insurance Inquiry, VA Form 29–0543.

*OMB Control Number:* 2900–0501.

*Type of Review:* Reinstatement, without change, of a previously approved collection for which approval has expired.

*Abstract:* The information collected from the veteran is used by VBA in the maintenance of Veterans Mortgage Life Insurance accounts.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on December 18, 1998 at pages 70183–70184.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 45 hours.

*Estimated Average Burden Per Respondent:* 5 minutes.

*Frequency of Response:* Generally one time.

*Estimated Number of Respondents:* 540.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0501'' in any correspondence.

Dated: April 9, 1999.

By direction of the Secretary.

**Donald L. Neilson,**

*Director, Information Management Service.*

[FR Doc. 99–10600 Filed 4–27–99; 8:45 am]

BILLING CODE 8320–01–P

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0503]**

## Agency Information Collection Activities Under OMB Review

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before May 28, 1999.

**FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT:** Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0503.''

**SUPPLEMENTARY INFORMATION:**

*Title and Form Numbers:* Veterans Mortgage Life Insurance Change of Address Statement, VA Form 29–0563.

*OMB Control Number:* 2900–0503.

*Type of Review:* Reinstatement, without change, of a previously approved collection for which approval has expired.

*Abstract:* The form is used to inquire about a veteran's continued ownership of the property issued under Veterans Mortgage Life Insurance when an address change for the veteran is received. The information collected is used in determining whether continued Veterans Mortgage Life Insurance coverage is applicable since the law granting this insurance provides that coverage terminate if the veteran no longer owns the property.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on December 18, 1998 at page 70184.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 20 hours.

*Estimated Average Burden Per Respondent:* 5 minutes.

*Frequency of Response:* Generally one time.

*Estimated Number of Respondents:* 240.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0503'' in any correspondence.

Dated: April 9, 1999.

By direction of the Secretary.

**Donald L. Neilson,**

*Director, Information Management Service.*

[FR Doc. 99–10601 Filed 4–27–99; 8:45 am]

BILLING CODE 8320–01–P

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## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0545]**

## Agency Information Collection Activities Under OMB Review

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before May 28, 1999.

**FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT:** Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0545.''

**SUPPLEMENTARY INFORMATION:**

*Title:* Report of Medical, Legal, and Other Expenses Incident to Recovery for Injury or Death, VA Form 21–8416b.

*OMB Control Number:* 2900–0545.

*Type of Review:* Reinstatement, without change, of a previously approved collection for which approval has expired.

*Abstract:* The data collected is used to report expenses incident to recovery of benefits for injury or death.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on December 23, 1998 at page 711935.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 7,500 hours.

*Estimated Average Burden Per Respondent:* 45 minutes.

*Frequency of Response:* Generally one time.

*Estimated Number of Respondents:* 10,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0545'' in any correspondence.

Dated: April 9, 1999.

By direction of the Secretary.

**Donald L. Neilson,**

*Director, Information Management Service.*

[FR Doc. 99–10602 Filed 4–27–99; 8:45 am]

BILLING CODE 8320–01–P

# Corrections

Federal Register
Vol. 64, No. 81
Wednesday, April 28, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## Social Security Administration

## 20 CFR Parts 404 and 416

**[Regulations No. 4 and 6]**

**RIN 0960-AE98**

## Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Substantial Gainful Activity Amounts

*Correction*

In rule document 99–9427 beginning on page 18566 in the issue of Thursday, April 15, 1999, make the following correction(s):

**§ 404.1574 [Corrected]**

1.On page 18570, second column, § 404.1574 (b)(3), the heading in the second column of the table is corrected and the table is reprinted in its entirety:

| For months | Your monthly earnings averaged less than: |
|---|---|
| In calendar years before 1976 | $130 |
| In calendar year 1976 ..... | 150 |
| In calendar year 1977 ..... | 160 |
| In calendar year 1978 ..... | 170 |
| In calendar year 1979 ..... | 180 |
| In calendar years 1980–1989 | 190 |
| After December 1989 ..... | 300 |

**§ 416.974 [Corrected]**

1.On page 18570, third column, § 416.974 (b)(4), the heading in the second column of the table is corrected and the table is reprinted in its entirety:

| For months | Your average monthly earnings are not greater than: |
|---|---|
| In calendar years before 1976 | $200 |
| In calendar year 1976 ..... | 230 |
| In calendar year 1977 ..... | 240 |
| In calendar year 1978 ..... | 260 |
| In calendar year 1979 ..... | 280 |
| In calendar years 1980–1989 | 300 |
| In January 1990–June 1999 ... | 500 |
| After June 1999 ..... | 700 |

[FR Doc. C9–9427 Filed 4–27–99; 8:45 am]

BILLING CODE 1505–01–D

## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 63

**[IB Docket No. 98-118, FCC 99-51]**

## Biennial Review of International Common Carrier Regulations

*Correction*

In rule document 99–9480, beginning on page 19057, in the issue of Monday, April 19, 1999, make the following correction:

**§ 63.11 [Corrected]**

On page 19063, in the first column, in amendatory instruction 10., in the sixth line, after ''(c)(1)'' remove ''and'' and add '', newly redesignated (c)(4), and (d)''.

[FR Doc. C9–9480 Filed 4–27–99; 8:45 am]

BILLING CODE 1505–01–D

federal register

Wednesday
April 28, 1999

# Part II

# Department of the Treasury

## Fiscal Service

**31 CFR Part 285**

**Transfer of Debts to Treasury for Collection; Final Rule**

**DEPARTMENT OF THE TREASURY**

**Fiscal Service**

**31 CFR Part 285**

**RIN 1510–AA68**

## Transfer of Debts to Treasury for Collection

**AGENCY:** Financial Management Service, Fiscal Service, Treasury.

**ACTION:** Final rule; adoption of interim rule with changes.

**SUMMARY:** The Debt Collection Improvement Act of 1996 (DCIA) requires Federal agencies to transfer any nontax debt that is over 180 days delinquent to the Department of the Treasury for debt collection action. This is known as ''cross-servicing.'' On April 2, 1998, the Financial Management Service (FMS) published an interim rule, with request for comments, which established the procedures and criteria for transferring delinquent debt to the Department of the Treasury for cross-servicing, explained the statutory exceptions to this requirement, and established standards by which the Secretary of the Treasury will determine whether to grant exemptions. The interim rule also required that agencies refer debts to private collection contractors and to debt collection centers in accordance with procedures established by the FMS. This final rule adopts the interim rule, with changes, and addresses issues raised in the comments received in response to the interim rule. In addition, this rule includes a technical amendment to the final rule published on May 6, 1998 concerning administrative wage garnishment.

**EFFECTIVE DATE:** May 28, 1999.

**FOR FURTHER INFORMATION CONTACT:** Gerry Isenberg, Financial Program Specialist, at (202) 874–6859; or James J. Regan, Attorney-Advisor, at (202) 874–6680. A copy of this rule is being made available for downloading from the Financial Management Service web site at the following address: http://www.fms.treas.gov/debt.

**SUPPLEMENTARY INFORMATION:**

### Background

Section 31001(m)(1) of the Debt Collection Improvement Act of 1996 (DCIA), Pub. L. 104–134, 110 Stat. 1321–358 (1996), codified at 31 U.S.C. 3711(g), requires Federal agencies to transfer to the Secretary of the Treasury any nontax debt that has been delinquent for a period of 180 days, subject to certain exemptions. This centralized collection of government-wide debt is known as ''cross-servicing.'' Under the DCIA, the Secretary is authorized to prescribe regulations to carry out this requirement. Additionally, the DCIA authorizes the Secretary to designate other Federal agencies as debt collection centers, and to maintain a schedule of private collection contractors eligible for referral of debts owed to the United States.

On April 2, 1998, the Financial Management Service (FMS), a bureau of the Department of the Treasury responsible for promulgating the regulations governing this and other provisions of the DCIA, issued an interim rule, with a request for comments, governing the transfer of debts to Treasury for collection (63 FR 16354).

### Summary of Comments

FMS received comments from five (5) Federal agencies (executive departments). Following is a discussion of the substantive issues raised in the comments.

*Relationship Between Cross-Servicing and Administrative Offset*

Several of the commenters failed to differentiate between (1) the requirement that agencies *transfer* debts for general collection purposes (referred to as ''cross-servicing'') under this rule and (2) the requirement that agencies *notify* Treasury of delinquent debts for the limited purpose of administrative offset.

The DCIA includes separate provisions governing the requirements that agencies (1) transfer delinquent debts to Treasury for general collection purposes (cross-servicing) in accordance with 31 U.S.C. 3711(g)(1), and (2) notify Treasury of delinquent debts for the purpose of administrative offset in accordance with 31 U.S.C. 3716(c)(6). Section 3711(g)(1) requires an agency to transfer to Treasury all collection activity for a given debt. Under section 3711(g), Treasury will use all appropriate debt collection tools to collect the debt including referral to a designated debt collection center or private collection agency and administrative offset. Once a debt has been transferred to Treasury the creditor agency must cease all collection activity related to that debt. This rule specifies when creditor agencies are required to transfer debts and when debts are exempt from the general transfer requirement.

In contrast, administrative offset is one of many debt collection tools available to Federal agencies for the collection of delinquent debt. Under section 3716(c)(6), creditor agencies are required to notify Treasury of debts that are over 180 days delinquent for purposes of administrative offset. As a practical matter, agencies are required to notify Treasury of such debts for administrative offset only when a debt has not been transferred to Treasury pursuant to section 3711(g)(1), i.e., when a debt is exempt from transfer to Treasury under section 3711(g)(1) and this rule. Since offset is one of the collection tools used by Treasury for all eligible debts referred to Treasury pursuant to section 3711(g)(1), referral of a debt to Treasury for cross-servicing also satisfies the requirement under section 3716(c)(6). With respect to debts that are not referred to Treasury pursuant to section 3711(g)(1), creditor agencies are required to continue to collect the delinquent debts using all appropriate debt collection tools, including administrative offset. Rules governing the use of administrative offset are being published in separate regulations in this part, and, as a consequence, questions regarding administrative offset are not addressed in this rule.

*Section 285.12(a)—Definitions*

In response to a comment by one agency, a definition for the term ''debt collection center'' was moved to section 285.12(a) from section 285.12(f) of the interim rule.

*Section 285.12(c)—Mandatory Transfer of Debts to FMS*

FMS received several comments regarding the mandatory transfer of debts and the use of designated debt collection centers (DCCs) and private collection agencies (PCAs). In particular, the comments related to whether, and when, agencies may refer debts directly to DCCs and PCAs, and whether the debts must be referred to such entities through FMS.

Section 285.12(c) applies only to debts that are more than 180 days delinquent. Therefore, agencies are not required to refer debts to FMS during the initial 180 days of delinquency (the pre-180 day period). During the pre-180 day period agencies should take all appropriate actions to collect delinquent debts, including referring such debts to DCCs and PCAs. Agencies may, with the consent of FMS, refer debts directly to DCCs during the pre-180 day period. Similarly, agencies may refer debts to PCAs during the pre-180 day period either pursuant to a contract entered into by the agency directly with a PCA, or by referring the debts to FMS for referral to PCAs under existing FMS

contracts (a process known as ''pass-through''). Unlike when debts are transferred to Treasury as required by section 3711(g)(1), FMS takes no collection action when debts are referred to FMS for pass-through, other than referring the debts to a PCA. The pass-through process is necessary to allow FMS to assess and monitor fully the performance of its PCA contractors. FMS will provide additional procedural guidance to agencies regarding use of the ''pass-through'' referral process.

Another agency suggested that section 285.12(c)(3) be clarified with respect to the transfer of debts that are under appeal. Specifically, the agency asked FMS to define whether the 180 day period begins to run on the date the debt was originally due prior to the filing of the appeal, or the date of the decision of the reviewing official at which time the amount of the debt is made final. Alternatively, the agency suggested that the regulation be revised to allow agencies 60 days, following the date of the appeal decision, to collect a debt prior to referring amounts to Treasury for cross-servicing.

FMS agrees that immediate transfer of a debt to FMS following a decision on an appeal might, in some cases, be impractical. Therefore, section 285.12(c)(3) has been revised to allow agencies up to 30 days following a decision on an appeal to transfer debts over 180 days delinquent to FMS. A 30 day period provides debtors with an opportunity to pay the debt or to enter into a repayment plan with the creditor agency before further collection action is taken. Debts should be transferred to FMS immediately following a decision on an appeal when the agency determines that it is unlikely that the debtor will pay or enter into a repayment plan within the 30 day period.

In section 285.12(c)(1) of the final rule, FMS incorporated a suggestion by one agency that the mandatory requirement to transfer debts be limited to debts having a balance of more than $25. The commenter suggested that transferring debts having a balance of less than $25 would not be cost-effective. Under this final rule, agencies may, after consulting with FMS, transfer debts in amounts less than $25 when failure to transfer such debts to FMS for collection would weaken the creditor agency's ability to enforce compliance with the program (*see* section 285.12(c)(4) of the final rule). The final rule provides that agencies may combine small debts owed by the same debtor to meet the $25 threshold, and that FMS may change the threshold amount from time to time.

*Section 285.12(d)—Exceptions to Mandatory Transfer*

One agency questioned whether the foreclosure provisions in paragraph (d)(2) cover debts referred to private counsel (when an agency has specific authority to use private counsel) for non-judicial foreclosure proceedings. The rule has not been revised because paragraph (d)(2)(ii)(A)(1) of the rule, which provides that a debt is in foreclosure if pre-foreclosure notice has been issued in a non-judicial proceeding, does not exclude notices issued by private counsel on behalf of an agency.

One commenter questioned whether the recent Supreme Court decision in *Cohen* v. *Cruz,* 118 S.Ct. 1212 (1998), affects this rule. The case holds that punitive damages, attorney fees and costs related to an amount awarded as actual fraud, are not dischargeable under the fraud exception of the Bankruptcy Code. Since the rule does not address whether or not a particular debt or class of debts is dischargeable in bankruptcy, the *Cohen* case does not affect this rule. Creditor agencies are not required to transfer debts to FMS that are the subject of pending bankruptcy proceedings regardless of whether the debt is dischargeable (*see* section 285.12(d)(2)(i)(B)).

In response to a comment, paragraph (d)(4) has been revised to clarify that a debt is in the process of being collected by internal offset (and, therefore, exempt from the mandatory transfer provisions of the DCIA and this rule) so long as the required pre-offset notice has been issued by the creditor agency whether issued before or after the 180 day delinquency period. Note, however, the creditor agency is required to transfer to Treasury for collection debts over 180 days delinquent that are not subject to collection by internal offset (or another exemption). If the creditor agency determines that internal offset is available after a debt has been transferred to Treasury, the debt will be returned to the creditor agency for collection by internal offset.

In response to an agency's request for clarification, paragraph (d)(5)(i) has been revised. In recognition of the Congressional mandate to centralize delinquent debt collection at Treasury, requests for exemption require consideration by a creditor agency's top officials. Under paragraph (d)(5)(i) of the final rule, an exemption request will be considered only if it is made by the head of the creditor agency, the creditor agency's Chief Financial Officer (CFO), or the agency's Deputy CFO. Heads of subordinate agencies or organizations, such as the head of a bureau within a department, are not considered heads of agencies for purposes of this paragraph (d)(5)(i).

One commenter suggested that agencies be permitted to seek exemptions for individual debts or small groups of debts within a class of debts. The DCIA limits exemptions to specific classes of debts or claims (*see* 31 U.S.C. 3711(g)(2)(B)). As a consequence, requests for the exemption of individual debts or claims, or small groups of debts or claims within a specific program or discrete activity, will not be considered.

Paragraph 285.12(d)(6) was added to the final rule to provide additional guidance on debts being collected by third parties. Several agencies, in accordance with statutory or contractual requirements, have debts more than 180 days past due that are being collected by third parties such as private lenders or guaranty agencies. In accordance with the provisions of 31 U.S.C. 3711(g)(2)(B) and this rule, the Secretary has determined that it is in the best interest of the Government that debts being collected by third parties be exempt from the provisions of paragraph 285.12(c)(1) because the transfer of such debts would interfere with the program goals and requirements of the subject debts. Debts more than 180 days past-due must be transferred to FMS for collection under paragraph 285.12(c)(1) upon their return to a creditor agency by a third party.

*Section 285.12(f)—Debt Collection Centers*

In response to comments received from one agency, paragraph (f) is revised to state that debt collection centers may charge and collect fees (*see* 31 U.S.C. 3711(g)(6)), and to include a reference to paragraph (j) which provides additional information on fees that may be charged.

*Section 285.12(i)—Certification*

One agency asked whether agencies are required, under the certification provision, to maintain contact with all debtors to determine whether the debtor has filed a bankruptcy petition. Agencies are not required to maintain such contact. However, agencies are required to notify FMS immediately when they receive notice that a debtor has filed for bankruptcy protection so that FMS can immediately take action to stop collection proceedings that would be in violation of the automatic stay.

*Section 285.12(j)—Fees*

One agency asked whether FMS or the creditor agency will be responsible for

notifying the debtor that fees charged for collecting delinquent debt will be added, as an administrative cost, to the debt balance. Under paragraph (i), creditor agencies are required to certify to FMS that they have complied with all prerequisites to various collection actions, including any applicable requirements to notify the debtor regarding the agency's policies with respect to the addition of interest, penalties, and administrative costs to the principal amount of the debt if the debt is not paid by the due date.

### Technical Amendment to Section 285.11 (Administrative Wage Garnishment)

On May 6, 1998, FMS published a final rule implementing the administrative wage garnishment provisions of section 31001(o) of the DCIA, codified at 31 U.S.C. 3720D. This rule amends section 285.11(g)(2) by deleting the words ''on the agency's letterhead.'' This non-substantive, technical amendment allows Federal agencies to use the form to be prescribed by the Secretary for the issuance of an administrative wage garnishment order without preparing the form on agency letterhead. The requirement that agencies issue the order on agency letterhead was impractical and interfered with the requirement that agencies use a standard form prescribed by Treasury. The agency issuing the wage garnishment order will be clearly identified on the form without the use of agency letterhead.

### Regulatory Analysis

This final rule is not a significant regulatory action as defined in Executive Order 12866. It is hereby certified that this rule will not have a significant impact on a substantial number of small entities. The basis for this certification is that the DCIA requires agencies to transfer debts that have been delinquent for more than 180 days to Treasury for further collection action unless the debts have been granted an exemption by the Secretary of the Treasury. This rule establishes the procedures and criteria for transferring such debts, explains the statutory exceptions to this requirement, and establishes the required standards under which the Secretary of the Treasury will grant exemptions. Therefore a regulatory flexibility analysis is not required.

### Authority and Issuance

Accordingly, the interim rule amending 31 CFR part 285 which was published at 63 FR 16354 on April 2, 1998, is adopted as a final rule with the following changes:

## PART 285—DEBT COLLECTION AUTHORITIES UNDER THE DEBT COLLECTION IMPROVEMENT ACT OF 1996

1. The authority citation for part 285 continues to read as follows:

**Authority:** 26 U.S.C. 6402; 31 U.S.C. 321, 3701, 3711, 3716, 3720A, 3720B, 3720D; E.O. 13019; 3 CFR, 1996 Comp., p. 216.

2. Section 285.11 is amended by revising paragraph (g)(2) to read as follows:

#### § 285.11 Administrative wage garnishment.

* * * * *

(g) Wage garnishment order.

* * * * *

(2) The withholding order sent to the employer under paragraph (g)(1) of this section shall be in a form prescribed by the Secretary of the Treasury and signed by the head of the agency or his/her delegatee. The order shall contain only the information necessary for the employer to comply with the withholding order. Such information includes the debtor's name, address, and social security number, as well as instructions for withholding and information as to where payments should be sent.

* * * * *

3. Section 285.12 is amended to correct the heading; to revise the definition for ''debt'' and add a definition for ''debt collection center'' in paragraph (a); to revise paragraphs (b) and (c)(3); to add paragraphs (c)(4), (d)(5)(iii) and (d)(6); and to revise paragraphs (d)(4), (f), (g), (h), and (j) to read as follows:

#### § 285.12 Transfer of debts to Treasury for collection.

(a) * * *

Debt means any amount of money, funds or property that has been determined by an appropriate official of the Federal government to be owed to the United States by a person. As used in this section, the term ''debt'' does not include debts arising under the Internal Revenue Code of 1986.

*Debt collection center* means an agency or a unit or subagency within an agency that has been designated by the Secretary of the Treasury to collect debt owed to the United States. FMS is a debt collection center.

* * * * *

(b) *In general.* Cross-servicing means that FMS or another debt collection center is taking appropriate debt collection action on behalf of one or more Federal agencies or a unit or subagency thereof.

(c) * * *

(3)(i) A debt is considered 180 days delinquent for purposes of this section if it is 180 days past due and is legally enforceable. A debt is past-due if it has not been paid by the date specified in the agency's initial written demand for payment or applicable agreement or instrument (including a post-delinquency payment agreement) unless other satisfactory payment arrangements have been made. A debt is legally enforceable if there has been a final agency determination that the debt, in the amount stated, is due and there are no legal bars to collection action. Where, for example, a debt is the subject of a pending administrative review process required by statute or regulation and collection action during the review process is prohibited, the debt is not considered legally enforceable for purposes of mandatory transfer to FMS and is not to be transferred even if the debt is more than 180 days past-due.

(ii) When a final agency determination is made after an administrative appeal or review process, the creditor agency must transfer such debt to FMS, if more than 180 days delinquent, within 30 days after the date of the final decision.

(iii) Nothing in this section is intended to impact the date of delinquency of a debt for other purposes such as for purposes of accruing interest and penalties.

(4) Agencies are not required to transfer to FMS debts which are less than $25 (including interest, penalties, and administrative costs), or such other amount as FMS may determine. Agencies may transfer debts less than $25 to FMS if the creditor agency, in consultation with FMS, determines that transfer is important to ensure compliance with the agency's policies or programs. Agencies may combine individual debts of less than $25 owed by the same debtor for purposes of meeting the $25 threshold.

(d) * * *

(4) A debt is being collected by internal offset if a creditor agency expects the debt to be collected in full within three (3) years from the date of delinquency through internal offset. A debt is being collected by internal offset if the creditor agency is withholding funds payable to the debtor by the creditor agency, or if the creditor agency has issued notice to the debtor of the creditor agency's intent to offset such funds.

(5) * * *

(iii) Requests for exemption must be made by the head of the agency requesting the exemption, the Chief Financial Officer of the agency, or the Deputy Chief Financial Officer of the

agency. For purposes of this section, the head of an agency does not include the head of a subordinate organization within a department or agency.

(6) In accordance with paragraph (d)(5)(i) of this section, debts being serviced and/or collected in accordance with applicable statutes and/or regulations by third parties, such as private lenders or guaranty agencies are exempt from the requirements in paragraph (c)(1) of this section.

* * * * *

(f) *Debt collection centers.* A creditor agency may transfer debt that has not been transferred to FMS, such as debt less than 180 days delinquent, to a Treasury-designated debt collection center, with the consent of, and in accordance with procedures established by FMS. Debt collection centers will take action upon a debt in accordance with the statutory or regulatory requirements and other authorities that apply to the debt or to the particular action being taken. Debt collection centers may, on behalf of the creditor agency and subject to the terms under which the debt collection center has been designated as such by the Secretary, take any action to collect, compromise, suspend or terminate collection action on debts, in accordance with terms and conditions agreed upon in writing by the creditor agency and the debt collection center or FMS. Debt collection centers may charge fees for the debt collection services in accordance with the provisions of paragraph (j) of this section.

(g) *Administrative offset.* As described in paragraph (c) of this section, under the DCIA, agencies are required to transfer all debts over 180 days delinquent to FMS for purposes of debt collection (i.e., cross-servicing). Agencies are also required, under the DCIA, to notify the Secretary of all debts over 180 days delinquent for purposes of administrative offset. Administrative offset is one type of collection tool used by FMS and Treasury-designated debt collection centers to collect debts transferred under this section. Thus, by transferring debt to FMS or to a Treasury-designated debt collection center under this section, Federal agencies will satisfy the requirement to notify the Secretary of debts for purposes of administrative offset and duplicate referrals are not required. A debt which is not transferred to FMS for purposes of debt collection, however, such as a debt which falls within one of the exempt categories listed in paragraph (d) of this section, nevertheless may be subject to the DCIA requirement of notification to the Secretary for purposes of administrative offset.

(h) *Voluntary referral of debts less than 180 days delinquent.* A creditor agency may refer any debt that is less than 180 days delinquent to FMS or, with the consent of FMS, to a Treasury-designated debt collection center for debt collection services.

* * * * *

(j) *Fees.* FMS and other debt collection centers (as defined in paragraph (a) of this section) may charge fees sufficient to cover the full cost of providing debt collection services authorized by this section. Fees paid to recover amounts owed may not exceed amounts collected. Nothing in this rule precludes a creditor agency from agreeing to pay fees for debt collection services which are not based on amounts collected. FMS and debt collection centers are authorized to retain fees from amounts collected and may deposit and use such fees in accordance with 31 U.S.C. 3711(g). Fees charged by FMS and other debt collection centers may be added to the debt as an administrative cost if authorized under 31 U.S.C. 3717(e).

Dated: November 2, 1998.

**Kenneth R. Papaj,**

*Acting Commissioner.*

[FR Doc. 99–10136 Filed 4–27–99; 8:45 am]

BILLING CODE 4810–35–P

federal register

Wednesday
April 28, 1999

# Part III

# Federal Emergency Management Agency

## The National Board Fiscal Year 1999 Plan for Carrying Out the Emergency Food and Shelter Program (EFSP); Notice

## FEDERAL EMERGENCY MANAGEMENT AGENCY

## The National Board Fiscal Year 1999 Plan for Carrying Out the Emergency Food and Shelter Program (EFSP)

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Notice.

**SUMMARY:** This notice sets out the plan by which the Emergency Food and Shelter Program National Board (National Board) is conducting a program during FY 1999 to distribute $100,000,000 to private voluntary organizations and local governments for delivering emergency food and shelter to needy individuals. The distribution formula for selecting organizations and localities, and the award amount for each, follow the Plan text.

**DATES:** The award to the National Board was made October 28, 1998.

**FOR FURTHER INFORMATION CONTACT:** Carol Coleman, Preparedness, Training and Exercise Directorate, Federal Emergency Management Agency, (202) 646–3107, or Yolanda L. Jones, Program Specialist, (202) 646–4543, of the Preparedness, Training and Exercise Directorate, Federal Emergency Management Agency.

**SUPPLEMENTARY INFORMATION:** Title III of the Stewart B. McKinney Homeless Assistance Act, 42 U.S.C. 11301 *et seq.*, authorizes use of funds appropriated by the Congress to supplement and expand ongoing efforts to provide shelter, food, and supportive services to homeless, needy individuals.

As in past phases, grant awards from this program address temporary emergency needs. This program is not to address or correct structural poverty or long-standing problems. Rather, this appropriation is to purchase food and shelter to supplement and expand current available resources and not to substitute or reimburse ongoing programs and services.

Use this funding to target special emergency needs. And when we discuss emergency needs we are referring to economic, not disaster-related, emergencies. The funding should supplement feeding and sheltering efforts in ways that make a difference. What that means is: EFSP is not to make up for budget shortfalls or to be just a line item in an annual budget; funds should not go to the same agencies for the exact same purposes every year; and, the funding is open to all organizations helping hungry and homeless people and not that the funds should go only to Local Board member agencies or local government agencies.

Having stated what it is not, what does the National Board want this program to be? As we read the law, EFSP should:

- Create inclusive local coalitions that meet regularly to determine the best use of funds and to monitor their use in their respective communities;
- Treat every program year as a fresh opportunity to reassess what particular community needs (e.g., on-site feeding or utility assistance, mass shelter or homelessness prevention, etc.) should be addressed;
- Encourage agencies to work together to emphasize their respective strengths, work out common problems, and prevent duplication of effort; and,
- Ensure that the program is helping to meet the needs of special populations such as minorities, Native Americans, veterans, families with children, the elderly, and the handicapped.

We re-emphasize that this program has a commitment to emergency services. We continue to view it as an opportunity for building a cohesive emergency structure that can, for example:

- Coordinate the assistance provided, across agencies, to families and individuals applying for rental, mortgage, or utility assistance;
- Enhance a food banking network that is economical in its cost and broad in its coverage; reinforce creative cooperation among feeding; and sheltering sites to ensure help for street populations most in need; and
- Establish or maintain a system that complements rather than supplants existing private and governmental efforts to provide rent, mortgage, or utility assistance.

The National Board is aware that we ask much of our voluntary Local Boards and LROs, and that we provide very little administrative funding. But the cooperative model that EFSP helps create can be a useful vehicle for many governmental and community-based programs. As a group, local providers can accomplish much:

- Initiating a dialogue with local offices of Federal entities such as the U.S. Department of Agriculture to take full advantage of excess commodities and its other programs or with the U.S. Department of Labor's Job Training Partnership Act (JTPA);
- Working with Federal programs that require the input of local providers such as the Department of Housing and Urban Development's Community Development Block Grant or Emergency Shelter Grant and the Department of Health and Human Services' Health Care for the Homeless;
- Pooling agency efforts to gain Federal (for example, HUD's Transitional Housing Program) and private foundation grants;
- Leveraging EFSP funds within the community by encouraging matches of local EFSP allocations from State and local governments and private resources; and,
- Exchanging ideas on administrative and accounting methods that can improve delivery of services and focus on the collaborative rather than the competitive aspects of agency relations.

Sixteen years ago this program began as a one-time effort to help address urgent needs. The survival of this public-private partnership is not only a testament to needs, but also to the effectiveness of EFSP as an example of local decision-making and community responsibility in attempting to meet those needs.

EFSP is a reminder of this nation's willingness to confront difficult problems within the society in new ways. But most importantly, EFSP feeds and shelters homeless and hungry people, it maintains homes and the families in those homes, and it creates useful public-private partnerships within communities.

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### 1.0 Background and Introduction

The Emergency Food and Shelter Program was established on March 24, 1983, with the signing of the ''Jobs Stimulus Bill,'' Public Law 98–8. That legislation created a National Board, chaired by FEMA, which consisted of representatives of the American Red Cross; Catholic Charities, USA; the Salvation Army; Council of Jewish Federations, Inc.; United Way of America; and the National Council of Churches of Christ in the U.S.A.

From the first appropriation in 1983, through its authorization under the Stewart B. McKinney Homeless Assistance Act (Pub. L. 100–77—signed into law on July 24, 1987, subsequently reauthorized under Pub. L. 100–628, signed into law on November 7, 1988), the Emergency Food and Shelter Program has distributed $1.8 billion to over 11,000 social service agencies in more than 2,500 communities across the country.

From its inception, the unique features of this program are the partnerships it establishes. At the national level, the Federal government and National Board member organizations have the legal responsibility to work together to set allocations criteria and establish program guidelines. Such coalitions, as set forth in the law, are even more vital on the local level. In each community Local Boards make the most significant decisions on their own make-up and operation, the types of services most in need of supplemental help, what organizations should be funded and for what purpose and amount. These portions of the law remain unchanged and are the core of this unique public-private partnership.

**1.1 Purpose.**

This publication outlines the roles, responsibilities, and implementation procedures that will be followed by the National Board, FEMA Local Boards, LROs, and SSA Committees, in the distribution and use of these funds.

National in scope, EFSP will provide food and shelter assistance to individuals in need through local private voluntary organizations and local governments in areas the National Board designates as being in highest need. The intent of EFSP is to meet emergency needs by supplementing and expanding food and shelter assistance currently available to individuals. Individuals who received assistance under previous programs may again be recipients, providing they meet local eligibility requirements.

**2.0 FEMA's Role and Responsibilities**

FEMA will perform the following EFSP activities:

(a) Constitute a National Board consisting of individuals affiliated with United Way of America; The Salvation Army; the National Council of Churches of Christ in the USA; Catholic Charities, USA; the Council of Jewish Federations, Inc.; the American Red Cross; and FEMA;

(b) Chair the National Board, using parliamentary procedures and consensus by the National Board as the mode of operation;

(c) Provide policy guidance, management oversight, Federal coordination, and staff assistance to the National Board;

(d) Award the grant to the National Board;

(e) Assist the Secretariat in implementing the National Board Program;

(f) Report to Congress on the year's program activities through the Interagency Council on the Homeless Annual Report;

(g) Conduct audits of the program;

(h) Monitoring program compliance with current Federal and program guidelines; and

(i) Initiate Federal collection procedures to collect funds or documentation due when the efforts of the National Board have not been successful.

**3.0 National Board's Role and Responsibilities**

(a) *National Board's EFSP activities*

The National Board will perform the following EFSP activities:

(1) Select jurisdictions of highest need for food and shelter assistance and determine amount to be distributed to each;

(2) Notify national organizations interested in emergency food and shelter to publicize the availability of funds;

(3) Develop the operational manual for distributing funds and establish criteria for expenditure of funds;

(4) In jurisdictions that received previous awards, notify the former Local Board chair that new funds are available. In areas newly selected for funding, notify the local United Way, American Red Cross, Salvation Army, or local government official. The National Board will notify qualifying jurisdictions of award eligibility within 60 days following allocation by FEMA;

(5) Provide copies of award notification materials to National Board member affiliates and other interested parties;

(6) Secure board plan, certification forms and board rosters from Local Boards. Ensure Local Board compliance with established guidelines;

(7) Distribute funds to selected LROs;

(8) Hear appeals and grant waivers;

(9) Establish an equitable system to accomplish the reallocation of unclaimed or unused funds. Unused or recaptured funds will be reallocated by the National Board, except in the case of State Set-Aside counties whose funds may be reallocated by the respective State Set-Aside Committees;

(10) Ensure that funds are properly accounted for, and that funds due are collected;

(11) Provide consultation and technical assistance to local jurisdictions as necessary to monitor program compliance;

(12) Compile the reports it receives from the Local Boards and submit a detailed accounting of use of all program monies in the form of a report to FEMA;

(13) Conduct a compliance review of food and shelter expenditures made under this program for specified LROs. The National Board, FEMA, the independent accounting firm selected by the National Board, or the Inspector General's office may also conduct an audit of these funds; and

(14) Monitor LRO compliance with OMB Circular A–133.

(b) *Secretariat and Fiscal Agent.*

The National Board has selected the United Way of America as the Secretariat and fiscal agent to perform necessary administrative duties for the Board. An administrative allowance of one percent of the total award may be used for National Board administration.

**3.1 Client Eligibility**

(a) *Eligibility criteria.*

The National Board does not set client eligibility criteria. If the Local Board does not set eligibility criteria, the LRO may use its existing criteria or set criteria for assistance under this award. However, the LRO's criteria must provide for assistance to needy individuals without discrimination (age, race, sexual orientation, religion, national origin, or disability).

(b) *Where funds may be used.*

Funds allocated to a jurisdiction are intended for use within that jurisdiction. Residents of or transients in a specific jurisdiction should seek service within that jurisdiction.

(c) *Citizenship eligibility.*

Citizenship is not an eligibility requirement to receive assistance from EFSP. The National Board does not mandate nor recommend the use of any particular existing criteria such as food stamp guidelines, welfare guidelines, or income guidelines.

**4.0 State Set-Aside (SSA) Committee Role and Responsibilities**

(a) *SSA Committee's role.*

(1) The SSA process allows flexibility in selection of jurisdictions to target pockets of homelessness or poverty in non-qualifying jurisdictions (refer to

Supplementary Information, above, on qualifying criteria), areas experiencing drastic economic changes such as plant closings, areas with high levels of unemployment or poverty that do not meet the minimum level of unemployment, or jurisdictions that have documented measures of need that are not adequately reflected in unemployment and poverty data.

(2) The distribution of funds to SSA Committees will be based on a ratio calculated as follows: the State's average number of unemployed in non-funded jurisdictions divided by the average number of unemployed in non-funded jurisdictions nationwide equals the State's percentage of the total amount available for SSA awards.

(b) *SSA responsibilities.*

(1)(i) An SSA Committee in each State will recommend high-need jurisdictions and award amounts to the National Board. The SSA will give priority consideration to jurisdictions not meeting criteria for direct funding, from the National Board, although funded jurisdictions may receive additional funding. SSA Committees should also consider the special circumstances of jurisdictions that qualified in previous funding phases but are not eligible in the current phase. The State Committees may wish to provide these jurisdictions with an allocation so that the abrupt change in funding status does not disrupt local providers. We ask SSA Committees to consider current and significant State or local data in their deliberations. Although the National Board staff provides national data to the SSA Committees, it does *not* require any particular formula.

(ii) In each State, we will notify the chair of the previous phase's SSA Committee of the award amount available to the SSA Committee. In a State where there are affiliates of the voluntary organizations represented on the National Board, the State affiliates must be invited to serve on the State Committee. If no single State affiliate exists, an appropriate representative should be invited. The Governor or his/her representative will replace the FEMA member. State Committees are encouraged to expand participation by inviting or notifying other private non-profit organizations on the State level. The National Board encourages the inclusion of Native Americans, minorities, and other appropriate representatives should be invited on the State Committee.

(2) Members of the SSA Committee will elect a person to chair the committee.

(3) The SSA Committees are responsible for the following:

(i) recommending high-need jurisdictions and award amounts within the State. When selecting jurisdictions with demonstrated need, the National Board encourages the consideration of counties incorporating or adjoining Indian reservations. The SSA Committee has 25 working days to notify the National Board in writing of its selections and the appropriate contact person for each area. Note: The minimum award amount for a single jurisdiction is $1,000 and only whole-dollar amounts can be allocated.

(ii) notifying the National Board of selection criteria that were used to determine which jurisdictions within the State were selected to receive funds. The National Board will then notify these jurisdictions directly. If SSA jurisdictions do not claim funds, SSA Committees may recommend other jurisdictions to receive the unclaimed funds.

(4) The SSA Committee may use an administrative allowance of one-half of one percent (0.5%) of the total SSA award to each State for its administration.

## 5.0 Local Boards' Role and Responsibilities

(a) *Local Boards' role and responsibilities.*

(1) *Constituting Local Boards.* Each area designated by the National Board to receive funds will constitute a Local Board. In a local community where there are affiliates of the United Way of America; The Salvation Army; the National Council of Churches of Christ in the U.S.A.; Catholic Charities, U.S.A; Council of Jewish Federations; and the American Red Cross that are represented on the National Board, they *must* be invited to serve on the Local Board. An agency's own governing board may not serve as a Local Board. The National Board requires that if a jurisdiction is located within or encompasses a federally recognized Indian reservation, the Local Board *must* invite a Native American representative to serve on the Board. All Local Boards *must* include in their membership a homeless or formerly homeless person. Local Boards should seek recommendations from LROs for an appropriate representative. Local Boards that cannot have homeless or formerly homeless representation must still consult with homeless or formerly homeless individuals, or former or current clients of food or housing services for their input. The County Executive/Mayor, appropriate head of local government or his or her designee will replace the FEMA member. We encourage Local Boards to expand participation and membership by inviting minority populations, other private non-profit organizations and government organizations. The Local Board's jurisdiction should be geographically represented as well.

(2) *Chair of the Local Board.* The members of each Local Board will elect a chair.

(3) *Active Board Memberships.* Local Board membership is not honorary; there are specific duties the board must perform. If a member cannot regularly attend meetings, the member should be replaced by another representative of the member's designated agency. If a member must be absent from a meeting, the member's organization may designate an alternate.

(4) *Localities not previously funded.* If a locality has not received funding previously and is now designated as being in high need, the National Board designates the local United Way to constitute and convene a Local Board as described above. If there is no local United Way, or it does not convene the board, the local American Red Cross, the local Salvation Army, or a local government official will be responsible for convening the initial meeting of the Local Board.

(5) *Localities previously funded.* If a locality has previously received National Board funding, the National Board will contact the former chairman of the Local Board about any new funding the locality is to receive.

(6) *Each award phase new.* Each award phase is new. Therefore, the Local Board is a new entity in every phase. The convenor of the Local Board must ask each agency to designate or redesignate a representative every program year.

(7) *Local Board meeting options.* The National Board requires Local Boards to select one of the following options for meetings:

(i) *Quarterly Meetings:* We encourage Local Boards to meet quarterly to ensure that LROs are implementing the program according to guidelines. Meetings may be conducted via conference calls.

(ii) *Semiannual Meetings:* Local Boards meeting twice a year must also ensure that LROs are implementing the program according to guidelines. Ongoing monitoring activities must take place. Local Boards electing to hold meetings semiannually must submit copies of their meeting minutes with the jurisdiction's final report.

(8) *Quorum; minutes.* A majority of members must be present for the meeting to be official. Attendance and decision-making minutes must be kept. Meeting minutes must be voted on and approved by the Local Board at the next meeting. They must also be available to the National Board, Federal authorities, and the public on request.

(9) *Advertising and promoting the program.* The Local Board will have 25 working days after the notification of the award selection by the National Board to advertise and promote the program to give any organization capable of providing emergency services an opportunity to apply for funds. Advertising *must* take place before the Local Board allocates funds. Failure to advertise properly will delay processing of the jurisdiction's board plan and subsequent payment of funds. Local Boards should allow at least one week for interested organizations to apply for funding. (Local Boards do not have to re-advertise fund availability for supplemental allocations within the same spending period.)

(10) *Local Board grant recommendations.* The Local Board recommends which local organizations should receive grants and the amounts of the grants. Local Boards *must* have a written application process and consider all private voluntary and public organization applicants. In selecting LROs to receive funds, the Local Board must consider the demonstrated ability of an organization to provide food, shelter assistance or both. Local Board members should strive to use consistent criteria, sound judgment and fairness in their approach. Local Board membership must have no relationship to funding. Local Board members must abstain from voting on their own grant awards. Local Boards should select LROs to receive funds to supplement and expand eligible on-going services, and should not fund LROs before a needed service (i.e., fire victims, floods, tornadoes, etc.). Nor should Local Board select agencies for funding due to budget shortfalls or for cuts in other funding sources. Agencies on Indian reservations are eligible to receive EFSP monies if they meet LRO requirements.

(11) *Grant allocations.* The minimum grant per LRO is $300 and only whole-dollar amounts may be allocated. The Local Board should be prepared to justify an allocation of one-third (⅓) or more of its total award to a single LRO.

(12) *Monitoring LROs.* Local Boards are responsible for monitoring LROs that receive over $100,000 in Federal funds and ensuring that they comply with OMB Circular A–133.

(13) *Required forms.* Local Boards must complete and return all required forms to the National Board. (Local Board Plan, Local Board Certification Form, and Local Board Roster.)

(14) *Certifications.* Local Boards will secure and retain signed forms from each LRO certifying that each LRO has read and understands the program guidelines and that the LROs will comply with cost eligibility and reporting requirements.

(15) *Duplication of assistance.* Local Boards *must* establish a system to ensure that no duplication of service occurs within the expenditure categories of rent, mortgage or utility assistance (RMU). Local Boards are free to establish any system as long as no duplication of rent/mortgage or utility assistance can take place under reasonable circumstances.

(16) *Client eligibility.* Establish client eligibility, at Local Board's discretion. Local Boards may determine client eligibility for EFSP or use established LRO eligibility. LROs may develop and use separate needs test for assistance under EFSP but should first get Local Board approval. The Local Board should communicate eligibility criteria for assistance under EFSP to LROs.

(17) *Personnel changes.* Local Boards must notify the National Board of changes in the Local Board chair, staff contact, or LRO contacts, including complete addresses and phone numbers.

(18) *Merging Local Boards.* Local Boards that determine they can better use their resources by merging with neighboring boards may do so. The head of government or his or her designee for each jurisdiction must sit on the merged board, along with agency representatives from each jurisdiction. The merged Local Board must ensure that the award amount designated for each civil jurisdiction is used to provide assistance to individuals within that jurisdiction.

(19) *Guidelines and technical assistance.* Local Boards *must* be familiar with current guidelines and provide technical assistance to service providers. National Board staff can provide advice and counsel.

(20) *Appeals.* Local Boards *must* establish an appeals process to address participation or funding, to hear and resolve appeals made by funded or non-funded organizations, and to investigate complaints made by individuals or organizations. Local Boards should handle appeals promptly. If a Local Board cannot handle an appeal locally, the case should be referred in writing to the National Board and should include details on action that the Local Board has taken. Only when there is significant question of misapplication of guidelines, fraud, or other abuse on the part of the Local Board will the National Board consider action. Report cases involving fraud or other misuse of Federal funds to the Office of the Inspector General, FEMA, in writing or by telephone at 1–800–323–8603.

(21) *National Board/Local Board point of contacts.* The chair of the Local Board or his or her designated staff will be the central coordination point of contact between the National Board and the LRO selected to receive assistance from EFSP.

(22) *Surplus food.* If FEMA requests, the Local Board should nominate an appropriate feeding organization to receive surplus food from Department of Defense commissaries.

(23) *Monitoring programs.*

(i) *Monitoring programs; reports.* Boards will be responsible for monitoring programs carried out by the LROs they select to receive funds. Local Boards should work with LROs to ensure that funds LROs use to meet immediate food and shelter needs on an ongoing basis. Local Boards may not alter or change National Board cost eligibility or approve expenditures outside the National Board's criteria without National Board permission.

(ii) *Reports.*

(A) An interim report of expenditures is due to the National Board with each LRO's second check request. A final report (accompanied by financial documentation for specified LROs) is due 45 days after the end of each jurisdiction's program.

(B) The National Board will provide forms for all required reports.

(C) Local Boards may request other reports from their LROs at an appropriate time (e.g., monthly or quarterly updates).

(24) *Funds reallocations.* The Local Board should reallocate funds whenever it determines that the original allocation plan does not reflect the actual need for services or if an LRO is unable to use its full award effectively. The Local Board must recover funds and reallocate them if an LRO makes ineligible expenditures or uses funds for items that have clearly not been approved by the Local Board. The National Board can reallocate funds held in escrow for LROs that have unresolved compliance problems or may reclaim the funds. The deadline to reallocate any funds held in escrow is July 30, 1999.

(i) The Local Board may approve reallocation of funds between LROs that

are already participating in the program. However, the Local Board must inform the National Board in writing. The Local Board may also return funds to the National Board for reissuance to another LRO or request reallocation of remaining funds before the National Board releases the second or third payments.

(ii) If the Local Board wishes to reallocate funds to an agency that it did not approve on the original board plan, the Local Board must make a written request for approval to the National Board. The National Board must approve an LRO before receipt of funds.

(iii) Local Boards can reallocate funds from one service to another (e.g., from food to shelter) without National Board approval if the transfer is within an individual LRO.

(iv) If a Local Board cannot satisfy the National Board that it can use funds in accordance with this plan, the National Board may reallocate the funds to other jurisdictions.

(25) *Misuse of EFSP funds.*

(i) Should anyone have reason to suspect that EFSP funds are being used for purposes contrary to the law and guidelines governing the program, the National Board recommends taking action to assist in bringing such practices to a halt.

(ii) The National Board requires that whenever anyone suspects fraud, theft, or other criminal activity in connection with the use of EFSP funds, the Office of the Inspector General, (OIG), FEMA, should be immediately contacted. The Inspector General's Hotline number to call is 1–800–323–8603 or the complainant can write to: Office of the Inspector General, FEMA, 500 C Street SW, Washington, DC 20472. The complainant should include as much information as possible to support the allegation and preferably furnish his/her name and telephone number so that the special agent assigned to that office may make a follow-up contact. Federal law protects the confidentiality of any communication made with the OIG.

(iii) A complainant desiring to remain totally anonymous should make a follow-up phone call to the OIG within 30 days from the date of the original complaint so that the OIG may ask any follow-up questions. Follow-up calls should be made to 1–202–646–3894 during normal business hours, Eastern Standard Time (charges may be reversed). The caller should advise that he/she is making a follow-up call regarding a prior anonymous complaint. The Office of the Inspector General, FEMA, will appropriately notify both local law enforcement authorities and the National Board concerning the substance of the allegations and the results of the investigation.

(26) *Expenditure Reports.* Local Boards must submit reports to the National Board on LRO's expenditures as of the date they request each LRO's second/third check and should submit a final report within 45 days after the jurisdiction's end-of-program date.

(27) *Review of reports and documentation.*

(i) After the close of the program, Local Boards must review the accuracy of all LROs reports and documentation. Local Boards should forward documentation for specified LROs to the National Board on request. If expenditures violate the eligible costs under this award, the Local Board must require reimbursement to the National Board.

(ii) Local Boards must remain in operation until they satisfy all program and compliance requirements of the National Board. Local Boards must retain all records for three (3) years from the end-of-program date.

(28) *Extension of spending periods.* Each jurisdiction will be granted the option to extend its spending period by 30, 60, or 90 days. This option will be offered during the summer of each phase. The extension applies to the entire jurisdiction. Should the jurisdiction receive a grant in the next phase, that phase's spending period will begin the day after the chosen end-date.

### 5.1 Variances and Waivers

(a) *Variances.* Local Boards may receive requests for variances in the budgets that they approve for LROs. Local Boards may allow such changes provided that the requested items are eligible under this program. If there is any doubt on the part of the Local Board as to eligibility, it should contact the National Board for clarification. If an LRO requests an expenditure that falls outside the program guidelines, the Local Board, if in accord, must request in writing a waiver from the National Board before making the expenditure.

(b) *Waivers.* Waivers requested by a LRO because of a compliance exception must be submitted to the Local Board. The Local Board will submit the waiver to the National Board for review. National Board staff will evaluate waiver requests and use discretion to approve or deny requests. In general, the National Board considers waiver requests that are not within the guidelines, but address the program's intent.

The waiver request from the Local Board should clearly state the need for this exception, approximate costs, timelines or any other pertinent information that the National Board may need to make their decision.

### 6.0 Local Recipient Organizations' Roles and Responsibilities

(a) *Local Recipient Organizations' roles and responsibilities.*

(1) In selecting LROs to receive funds, the Local Board must consider the demonstrated ability of an organization to provide food and shelter assistance. Local Boards should select LROs to receive funds to supplement and expand eligible ongoing services, but not to fund in anticipation of a needed service (i.e., fire, flood, or tornado victims); nor should Local Boards select agencies for funding due to budget shortfalls or for cuts in other funding sources. Local participation in the program is not limited to organizations that are part of any State or national organization. Agencies on Indian reservations are eligible to receive EFSP funds if they meet LRO requirements set out in the EFSP program manual. Organizations that received awards under previous legislation may be eligible again provided that the organization still meets eligibility requirements.

(2) For a local organization to be eligible for funding it must:

(i) be nonprofit or an agency of government;

(ii) have an accounting system or an approved fiscal agent;

(iii) have a Federal employer identification number (FEIN), or be in the process of securing an FEIN (Note: contact local IRS office for more information on securing an FEIN and the necessary form [SS–4];

(iv) conduct an independent annual audit if receiving $25,000 or more from EFSP;

(v) practice nondiscrimination (those agencies with a religious affiliation that wish to participate in the program must agree not to refuse services to an applicant based on religion or require attendance at religious services as a condition of assistance, nor will such groups engage in any religious proselytizing in any program receiving EFSP funds); and,

(vi) for private voluntary organizations, have a voluntary board.

(3) Each LRO will be responsible for certifying in writing to the Local Board that it has read and agrees to abide by the cost eligibility and reporting standards of this publication and any other requirements made by the Local Board.

(4) An LRO may not operate as a vendor for itself or other LROs except for the shared maintenance fee for food banks.

(5) LROs selected for funding must:

(i) Maintain records according to the guidelines stated in the EFSP program manual. Consult the Local Board chair/staff on matters requiring interpretation or clarification prior to incurring an expense or entering into a contract. It is important to have a thorough understanding of these guidelines to avoid ineligible expenditures and consequent repayment of funds. National Board staff can answer LROs' questions at (703) 706–9660 or (202) 646–3107.

(ii) Provide services within the intent of the program. Funds are to be used to supplement and expand food and shelter services, not as a substitute for other program funds. LROs should take the most cost-effective approach in buying or leasing eligible items/services, and should limit purchases to essential items within the $300 limit for equipment, unless the National Board has granted prior approval.

(iii) Deposit funds for this program in a federally insured bank account. LROs must maintain proper documentation for all expenditures under this program according to the guidelines. Agencies should ensure that selected banks will return canceled checks. LROs' expenditures and documentation will be subject to review for program compliance by the Local Board, National Board or Federal authorities. LROs must maintain records for three years and any interest income must be put back into program expenditures.

### 6.1 Independent Annual Audit Requirements

(a) *LROs receiving $25,000 or less in EFSP funding.* We will not require an independent annual audit for these LROs.

(b) *LROs receiving $25,000 or more in EFSP funding.*

(i) We will require an independent annual audit in accordance with Government Auditing Standards for these LROs. The National Board will accept an LROs national/regional annual audit if the LROs meet the following conditions:

(i) The LRO is truly a subsidiary of the national organization (i.e., shares a single Federal tax exemption).

(ii) The LRO is audited by the national/regional office internal auditors or other person designated by the national/regional office AND the national/regional office is audited by an independent certified public accountant or public accounting firm, which includes the parent organization's review of the LRO in a larger audit review.

(iii) A copy of the local audit review by the parent organization along with a copy of the independent audit of the national/regional office will be made available by the parent organization to the National Board upon request.

(2) In addition to the above requirements, any LRO receiving $100,000 or more in combined federal funds must have an audit made in accordance with OMB Circulars A–128 or A–133, as applicable.

(3) Audits of units of government will be made annually unless State or local government had, by January 1, 1987, a constitutional or statutory requirement for less frequent audits. For those governments that have biennial audits, we permit audits covering both years.

### 6.2 Fiscal Agent/Fiscal Conduit Relationship

(a) For National Board purposes, a fiscal agent is an agency that maintains all EFSP financial records for another agency. A fiscal conduit is an EFSP-funded agency that maintains all EFSP financial records on behalf of one or more agencies under a single grant. If any one agency in a jurisdiction is making bulk purchases for other agencies not funded directly, it must serve as a fiscal conduit and follow all the applicable rules.

(b) The fiscal agent/fiscal conduit is the organization responsible for the receipt of funds, disbursement of funds to vendors, and documentation of funds received. The fiscal agent/fiscal conduit must meet all of the requirements of an LRO.

(c) Local Boards may wish to use a fiscal agent/fiscal conduit when they desire to fund an agency that does not have an adequate accounting system nor conducts an annual audit, but nevertheless meets all other criteria. The Local Board may authorize funds to be channeled through another agency that is a designated fiscal agent/conduit. Fiscal agents/conduits are accountable for compliance with program requirements.

(d) Any agency benefiting from funds received by a fiscal agent/fiscal conduit must meet all of the criteria to be an LRO except the accounting system and annual audit requirements and must sign the Fiscal Agent/Fiscal Conduit Relationship Certification Form. For tracking purposes, all agencies funded through fiscal agents or fiscal conduits must secure a Federal Employer's Identification Number.

(e) Fiscal agents/fiscal conduits may cut checks to vendors only. They may not cut checks to the agencies on whose behalf they are acting or to agencies/sites under their ''umbrella.'' The exception to this is when an agency is using the per diem allowance for mass shelters or the per meal allowance for served meals.

(f) Fiscal agents must submit individual interim and final reports for each agency. Fiscal conduits will file a single interim report on their awards along with a breakdown of agencies and spending with the final report.

(g) Any LRO with an outstanding compliance exception may not be funded under a fiscal agent/fiscal conduit. If a fiscal agent has an unresolved compliance exception, any other funds awarded to the fiscal agent (either as a grant for its own program or as fiscal agent for another agency) will be held in escrow until all compliance exceptions are resolved. Fiscal conduits will be audited as a single award, and will be handled as any other LRO.

### 6.3 Financial Terms and Conditions

(a) *Definitions.*

''Local Recipient Organization'' refers to the local private or public organizations that will receive any award of funds from the National Board.

''Award'' refers to the award of funds made by the National Board to a local private or public organization on the recommendation of a Local Board.

''End-of-program date'' refers to the date, as agreed upon by Local and National Board, by which a given jurisdiction must spend or return all monies.

(b) *Amendments.*

The National Board may amend an award at any time based on written information provided by a Local Board. Both the National Board and the Local Board must execute amendments that reflect the rights and obligations of either party. The National Board may unilaterally issue administrative amendments such as changes in accounting data.

(c) *Local Board Authority Related to LROs.*

(1) The Local Board is responsible for monitoring expenditures of LROs providing food and/or shelter services, authorizing the adjustment of funds between food and shelter programs, and reallocating funds from one LRO to another.

(2) Local Boards *may not* alter or change National Board cost eligibility or approve expenditures outside the National Board's criteria without

National Board permission. (Refer to Section 3.1 on Variances and Waivers.)

(3) A Local Board can call back funds from an LRO and reallocate to another LRO in the case of gross negligence, inadequate use of funds, failure to use funds, failure to use funds for purposes intended, or for any other violation of the National Board guidelines, or in cases of critical need in the community. The Local Board must advise, in writing, all concerned LROs of any reallocation of their original award.

(4)(i) If the Local Board discovers ineligible expenditures by an LRO, the Local Board must send to the organization a written request for reimbursement of the amount and must notify the National Board. If the LRO is unwilling or unable to reimburse the National Board for the ineligible expenditures, the Local Board must refer the matter to the National Board. The National Board may ask the Local Board to take further action to see that the LRO reimburses the National Board for any ineligible expenditures or the National Board may refer the matter to FEMA.

(ii) If the Local Board suspects that an LRO has committed fraud, the Local Board must contact the Office of the Inspector General, FEMA, in writing or by telephone at 1–800–323–8603 with details of suspected fraud or misuse of Federal funds.

(5) If an LRO received an award under previous phases, it must not include those funds in any reporting for the present awards. Reports should be confined to the amount granted by the National Board under the new appropriations legislation.

(d) *Cash Depositories.*

(1) Any money advanced to the LRO under the terms of this award *must* be deposited in a bank with Federal Deposit Insurance Corporation (FDIC) or Federal Savings & Loan Insurance Corporation (FSLIC) insurance coverage (whose responsibility has been taken over by FDIC), and the balance exceeding the FDIC or FSLIC coverage must be secured collaterally. LROs must put back into program costs any interest income earned on these monies.

(2) LROs are encouraged to use minority banks (a bank owned at least 50 percent by minority group members). This is consistent with the national goal of expanding the opportunities for minority business enterprises. A list of minority-owned banks is available from the Office of Minority Business Enterprises, U.S. Department of Commerce, Washington, DC 20203.

(e) *Retention and Custodial Requirements for Records.*

(1) LROs *must* retain financial records, supporting documentation, statistical records, and all other records pertinent to the award for three years, with the following exceptions:

(i) If any litigation, claim or audit begins before the expiration of the three-year period, the LRO must retain the records until resolution of all litigation, claims or audit findings involving the records.

(ii) LROs must retain records for nonexpendable property, if any, acquired in part with Federal funds for three years after submission of a final report. ''Non-expendable property'' means tangible property having a useful life of more than one year and an acquisition cost of more than $300 per unit.

(2) The retention period starts from the date the LRO submits the final expenditure report.

(3) The National Board may request transfer of certain records to its custody from the LRO when it determines that the records possess long-term retention value. The LRO must make such transfers as requested.

(4) The Director of FEMA, the Comptroller General of the United States, and the National Board, or any of their authorized representatives, will have access to any pertinent books, documents, papers, and records of the recipient organization, and its subgrantees to make audits, examinations, excerpts and transcripts.

(f) *Financial management systems.* The LRO/fiscal agent or fiscal conduit must maintain a financial management system that provides for the following:

(1) Accurate, current and complete disclosures of the financial results of this program.

(2) Records that identify adequately the source and application of funds for federally supported activities. These records must contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, and incomes.

(3) Effective control over and accountability for all funds, property, and other assets.

(4) Procedures for determining eligibility of costs in accordance with the provisions of the EFSP manual.

(5) Accounting records supported by source documentation. The LRO must maintain and retain a register of cash receipts and disbursements and original supporting documentation such as purchase orders, invoices, canceled checks, and whatever other documentation is necessary to support its costs under the program.

(6) A systematic method to ensure timely and appropriate resolution of audit findings and recommendations.

(7) In cases where more than one civil jurisdiction (e.g., a city and a balance of county, or several counties) recommends awards to the same LRO, the organization can combine these funds in a single account. However, separate program records for each civil jurisdiction award must be kept.

(h) *Payment.*

A first payment will be made to the LRO by the Secretariat upon recommendation of the Local Board and approval by the National Board. Second check requests include an interim report that each LRO must complete. The Local Board Chair signs the request and mails it to the National Board. Second/third installments will be held back until the National Board reviews and clears the jurisdiction's final Local Board report and documentation for the previous year.

(i) *Financial reporting requirements.*

(1) LROs must submit a financial status report to the Local Board; the Local Board will forward to the National Board 45 days after the jurisdiction's program ending date.

(2) The National Board will provide the LRO, through the Local Board, with the necessary report forms well in advance of report deadlines.

(j) *Closeout procedures.*

The following definitions apply to closeout procedures:

''Close-out'' is the process by which the National Board determines that all applicable administrative actions and all required work of the award are complete.

''Disallowed costs'' are those charges that the National Board determines are unallowable under the legislation, National Board requirements, applicable Federal cost principles, or other conditions in the award. The applicable cost principles for Private Voluntary Organizations are contained in OMB Circular A–133, ''Audit of States, Local Governments, and Non-Profit Organizations,'' and OMB Circular A–110, ''Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.'' The applicable cost principles for Public Organizations are contained in OMB Circular A–87, ''Cost Principles for State Agencies and Units of Local Governments.'' If you are unsure of where to find these circulars, check with your local Congressional Representative.

(k) *Suspension and Termination Procedures.*

The following definitions apply to suspensions and termination procedures:

''Local Board Authority'' is authority to suspend/reallocate all or a portion of an LRO's award at its discretion for any cause (i.e., inability to deliver services, suspected fraud, violation of eligible costs, changing need in the community, etc.).

''Suspension'' of the award is an action by the Local Board or National Board that temporarily suspends Federal assistance under the award pending corrective action by the LRO or pending a decision by the National Board to terminate the award.

''Termination'' of the award means the cancellation of Federal assistance, in whole or in part, under the award at any time prior to the date of completion.

(l) *Lobbying.*

(1) Pub. L. 101–121, section 319, states that an LRO will not use Federally appropriated grant funds for lobbying activities. This condition bars the use of Federal money for political activities, but does not in any way restrict lobbying or political activities paid for with non-Federal funds. This condition prohibits the use of Federal grant funds for the following activities:

(i) Federal, State or local electioneering and support of such entities as campaign organizations and political action committees;

(ii) Direct lobbying of the Congress and State legislatures to influence legislation;

(iii) Grassroots lobbying concerning either Federal or State legislation;

(iv) Lobbying of the Executive branch in connection with decisions to sign or veto enrolled legislation; and,

(v) Efforts to use State or local officials to lobby the Congressional or State Legislatures.

(2) Any LRO that will receive more than $100,000 in EFSP funds must submit the following before grant payment:

(i) a certification form that the LRO will not use EFSP funds for lobbying activities; and,

(ii) a disclosure of lobbying activities (if applicable).

### 6.4 Grant Payment Process

(a) United Way of America is the fiscal agent for the National Board and will process all Local Board plans. Payments will be made to organizations recommended by Local Boards for funding.

(b) The National Board offers two methods of payment to LROs: direct deposit (electronic funds transfer) or checks. The National Board encourages LROs to take advantage of direct deposit where possible.

(c) The National Board will pay all awards totaling less than $100,000 in two equal installments. They will pay awards totaling $100,000 or more in two equal installments upon submission of lobbying certification and disclosure.

(d) The National Board will distribute second payments once it completes the jurisdiction's compliance review for the previous program period. Second payments will be held in escrow until the LRO satisfies all compliance exceptions. The deadline to request all second payments under Phase XVII is July 31, 1999. Therefore, for those LROs ineligible to receive their second checks due to unresolved compliance exceptions, Local Boards must reallocate their escrowed awards by July 31, 1999.

(e) The National Board will mail all payments directly to the LRO, and will mail second payments to the LRO only upon the written request of the Local Board Chair, together with the LRO's interim report. The Local Board will authorize second payments once they are assured that the LRO is implementing the current program as intended and according to these guidelines.

### 6.5 Eligibility of Costs

(a)(1) The intent of this appropriation is to purchase food and shelter to supplement and expand current available resources and not to substitute or reimburse ongoing programs and services. The LRO should clear questions regarding interpretation of the program's guidelines with the Local Board before action. Local Boards unsure of the meaning of these guidelines should contact the National Board at (703) 706–9660 for clarification before advising the LRO. If an LRO requests an expenditure request that is not listed below as eligible, the Local Board may request a waiver from the National Board.

(2) No individual or family may be charged a fee for service or assistance under EFSP.

(b) *Eligible Program Costs.* Eligible program costs include, but are not limited to:

(1) *For food banks/pantries, eligible costs include:*

(i) *Groceries, food vouchers, vegetable seeds, gift certificates for food.* Documentation required: receipts/invoices for food purchased and canceled checks.

(ii) *The Local Board may allow for maintenance fees charged by food banks at the prevailing rate.* EFSP funds cannot be used to pay such a maintenance fee twice: by a food bank and by the food pantry/agency it is serving. Food banks may operate as both a vendor and LRO. Documentation required: receipts/invoices for food purchased and canceled checks.

(iii) *Transportation expenses related to the delivery of purchased and donated food; limited to actual fuel costs.* Documentation required: (1) mileage log at the current Federal rate (30 cents per mile), with departure, destination and trip purpose; or, (2) receipts/invoices from contracted services or public transportation, receipts for actual fuel costs; and canceled checks.

(iv) *Purchase of small equipment not exceeding $300 per item and essential to operation of food bank or pantry (e.g., shelving, and storage containers).* Documentation required: receipts/invoices for equipment purchased and canceled checks.

(v) *Purchase of consumable supplies essential to distribution of food (e.g., bags, boxes).* Documentation required: receipts/invoices for supplies purchased and canceled checks.

(2) *For mass shelters (five or more beds) or mass feeding sites, eligible expenditures include:*

(i) *Food (hot meals, groceries, food vouchers).* Limited amounts of dessert items (i.e., cookies, ice cream, candy, etc.) used as a part of a daily diet plan may be purchased. Also allowable are vegetable seeds and vegetable plants cultivated in an agency's garden on-site and canning supplies. Documentation required: receipts/invoices for food purchased and canceled checks or served meals per diem schedule).

(ii) *Local transportation expenses for picking up/delivery of food; transporting clients to mass shelter or feeding site.* Limited to actual fuel costs, a mileage log at the current Federal rate (30 cents per mile) contracted services or public transportation. Documentation required: (1) mileage log, or (2) receipts/invoices from contracted services or public transportation, receipts for actual fuel costs, and canceled checks.

(iii) *Purchase of consumable supplies essential to mass feeding (i.e., plastic cups, utensils, detergent, etc.) or mass shelters of five or more beds (i.e., soap, toothbrushes, toothpaste, cleaning supplies, etc.)* Documentation required: receipts/invoices for supplies purchased and canceled checks.

(iv) *Purchase of small equipment not exceeding $300 per item and essential to mass feeding (i.e., pots, pans, toasters, blenders, etc.) or mass shelters*

*(i.e., cots, blankets, linens, etc.).* Documentation required: receipts/invoices for equipment purchased and canceled checks.

(v) *Leasing, only for the program period, of capital equipment associated with mass feeding or mass shelter (e.g., stoves, freezers, or vans with costs over $300 per item) only if the Local Board approves in advance.* Documentation required: written Local Board approval, copy of lease agreement, and canceled checks.

(vi) *With prior Local Board approval, minor emergency repair of small equipment essential to mass feeding or sheltering not exceeding $300 in repair costs per item.* Equipment eligible for repairs are any that if not repaired would force the LRO to terminate or curtail services (e.g., stove, refrigerator, and hot water heater). Routine maintenance and service contracts are not eligible expenses. Documentation required: receipts or bills for equipment repair and canceled checks.

(vii) *Limited amounts of basic first-aid supplies (e.g., aspirin, band-aids, cough syrup) for mass shelter providers and mass feeding sites only.* Documentation required: receipts/invoices for first-aid supplies and canceled checks.

(3) *Emergency repairs/building code of a mass feeding facility or mass shelter,* provided:

(i) The facility is owned by a not-for-profit organization (profit-making facilities, leased facilities, government facilities, and individual residences are not eligible); and,

(ii) The emergency repair/building code plan and the contract detailing work to be done and material and equipment to be used or purchased is approved by the Local Board before the start of the emergency repair/building code project; and

(iii) The emergency repair/building code is limited to:

(A) Bring facility into compliance with local building codes; or,

(B) An emergency repair essential to keep the facility open for the current program phase.

(C) Maximum expenditure: $2,500.

(D) No award funds are used for decorative or non-essential purposes or routine maintenance/repairs.

(E) All emergency repair work is completed and paid for by the end of the jurisdiction's award phase. (Expenses which occur after that date will not be accepted as eligible costs.) Documentation required: letter from Local Board indicating approval and amount approved, copy of contract including cost or invoices for supplies and contract labor, document citing building code violation requiring the repair (for building code repairs) and canceled checks.

(14) *Expenses incurred from accessibility improvements for the disabled are eligible for mass feeding or mass shelter facilities up to a limit of $2,500.*

(i) These improvements may include those required by the Americans with Disabilities Act of 1990. A building code citation is not necessary for accessibility improvements. Note: All social service providers are mandated to comply with the Americans with Disabilities Act of 1990. Documentation required: copy of contract describing work to be done including cost, letter from Local Board indicating approval and amount approved, and canceled checks.

(ii) For mass shelter providers, there are two options for eligible costs. One option must be selected at the beginning of the program year and continued throughout the entire year. Note the documentation requirements for each option.

(15) *Reimbursement of actual direct eligible costs*; in which case the LRO must keep and vendor invoices for supplies/equipment essential to the operation of the mass shelter (e.g., cots, mattresses, soap, linens, blankets, cleaning supplies). Documentation required: receipts/invoices from vendor relating to operation of facility and canceled checks.

(16) *Per diem allowance of exactly $5 per person or exactly $10 per person per night for mass shelter (five beds or more) providers, only if:*

(i) Approved in advance by the Local Board; and,

(ii) LROs total mass shelter award is expended in this manner. Note: It is the decision of the Local Board to choose between the $5/$10 rate. This rate may vary from agency to agency.

(A) The $5/$10 per diem, if elected, may be expended by the LRO for any cost related to the operation of the mass shelter; it is not limited to otherwise eligible items. The per diem allowance does not include the additional costs associated with food. Documentation required: schedule showing daily rate of $5 or $10 and number of persons sheltered by date with totals. Supporting documentation must be retained on-site, e.g., checks, invoices and service records.

(B) For mass feeding programs, there are two options for eligible costs. The LRO must select one option at the beginning of the program year and continue it throughout the entire year. Note the documentation requirements for each option.

(17) *Reimbursement of actual direct eligible costs*; in which case the LRO must keep canceled checks and vendor invoices for supplies/equipment essential to the operation of the mass feeding programs (e.g., food, paper products, cleaning products, pots and pans, etc.). Documentation required: receipts/invoices from vendor relating to operation of facility and canceled checks.

(18) *Per meal allowance of $1.50 per meal served* only if:

(i) Approved in advance by the Local Board; and,

(ii) LRO's total mass feeding award is expended in this manner.

The $1.50 per meal allowance, if elected, may be expended by the LRO for any related cost; it is not limited to otherwise eligible items. The per-meal allowance does not include the additional costs associated with shelter. Documentation required: schedule showing meal rate of $1.50 and number of meals served by date with totals. Supporting documentation must be retained on-site, e.g., checks/invoices and service records.

(19) *For all agencies, eligible costs include the purchase of diapers for distribution to individuals/families.* Vouchers to grocery stores may include diapers. Note: Local Boards should use discretion in selecting LROs to provide this service, taking into consideration the cost effectiveness of bulk purchasing. Documentation required: receipts/invoices for diapers purchased and canceled checks.

(c) *For rent/mortgage assistance, eligible program costs include:*

(1) *Limited emergency rent or mortgage assistance for individuals or families,* provided that:

(i) Payment is in arrears or due within 5 days; and,

(ii) All other resources have been exhausted; and,

(iii) The client is primary resident of the home in which rent/mortgage is being paid and responsible for the rent/mortgage on the home or apartment where the rent/mortgage assistance is to be paid;

(iv) Payment is limited to one month's cost for each individual or family. Assistance can be provided for a full month's rent/mortgage all at one time, or in separate payments over a period of up to 90 consecutive days so long as the total amount paid does not exceed one month's costs;

(v) Assistance is provided only once in each award phase for each individual or family; and,

(vi) Payment must guarantee an additional 30 days service.

**Note:** Late fees, legal fees, and deposits are ineligible. Payments for trailers and lots are eligible and can be paid to a mortgage company or to a private landlord. Documentation required: letters from landlords (must include amount of one month's rent and statement that rent is past due), mortgage letters and/or copy of loan coupon showing mortgage amount and date due and canceled checks.

(2) *First month's rent may be paid when an individual or family:*

(i) Is transient and plans to stay in the area for an extended period of time; or,

(ii) Is moving from a temporary shelter to a more permanent living arrangement; or,

(iii) Is being evicted because one-month payment will not forestall eviction.

The LRO cannot provide the first month's rent in addition to emergency rent/mortgage payment under Item 20 above, but can provide in addition to assistance provided for off-site and mass shelter. Documentation required: letters from landlords [must include amount of first month's rent] and canceled checks.

(d) *For utility assistance, eligible program costs include:*

(1) *Limited utility assistance (includes gas, coal, electricity, oil, water, firewood) for individuals or families,* provided that:

(i) Payment is in arrears;

(ii) All other resources have been exhausted (e.g., State's Low Income Home Energy Assistance Program);

(iii) Payment is limited to one month's cost for each utility for each individual or family;

(iv) Month paid is part of the arrearage and from current phase or for continuous service; and,

(v) Each utility can be paid only once in each award phase for any individual or family.

(vi) Payment must guarantee an additional 30 days service.

(2) *Other utility assistance.*

(i) Reconnects are eligible.

(ii) Late fees and deposits are ineligible.

(iii) Utility assistance can be provided in addition to eligible rent/mortgage assistance.

(iv) The National Board encourages the use of the metered utility verification form (along with a copy of the past due utility bill) as the preferred method for verifying eligible utility assistance. Documentation required:

(A) nonmetered utilities [e.g., propane, firewood], receipts/invoices for fuel including due date and canceled checks;

(B) metered utilities [e.g., electricity, water], copy of past due utility bill showing one month's charges including due date and canceled checks.

**Note:** Utility disconnects and termination notices often do not show amount owed by month. Verify this information with the utility company and write it on the notice or meter utility verification form if not included.

(d) *For other shelter assistance, eligible program costs include:*

(1) Off-site emergency lodging in a hotel or motel, or other off-site shelter facility provided:

(i) No appropriate on-site shelter is available; and,

(ii) It is limited to 30-days' assistance per individual or family during the program period. Note: Assistance may be extended in extreme cases with prior Local Board written approval. A copy of this approval should accompany LRO's documentation. Note: An LRO may not operate as a vendor for itself or other LROs, except for shared maintenance fee for food banks. Documentation required: receipts/invoices from off-site shelter (hotel/motel) and canceled checks.

(e) *Ineligible Program Costs.*

Purposes for which funds CANNOT BE USED include, but are not limited to:

(1) Cash payments of any kind including checks made out to cash or reimbursements to staff, volunteers or clients for program purchases.

(2) Deposits of any kind.

(3) Payment of more than one month's rent amount.

(4) Payment of more than one month's mortgage, first month's mortgage, or down payment on mortgage.

(5) Transportation of people not related to the direct provision of food or shelter (e.g. to another agency, another city, relative's home, transportation to jobs, health care, etc.).

(6) Payment of more than one month's portion of an accumulated utility bill.

(7) Payments made directly to a client.

(8) Rental security; deposits; revolving loan accounts.

(9) Real property (land or buildings) costing more than $300.

(10) Property taxes of any kind.

(11) Equipment costing more than $300 per item (e.g., vehicles, freezers, and washers).

(12) Emergency repairs/building code or rehabilitation to government-owned or profit-making facilities or leased facilities.

(13) Routine maintenance of agency facilities; routine maintenance or service contracts on equipment.

(14) Rehabilitation for expansion of service.

(15) Repairs of any kind to an individual's house or apartment.

(16) Purchase of supplies or equipment for an individual's home or private use.

(17) Lease-purchase agreements.

(18) Administrative cost reimbursement to State or regional offices of governmental or voluntary organizations.

(19) Lobbying efforts.

(20) Expenditures made prior to beginning of jurisdiction's program.

(21) Expenditures made after end of jurisdiction's program.

(22) Gas or repairs for client-owned transportation. Repairs to LRO-owned vehicles.

(23) Prescription medication or medical supplies.

(24) Clothing (except underwear/diapers for clients of mass shelters, if necessary).

(25) Payments for expenses not incurred (i.e., where no goods or services have been provided during new program period).

(26) Emergency assistance for natural disaster victims, e.g., supplies bought for and in anticipation of a natural disaster.

(27) Telephone costs, except as administrative allowance and limited to the total allowance (2 percent).

(28) Salaries, except as administrative allowance and limited to the total allowance (2 percent).

(29) Office equipment, except as administrative allowance and limited to the total allowance (2 percent).

(30) LRO may not operate as a vendor for itself or other LROs, except for shared maintenance fee for food banks.

(31) Direct expenses associated with new or expanded services or to prevent closing.

(32) Increased utility costs due to expansion of service.

(33) Encumbrance of funds for shelter, emergency repairs, utilities, that is, payments for goods or services that are purchased and are to be delivered at a later date. Also, withholding assistance in anticipation of a future need (e.g., holiday events, special programs).

(34) Supplementing foster care costs, where an LRO has already received payment for basic boarding of a client. Comprehensive foster care costs beyond food and shelter are not allowed.

(35) No fee for service may be charged to individuals or families in order to receive service.

(f) *Administrative allowance.*

(1) There is an administrative allowance limitation of two percent (2%) of total funds received by the Local Board, excluding any interest earned. This allowance is a part of the total award, not in addition to the award. The local administrative allowance is intended for use by LROs or Local Boards and not for reimbursement of the program or administrative costs that a recipient's parent organization (its State or regional offices) might incur as a result of this additional funding.

(2) The Local Board may elect to use, for its own administrative costs, all or any portion of the 2 percent allowance. The decision on distribution of the allowance among LROs rests with the Local Board. No LRO may receive an allowance greater than 2 percent of that LRO's award amount unless the LRO is providing the administrative support for the Local Board and it is approved by the National Board.

(3) The SSA Committee, when in operation, may use a maximum of one-half of one percent (0.5%) for its administrative costs in allocating the SSA grant. As with Local Board awards, this administrative allowance is part of the total award, not in addition to the award.

(4) Any of the administrative allowance not used must be put back into program funds for additional services. Note: The administrative allowance may only be allocated in whole-dollar amounts.

Required Documentation: None with the final report; LROs receiving funds for administration must retain documentation that the funds were spent on the direct administration of EFSP.

### 6.6 Required Documentation

(a) *Documentation.* LRO documentation of EFSP expenditures requires copies of canceled checks (both sides) and itemized vendor invoices. An acceptable invoice has the following characteristics:

(1) It must be vendor originated;

(2) It must have name of vendor;

(3) It must have name of purchaser;

(4) It must have date of purchase;

(5) It must be itemized; and,

(6) It must have total cost of purchase.

(b) Documentation may also include: per diem schedule, per meal allowance schedule, and mileage logs.

(c) All LROs must periodically submit documentation to the National Board to ensure continued program compliance. Any LRO receiving over $100,000 in Federal funds must comply with OMB Circular A–133.

(d) *Reports.* (1) In addition to the aforementioned documentation, LROs must submit reports to the Local Board by their due date. Interim report/second and third check request forms will be enclosed in the LROs' first check package. When the LRO is ready to request its second/third check it must complete and sign the interim report and forward it to the Local Board for its review and approval. The Local Board chair should complete the reverse side (second/third check request) and mail it to the National Board. LROs must complete all portions of the final report form, return two copies to the Local Board, including one copy of documentation if requested, and retain a copy for their records.

(2) The LRO must work with the Local Board to clear up quickly any problems related to compliance exception(s) at the end of the program.

### 7.0 Local Appeals Process

(a) *Fairness and openness.* An appeals process is a statement to eligible agencies and to the community at large that the Local Board is interested in fairness and openness.

(1) A good appeals process begins with prevention. If the Local Board includes both representatives of affiliates of the National Board and representatives of other groups involved with assisting hungry and homeless people, it is less likely to experience an appeal. Similarly, if the Local Board's decision-making process is open, thorough, and even-handed, appeals are less likely.

(2) It is the responsibility of the Local Board to establish a written appeals process. That process may be simple or elaborate, depending on the needs of the community.

(b) *Appeals guidelines.* The appeal process should meet the following guidelines:

(1) It should be available to agencies and to the public upon request;

(2) It should be timely, without undue delay;

(3) It should include the basis for appeal (e.g., Provision of information not previously available to the group making the appeal or to the Local Board; correction of erroneous information; violation of Federal or National Board guidelines; or allegation of bias, fraud, or misuse of Federal funds on the part of the Local Board may be cause for appeal);

(4) The decision should be communicated to the organization making the appeal in a timely manner. In the case of an appeal on the basis of fraud or other abuse of Federal funds, the Local Board must inform the agency making the appeal of the right of referral to the National Board;

(c) *Primary decision-maker.* Except for cost and LRO eligibility, the Local Board is the primary decision-maker. Only when there is significant question of misapplication of guidelines, fraud, or other abuse on the part of the Local Board will the National Board consider action.

(d) *Common appeals practices.* The National Board does not mandate any particular appeals process. However, some Local Boards have developed processes that work well for them and may offer some help to other communities. Common practices include the following:

(1) Set a time period of not more than 30 days for agencies or organizations to appeal a funding decision;

(2) Require written notice of appeal, signed by the Chief Volunteer Officer of the organization making the appeal;

(3) The first level of appeal is usually to the Local Board, or to an executive committee of the board;

(e) *Appeals board; delegations.* Some boards appoint one or more members to act as a liaison with the organization making the appeal:

(1) In the case of an appeal for the purpose of providing previously unavailable information or correction of erroneous information, the process usually ends with prompt notification of decision (within ten working days of appeal).

(2) In the case of appeals for the purpose of contesting alleged prejudice, violation of law or National Board guidelines, fraud, or misuse of Federal funds, some Local Boards have allowed appeals to a group other than the Local Board itself. This practice is not required but the National Board permits it. Such groups may simply be composed of different individuals representing the same organizations that make up the Local Board. They may also include an entirely different group of persons who have knowledge of the program and the Local Board deems them to be both responsible and unbiased, and to hold the trust of the community at large.

(3) If the board chooses to delegate authority to any third party in an appeals process, the power and authority of that body should be clear. Is it simply advisory to the Local Board? Will the board abide by the decisions of this body as long as they are consistent with the law and the National Board guidelines?

(4) The disposition of appeals is often communicated by telephone to the chief

professional and volunteer officers of the organization appealing immediately after a decision is made. In such cases, a written communication is sent as soon as possible confirming the action taken. The written communication is, of course, the official notification.

(f) *National Board role.* It is important to reaffirm that the National Board does not require or advise any single appeals process.

**8.0 Allocations Formula**

(a) *Designation of Target Areas.*

(1) The National Board will select local jurisdictions to receive funds based on average unemployment statistics from the U.S. Department of Labor for the most current 12-month period (August 1, 1997—July 31, 1998) available. The National Board also uses poverty statistics from the 1990 Census. The Board uses this approach in order to target funds for high-need areas more effectively. Funds designated for a particular jurisdiction must be used to provide services within that jurisdiction.

(2) The National Board bases its determination of high-need jurisdictions on four factors:

(i) Most current twelve-month national unemployment rates;

(ii) Total number of unemployed within a civil jurisdiction;

(iii) Total number of individuals below the poverty level within a civil jurisdiction; and,

(iv) The total population of the civil jurisdiction.

(3) In addition to unemployment, the National Board uses poverty to qualify a jurisdiction for receipt of an award.

(b) *Fiscal Year 1999 Formula.* (1) The National Board selected jurisdictions under Phase XVII (PL 105–276) according to the following criteria:

(i) Jurisdictions, including balance of counties, with 18,000+ unemployed and a 3.6% rate of unemployment.

(ii) Jurisdictions, including balance of counties, with 400 to 17,999 unemployed and a 5.6% rate of unemployment.

(iii) Jurisdictions, including balance of counties, with 400 or more unemployed and an 11.7% rate of poverty.

(2) Jurisdictions with a minimum of 400 unemployed may qualify for an award based upon their rate of unemployment or their rate of poverty. Once a jurisdiction's eligibility is established, the National Board will determine its fund distribution based on a ratio calculated as follows: the average number of unemployed within an eligible area divided by the average number of unemployed covered by the national program equals the area's portion of the award (less National Board administrative costs, and less that portion of program funds required to fulfill designated awards).

$$\frac{\text{Area's avg. no. unemployed}}{\text{Avg. no. unemployed in all eligible areas}} = \begin{array}{c}\text{Area's percent of the award}\\ \text{(less National Board's administrative}\\ \text{costs and designated awards)}\end{array}$$

(3) Puerto Rico and U.S. territories will receive a designated percentage of the total award based on the decision of the National Board.

**9.0 Amendments to Plan**

The National Board reserves the right to amend this Plan at any time.

Dated: April 21, 1999.

**Kay C. Goss,**

*Associate Director, Preparedness, Training and Exercise Directorate.*

The following is a list of Phase XVII (fiscal year 1999) allocations. These jurisdictions were notified in October 1998 about this award.

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17

| | | |
|---|---|---|
| Alabama: | | |
| 17–0006–01 | Birmingham/Jefferson, Shelby Counties | $203,581 |
| 17–0030–00 | Autauga County | 11,176 |
| 17–0032–00 | Baldwin County | 33,494 |
| 17–0034–00 | Barbour County | 11,225 |
| 17–0036–00 | Bibb County | 9,612 |
| 17–0038–00 | Blount County | 11,669 |
| 17–0040–00 | Bullock County | 7,555 |
| 17–0042–00 | Butler County | 15,949 |
| 17–0044–00 | Calhoun County | 45,180 |
| 17–0046–00 | Chambers County | 12,377 |
| 17–0048–00 | Cherokee County | 6,880 |
| 17–0050–00 | Chilton County | 13,809 |
| 17–0052–00 | Choctaw County | 12,311 |
| 17–0054–00 | Clarke County | 22,713 |
| 17–0060–00 | Coffee County | 14,188 |
| 17–0062–00 | Colbert County | 33,132 |
| 17–0064–00 | Conecuh County | 10,221 |
| 17–0068–00 | Covington County | 18,023 |
| 17–0070–00 | Crenshaw County | 7,242 |
| 17–0072–00 | Cullman County | 23,306 |
| 17–0074–00 | Dale County | 16,722 |
| 17–0076–00 | Dallas County | 32,803 |
| 17–0078–00 | De Kalb County | 23,141 |
| 17–0080–00 | Elmore County | 14,879 |
| 17–0082–00 | Escambia County | 16,525 |
| 17–0084–00 | Etowah County | 36,226 |
| 17–0086–00 | Fayette County | 8,756 |

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

| | | |
|---|---|---|
| 17–0088–00 | Franklin County | 22,796 |
| 17–0090–00 | Geneva County | 8,937 |
| 17–0092–00 | Greene County | 8,279 |
| 17–0094–00 | Hale County | 8,806 |
| 17–0098–00 | Houston County | 27,042 |
| 17–0102–00 | Jackson County | 28,458 |
| 17–0108–00 | Lamar County | 10,748 |
| 17–0110–00 | Lauderdale County | 44,801 |
| 17–0112–00 | Lawrence County | 14,599 |
| 17–0114–00 | Lee County | 32,112 |
| 17–0116–00 | Limestone County | 18,418 |
| 17–0118–00 | Lowndes County | 8,625 |
| 17–0120–00 | Macon County | 10,797 |
| 17–0126–00 | Marengo County | 15,784 |
| 17–0128–00 | Marion County | 20,689 |
| 17–0130–00 | Marshall County | 34,037 |
| 17–0132–00 | Mobile County | 147,719 |
| 17–0136–00 | Monroe County | 20,919 |
| 17–0138–00 | Montgomery County | 69,852 |
| 17–0142–00 | Morgan County | 37,444 |
| 17–0144–00 | Perry County | 6,896 |
| 17–0146–00 | Pickens County | 10,715 |
| 17–0148–00 | Pike County | 12,163 |
| 17–0150–00 | Randolph County | 6,814 |
| 17–0152–00 | Russell County | 18,006 |
| 17–0154–00 | St. Clair County | 15,044 |
| 17–0158–00 | Sumter County | 9,908 |
| 17–0160–00 | Talladega County | 32,852 |
| 17–0162–00 | Tallapoosa County | 15,175 |
| 17–0164–00 | Tuscaloosa County | 39,765 |
| 17–0168–00 | Walker County | 32,869 |
| 17–0170–00 | Washington County | 14,171 |
| 17–0172–00 | Wilcox County | 8,740 |
| 17–0174–00 | Winston County | 14,023 |
| 17–0176–00 | State Set-Aside Committee, AL | 42,731 |
| | Alabama Total | 1,543,429 |
| Alaska: | | |
| 17–0190–00 | Bethel Census Area | 8,114 |
| 17–0196–00 | Fairbanks North Star Borough | 45,361 |
| 17–0200–00 | Juneau Borough | 16,311 |
| 17–0202–00 | Kenai Peninsula Borough | 41,263 |
| 17–0204–00 | Ketchikan Gateway Borough | 10,567 |
| 17–0208–00 | Kodiak Island Borough | 10,024 |
| 17–0210–00 | Matanuska-Susitna Census | 39,929 |
| 17–0216–00 | Prince of Wales-Outer Ketchikan | 7,028 |
| 17–0224–00 | Valdez-Cordova Census Area | 8,542 |
| 17–0232–00 | State Set-Aside Committee, AK | 87,530 |
| | Alaska Total | 274,669 |
| Arizona: | | |
| 17–0242–00 | Apache County | 51,994 |
| 17–0244–00 | Cochise County | 46,925 |
| 17–0246–00 | Coconino County | 72,271 |
| 17–0248–00 | Gila County | 22,401 |
| 17–0250–00 | Graham County | 14,780 |
| 17–0254–00 | La Paz County | 9,842 |
| 17–0256–00 | Maricopa County | 609,723 |
| 17–0268–00 | Mohave County | 44,209 |
| 17–0270–00 | Navajo County | 69,901 |
| 17–0272–00 | Pima County | 179,321 |
| 17–0276–00 | Pinal County | 40,818 |
| 17–0278–00 | Santa Cruz County | 42,711 |
| 17–0280–00 | Yavapai County | 38,547 |
| 17–0282–00 | Yuma County | 289,826 |
| 17–0284–00 | State Set-Aside Committee, AZ | 2,944 |
| | Arizona Total | 1,536,213 |
| Arkansas: | | |
| 17–0304–00 | Arkansas County | 9,842 |
| 17–0306–00 | Ashley County | 14,862 |
| 17–0308–00 | Baxter County | 11,258 |
| 17–0312–00 | Boone County | 15,175 |
| 17–0314–00 | Bradley County | 9,102 |

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

| | | |
|---|---|---|
| 17–0318–00 | Carroll County | 10,534 |
| 17–0320–00 | Chicot County | 8,625 |
| 17–0322–00 | Clark County | 6,946 |
| 17–0324–00 | Clay County | 8,312 |
| 17–0326–00 | Cleburne County | 7,209 |
| 17–0330–00 | Columbia County | 13,101 |
| 17–0332–00 | Conway County | 8,937 |
| 17–0334–00 | Craighead County | 28,112 |
| 17–0336–00 | Crawford County | 18,286 |
| 17–0338–00 | Crittenden County | 17,315 |
| 17–0340–00 | Cross County | 9,151 |
| 17–0344–00 | Desha County | 9,892 |
| 17–0346–00 | Drew County | 14,731 |
| 17–0348–00 | Faulkner County | 35,189 |
| 17–0354–00 | Garland County | 27,635 |
| 17–0358–00 | Greene County | 15,965 |
| 17–0360–00 | Hempstead County | 13,628 |
| 17–0362–00 | Hot Spring County | 12,064 |
| 17–0366–00 | Independence County | 16,574 |
| 17–0370–00 | Jackson County | 13,332 |
| 17–0372–00 | Jefferson County | 46,711 |
| 17–0376–00 | Johnson County | 6,649 |
| 17–0380–00 | Lawrence County | 9,612 |
| 17–0382–00 | Lee County | 7,160 |
| 17–0388–00 | Logan County | 8,065 |
| 17–0390–00 | Lonoke County | 13,513 |
| 17–0396–00 | Miller County | 12,805 |
| 17–0398–00 | Mississippi County | 44,456 |
| 17–0408–00 | Ouachita County | 18,977 |
| 17–0412–00 | Phillips County | 13,990 |
| 17–0416–00 | Poinsett County | 12,871 |
| 17–0420–00 | Pope County | 23,388 |
| 17–0424–00 | Pulaski County | 122,142 |
| 17–0430–00 | Randolph County | 13,431 |
| 17–0432–00 | St. Francis County | 18,171 |
| 17–0440–00 | Sebastian County | 40,407 |
| 17–0446–00 | Sharp County | 6,699 |
| 17–0450–00 | Union County | 22,039 |
| 17–0452–00 | Van Buren County | 8,608 |
| 17–0454–00 | Washington County | 42,036 |
| 17–0456–00 | White County | 28,293 |
| 17–0460–00 | Yell County | 7,127 |
| 17–0462–00 | State Set-Aside Committee, AR | 91,608 |
| | Arkansas Total | 974,535 |
| California: | | |
| 17–0634–00 | Alameda County | 283,885 |
| 17–0646–00 | Oakland City | 201,129 |
| 17–0652–00 | Amador County | 12,706 |
| 17–0654–00 | Butte County | 120,579 |
| 17–0656–00 | Calaveras County | 21,249 |
| 17–0658–00 | Colusa County | 30,383 |
| 17–0660–00 | Contra Costa County | 306,351 |
| 17–0668–00 | Del Norte County | 17,348 |
| 17–0464–00 | Fresno City/County | 867,899 |
| 17–0676–00 | Glenn County | 24,096 |
| 17–0678–00 | Humboldt County | 74,098 |
| 17–0680–00 | Imperial County | 242,605 |
| 17–0682–00 | Inyo County | 9,233 |
| 17–0684–00 | Kern County | 564,922 |
| 17–0688–00 | Kings County | 97,519 |
| 17–0690–00 | Lake County | 38,810 |
| 17–0692–00 | Lassen County | 17,907 |
| 17–0695–00 | Los Angeles City/County | 4,827,667 |
| 17–0760–00 | Madera County | 113,419 |
| 17–0766–00 | Mariposa County | 9,036 |
| 17–0768–00 | Mendocino County | 55,895 |
| 17–0770–00 | Merced County | 214,411 |
| 17–0772–00 | Modoc County | 7,670 |
| 17–0774–00 | Mono County | 9,497 |
| 17–0776–00 | Monterey County | 332,109 |
| 17–0784–00 | Nevada County | 40,226 |
| 17–0786–00 | Orange County | 699,342 |
| 17–0818–00 | Plumas County | 16,870 |

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

| | | |
|---|---|---|
| 17–0820–00 | Riverside County | 757,755 |
| 17–0824–00 | Sacramento County | 487,565 |
| 17–0828–00 | San Benito County | 47,204 |
| 17–0830–00 | San Bernardino County | 706,140 |
| 17–0840–00 | San Diego County | 808,235 |
| 17–0858–00 | San Francisco City/County | 266,339 |
| 17–0860–00 | San Joaquin County | 435,126 |
| 17–0864–00 | San Luis Obispo County | 78,608 |
| 17–0866–00 | San Mateo County | 160,870 |
| 17–0876–00 | Santa Barbara County | 151,225 |
| 17–0880–00 | Santa Clara County | 454,729 |
| 17–0892–00 | Santa Cruz County | 176,539 |
| 17–0896–00 | Shasta County | 111,707 |
| 17–0900–00 | Siskiyou County | 37,691 |
| 17–0902–00 | Solano County | 179,189 |
| 17–0912–00 | Stanislaus County | 418,750 |
| 17–0916–00 | Sutter County | 91,759 |
| 17–0918–00 | Tehama County | 35,848 |
| 17–0920–00 | Trinity County | 11,669 |
| 17–0922–00 | Tulare County | 413,598 |
| 17–0926–00 | Tuolumne County | 27,536 |
| 17–0928–00 | Ventura County | 384,317 |
| 17–0938–00 | Yolo County | 82,213 |
| 17–0940–00 | Yuba County | 47,303 |
| 17–0942–00 | State Set-Aside Committee, CA | 209,754 |
| | California Total | 15,838,530 |
| Colorado: | | |
| 17–0968–00 | Adams County | 86,426 |
| 17–0978–00 | Alamosa County | 7,489 |
| 17–0990–00 | Boulder County | 74,411 |
| 17–1010–00 | Delta County | 8,295 |
| 17–1012–00 | Denver City/County | 160,821 |
| 17–1026–00 | Fremont County | 10,122 |
| 17–1056–00 | La Plata County | 17,414 |
| 17–1058–00 | Larimer County | 67,416 |
| 17–1066–00 | Logan County | 7,044 |
| 17–1068–00 | Mesa County | 39,205 |
| 17–1074–00 | Montezuma County | 11,472 |
| 17–1076–00 | Montrose County | 14,681 |
| 17–1078–00 | Morgan County | 6,814 |
| 17–1080–00 | Otero County | 7,012 |
| 17–1092–00 | Pueblo County | 57,771 |
| 17–1116–00 | Weld County | 49,196 |
| 17–1122–00 | State Set-Aside Committee, CO | 270,384 |
| | Colorado Total | 895,973 |
| Connecticut: | | |
| 17–1422–01 | Fairfield Census/Bridgeport | 124,613 |
| 17–1422–02 | Fairfield Census/Danbury | 37,926 |
| 17–1422–03 | Fairfield Census/Norwalk | 46,053 |
| 17–1422–04 | Fairfield Census/Stamford | 62,306 |
| 17–1438–00 | Hartford Census County | 324,226 |
| 17–1458–00 | New Haven Census County | 314,663 |
| 17–1472–00 | New London Census County | 109,255 |
| 17–1478–00 | State Set-Aside Committee, CT | 135,176 |
| | Connecticut Total | 1,154,218 |
| Delaware: | | |
| 17–1480–00 | Kent County | 46,167 |
| 17–1482–00 | New Castle County | 146,222 |
| 17–1488–00 | State Set-Aside Committee, DE | 21,691 |
| | Delaware Total | 214,080 |
| District of Columbia: | | |
| 17–1492–00 | District of Columbia | 358,510 |
| | District of Columbia Total | 358,510 |
| Florida: | | |
| 17–1556–00 | Alachua County | 46,925 |
| 17–1562–00 | Bay County | 73,341 |
| 17–1566–00 | Brevard County | 149,727 |
| 17–1570–00 | Broward County | 612,027 |
| 17–1586–00 | Citrus County | 35,091 |
| 17–1592–00 | Columbia County | 18,878 |

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

| | | |
|---|---|---|
| 17–1594–00 | Dade County | 1,195,433 |
| 17–1604–00 | De Soto County | 11,077 |
| 17–1608–00 | Duval County | 229,735 |
| 17–1612–00 | Escambia County | 83,085 |
| 17–1620–00 | Gadsden County | 15,192 |
| 17–1626–00 | Gulf County | 9,003 |
| 17–1630–00 | Hardee County | 20,146 |
| 17–1632–00 | Hendry County | 35,453 |
| 17–1636–00 | Highlands County | 37,839 |
| 17–1638–00 | Hillsborough County | 271,968 |
| 17–1644–00 | Indian River County | 60,388 |
| 17–1646–00 | Jackson County | 16,640 |
| 17–1654–00 | Lee County | 93,602 |
| 17–1656–00 | Leon County | 61,112 |
| 17–1660–00 | Levy County | 9,349 |
| 17–1666–00 | Manatee County | 55,286 |
| 17–1668–00 | Marion County | 69,408 |
| 17–1670–00 | Martin County | 48,883 |
| 17–1674–00 | Nassau County | 15,718 |
| 17–1678–00 | Okeechobee County | 22,269 |
| 17–1680–00 | Orange County | 249,321 |
| 17–1684–00 | Osceola County | 45,789 |
| 17–1686–00 | Palm Beach County | 493,901 |
| 17–1694–00 | Pinellas County | 257,846 |
| 17–1702–00 | Polk County | 196,866 |
| 17–1706–00 | Putnam County | 26,483 |
| 17–1710–00 | St Lucie County | 130,306 |
| 17–1712–00 | Santa Rosa County | 32,128 |
| 17–1714–00 | Sarasota County | 64,091 |
| 17–1718–00 | Seminole County | 102,934 |
| 17–1720–00 | Sumter County | 9,316 |
| 17–1722–00 | Suwannee County | 9,513 |
| 17–1724–00 | Taylor County | 9,991 |
| 17–1728–00 | Volusia County | 109,156 |
| 17–1734–00 | Walton County | 10,830 |
| 17–1736–00 | Washington County | 7,802 |
| 17–1738–00 | State Set-Aside Committee, FL | 247,589 |
| | Florida Total | 5,301,437 |
| Georgia: | | |
| 17–1741–00 | Atlanta and College Park/Clayton, Dekalb, Fulton Counties | 572,904 |
| 17–1742–00 | Macon/Bibb, Jones Counties | 75,069 |
| 17–1772–00 | Appling County | 12,657 |
| 17–1776–00 | Bacon County | 6,600 |
| 17–1780–00 | Baldwin County | 13,463 |
| 17–1784–00 | Barrow County | 12,229 |
| 17–1788–00 | Ben Hill County | 8,509 |
| 17–1800–00 | Brooks County | 6,798 |
| 17–1804–00 | Bulloch County | 14,797 |
| 17–1806–00 | Burke County | 19,800 |
| 17–1816–00 | Carroll County | 33,132 |
| 17–1818–00 | Catoosa County | 15,784 |
| 17–1822–00 | Chatham County | 80,616 |
| 17–1828–00 | Chattooga County | 8,822 |
| 17–1832–00 | Clarke County | 24,639 |
| 17–1840–00 | Cobb County | 149,250 |
| 17–1842–00 | Coffee County | 17,825 |
| 17–1844–00 | Colquitt County | 14,352 |
| 17–1854–00 | Crisp County | 10,600 |
| 17–1860–00 | Decatur County | 9,513 |
| 17–1866–00 | Dodge County | 9,349 |
| 17–1870–00 | Dougherty County | 57,656 |
| 17–1880–00 | Effingham County | 8,394 |
| 17–1882–00 | Elbert County | 12,213 |
| 17–1884–00 | Emanuel County | 12,361 |
| 17–1888–00 | Fannin County | 9,727 |
| 17–1892–00 | Floyd County | 32,885 |
| 17–1896–00 | Franklin County | 6,649 |
| 17–1902–00 | Gilmer County | 8,476 |
| 17–1906–00 | Glynn County | 18,977 |
| 17–1910–00 | Grady County | 11,620 |
| 17–1920–00 | Hancock County | 6,781 |
| 17–1922–00 | Haralson County | 10,073 |
| 17–1926–00 | Hart County | 7,044 |

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

| | | |
|---|---|---|
| 17–1932–00 | Houston County | 31,107 |
| 17–1936–00 | Jackson County | 13,184 |
| 17–1940–00 | Jeff Davis County | 6,649 |
| 17–1942–00 | Jefferson County | 14,698 |
| 17–1956–00 | Laurens County | 22,236 |
| 17–1958–00 | Lee County | 8,476 |
| 17–1960–00 | Liberty County | 19,899 |
| 17–1966–00 | Lowndes County | 25,775 |
| 17–1970–00 | McDuffie County | 13,118 |
| 17–1974–00 | Macon County | 10,237 |
| 17–1976–00 | Madison County | 7,275 |
| 17–1980–00 | Meriwether County | 7,933 |
| 17–1984–00 | Mitchell County | 15,718 |
| 17–1986–00 | Monroe County | 8,904 |
| 17–1994–00 | Muskogee County | 68,453 |
| 17–1998–00 | Newton County | 20,261 |
| 17–2006–00 | Peach County | 11,357 |
| 17–2014–00 | Polk County | 14,978 |
| 17–2026–00 | Richmond County | 93,899 |
| 17–2032–00 | Screven County | 9,447 |
| 17–2036–00 | Spalding County | 22,302 |
| 17–2038–00 | Stephens County | 10,896 |
| 17–2042–00 | Sumter County | 23,075 |
| 17–2052–00 | Telfair County | 7,225 |
| 17–2054–00 | Terrell County | 8,625 |
| 17–2056–00 | Thomas County | 14,632 |
| 17–2058–00 | Tift County | 17,595 |
| 17–2060–00 | Toombs County | 17,891 |
| 17–2066–00 | Troup County | 24,047 |
| 17–2068–00 | Turner County | 8,575 |
| 17–2074–00 | Upson County | 7,719 |
| 17–2076–00 | Walker County | 24,935 |
| 17–2078–00 | Walton County | 14,319 |
| 17–2080–00 | Ware County | 12,245 |
| 17–2084–00 | Washington County | 15,850 |
| 17–2086–00 | Wayne County | 13,036 |
| 17–2102–00 | Worth County | 10,024 |
| 17–2104–00 | State Set-Aside Committee, GA | 379,998 |
| | Georgia Total | 2,376,157 |
| Hawaii: | | |
| 17–2106–00 | Honolulu City/County | 350,840 |
| 17–2108–00 | Hawaii County | 107,115 |
| 17–2112–00 | Kauai County | 46,957 |
| 17–2114–00 | Maui County | 76,337 |
| | Hawaii Total | 581,249 |
| Idaho: | | |
| 17–2134–00 | Bannock County | 33,938 |
| 17–2138–00 | Benewah County | 7,439 |
| 17–2140–00 | Bingham County | 18,401 |
| 17–2146–00 | Bonner County | 22,285 |
| 17–2156–00 | Canyon County | 52,224 |
| 17–2160–00 | Cassia County | 11,406 |
| 17–2164–00 | Clearwater County | 8,526 |
| 17–2168–00 | Elmore County | 9,102 |
| 17–2174–00 | Gem County | 7,127 |
| 17–2178–00 | Idaho County | 10,929 |
| 17–2180–00 | Jefferson County | 6,995 |
| 17–2182–00 | Jerome County | 7,110 |
| 17–2184–00 | Kootenai County | 71,580 |
| 17–2186–00 | Latah County | 8,460 |
| 17–2196–00 | Minidoka County | 14,007 |
| 17–2198–00 | Nez Perce County | 13,924 |
| 17–2204–00 | Payette County | 12,739 |
| 17–2208–00 | Shoshone County | 11,604 |
| 17–2212–00 | Twin Falls County | 25,692 |
| 17–2218–00 | State Set-Aside Committee, ID | 99,675 |
| | Idaho Total | 453,163 |
| Illinois: | | |
| 17–2342–00 | Adams County | 22,582 |
| 17–2346–00 | Bond County | 7,275 |
| 17–2356–00 | Carroll County | 7,834 |

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

| | | |
|---|---|---|
| 17–2360–00 | Champaign County | 43,797 |
| 17–2364–00 | Christian County | 15,998 |
| 17–2366–00 | Clark County | 7,571 |
| 17–2368–00 | Clay County | 7,719 |
| 17–2372–00 | Coles County | 17,200 |
| 17–2374–00 | Cook County | 842,174 |
| 17–2378–00 | Chicago City | 1,243,838 |
| 17–2398–00 | Crawford County | 12,015 |
| 17–2402–00 | DeKalb County | 26,038 |
| 17–2414–00 | Edgar County | 7,407 |
| 17–2420–00 | Fayette County | 11,439 |
| 17–2424–00 | Franklin County | 29,659 |
| 17–2426–00 | Fulton County | 16,558 |
| 17–2430–00 | Greene County | 6,814 |
| 17–2432–00 | Grundy County | 20,179 |
| 17–2436–00 | Hancock County | 8,197 |
| 17–2446–00 | Jackson County | 22,253 |
| 17–2448–00 | Jasper County | 7,769 |
| 17–2450–00 | Jefferson County | 21,512 |
| 17–2458–00 | Kane County | 138,848 |
| 17–2464–00 | Kankakee County | 48,225 |
| 17–2468–00 | Knox County | 20,722 |
| 17–2470–00 | Lake County | 187,386 |
| 17–2474–00 | La Salle County | 59,960 |
| 17–2476–00 | Lawrence County | 9,283 |
| 17–2484–00 | McDonough County | 7,258 |
| 17–2488–00 | McLean County | 34,975 |
| 17–2490–00 | Macon County | 60,273 |
| 17–2494–00 | Macoupin County | 20,738 |
| 17–2496–00 | Madison County | 101,535 |
| 17–2498–00 | Marion County | 26,005 |
| 17–2502–00 | Mason County | 9,135 |
| 17–2512–00 | Montgomery County | 18,944 |
| 17–2520–00 | Peoria County | 66,231 |
| 17–2524–00 | Perry County | 13,595 |
| 17–2528–00 | Pike County | 7,983 |
| 17–2536–00 | Randolph County | 14,731 |
| 17–2538–00 | Richland County | 8,345 |
| 17–2540–00 | Rock Island County | 48,406 |
| 17–2542–00 | St. Clair County | 114,719 |
| 17–2546–00 | Saline County | 14,797 |
| 17–2548–00 | Sangamon County | 68,716 |
| 17–2560–00 | Stephenson County | 21,495 |
| 17–2562–00 | Tazewell County | 44,291 |
| 17–2564–00 | Union County | 10,040 |
| 17–2566–00 | Vermilion County | 44,966 |
| 17–2568–00 | Wabash County | 7,933 |
| 17–2574–00 | Wayne County | 8,674 |
| 17–2576–00 | White County | 9,349 |
| 17–2580–00 | Will County | 162,812 |
| 17–2586–00 | Williamson County | 37,526 |
| 17–2588–00 | Winnebago County | 107,296 |
| 17–2594–00 | State Set-Aside Committee, IL | 351,332 |
| | Illinois Total | 4,312,352 |
| Indiana: | | |
| 17–2640–00 | Clark County | 26,812 |
| 17–2642–00 | Clay County | 9,777 |
| 17–2648–00 | Daviess County | 7,275 |
| 17–2656–00 | Delaware County | 41,789 |
| 17–2662–00 | Elkhart County | 46,398 |
| 17–2668–00 | Floyd County | 17,068 |
| 17–2678–00 | Grant County | 22,615 |
| 17–2680–00 | Greene County | 16,426 |
| 17–2690–00 | Henry County | 18,566 |
| 17–2692–00 | Howard County | 22,960 |
| 17–2708–00 | Knox County | 12,986 |
| 17–2714–00 | Lake County | 95,660 |
| 17–2716–00 | Gary City | 67,712 |
| 17–2720–00 | La Porte County | 31,437 |
| 17–2724–00 | Madison County | 39,288 |
| 17–2728–00 | Marion County | 228,484 |
| 17–2738–00 | Monroe County | 25,215 |
| 17–2752–00 | Orange County | 9,941 |

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

| | | |
|---|---|---|
| 17–2754–00 | Owen County | 7,472 |
| 17–2758–00 | Perry County | 9,349 |
| 17–2770–00 | Randolph County | 14,978 |
| 17–2776–00 | St. Joseph County | 70,181 |
| 17–2780–00 | Scott County | 8,279 |
| 17–2786–00 | Starke County | 9,003 |
| 17–2790–00 | Sullivan County | 10,336 |
| 17–2794–00 | Tippecanoe County | 27,898 |
| 17–2800–00 | Vanderburgh County | 57,508 |
| 17–2804–00 | Vermillion County | 8,806 |
| 17–2806–00 | Vigo County | 46,645 |
| 17–2816–00 | Washington County | 10,188 |
| 17–2818–00 | Wayne County | 23,355 |
| 17–2826–00 | State Set-Aside Committee, IN | 345,559 |
| | Indiana Total | 1,389,966 |
| Iowa: | | |
| 17–2858–00 | Blackhawk County | 37,872 |
| 17–2890–00 | Clayton County | 8,048 |
| 17–2892–00 | Clinton County | 13,595 |
| 17–2902–00 | Delaware County | 6,863 |
| 17–2904–00 | Des Moines County | 12,739 |
| 17–2946–00 | Jackson County | 7,357 |
| 17–2952–00 | Johnson County | 23,701 |
| 17–2962–00 | Lee County | 14,040 |
| 17–3006–00 | Polk County | 76,765 |
| 17–3010–00 | Pottawattamie County | 22,154 |
| 17–3020–00 | Scott County | 37,131 |
| 17–3028–00 | Story County | 18,385 |
| 17–3038–00 | Wapello County | 12,262 |
| 17–3046–00 | Webster County | 10,221 |
| 17–3050–00 | Winneshiek County | 7,110 |
| 17–3052–00 | Woodbury County | 26,548 |
| 17–3060–00 | State Set-Aside Committee, IA | 202,246 |
| | Iowa Total | 537,037 |
| Kansas: | | |
| 17–3061–00 | Manhattan/Pottawatamie, Riley Counties | 25,725 |
| 17–3084–00 | Atchison County | 7,900 |
| 17–3088–00 | Barton County | 7,834 |
| 17–3100–00 | Cherokee County | 9,941 |
| 17–3116–00 | Crawford County | 14,007 |
| 17–3124–00 | Douglas County | 35,551 |
| 17–3132–00 | Ellis County | 6,962 |
| 17–3140–00 | Franklin County | 10,205 |
| 17–3142–00 | Geary County | 11,587 |
| 17–3182–00 | Labette County | 9,316 |
| 17–3194–00 | Lyon County | 11,521 |
| 17–3208–00 | Montgomery County | 14,204 |
| 17–3222–00 | Osage County | 9,283 |
| 17–3238–00 | Reno County | 19,290 |
| 17–3252–00 | Saline County | 17,035 |
| 17–3256–00 | Sedgwick County | 118,834 |
| 17–3262–00 | Shawnee County | 66,511 |
| 17–3296–00 | Wyandotte County | 89,109 |
| 17–3300–00 | State Set-Aside Committee, KS | 176,536 |
| | Kansas Total | 661,351 |
| Kentucky | | |
| 17–3316–00 | Adair County | 22,532 |
| 17–3318–00 | Allen County | 8,065 |
| 17–3324–00 | Barren County | 13,381 |
| 17–3328–00 | Bell County | 11,521 |
| 17–3334–00 | Boyd County | 25,001 |
| 17–3336–00 | Boyle County | 7,390 |
| 17–3342–00 | Breckinridge County | 7,324 |
| 17–3350–00 | Calloway County | 14,698 |
| 17–3358–00 | Carter County | 21,084 |
| 17–3360–00 | Casey County | 9,233 |
| 17–3362–00 | Christian County | 20,212 |
| 17–3364–00 | Clark County | 10,122 |
| 17–3366–00 | Clay County | 9,316 |
| 17–3374–00 | Daviess County | 38,563 |
| 17–3384–00 | Fayette County | 50,035 |

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

| | | |
|---|---|---|
| 17–3386–00 | Fleming County | 7,983 |
| 17–3388–00 | Floyd County | 17,595 |
| 17–3390–00 | Franklin County | 12,015 |
| 17–3398–00 | Grant County | 7,933 |
| 17–3400–00 | Graves County | 15,702 |
| 17–3402–00 | Grayson County | 12,377 |
| 17–3404–00 | Green County | 10,534 |
| 17–3406–00 | Greenup County | 17,233 |
| 17–3410–00 | Hardin County | 29,215 |
| 17–3412–00 | Harlan County | 19,471 |
| 17–3416–00 | Hart County | 6,880 |
| 17–3418–00 | Henderson County | 22,104 |
| 17–3424–00 | Hopkins County | 16,854 |
| 17–3428–00 | Jefferson County | 236,516 |
| 17–3434–00 | Johnson County | 10,468 |
| 17–3436–00 | Kenton County | 44,225 |
| 17–3440–00 | Knott County | 6,913 |
| 17–3442–00 | Knox County | 12,245 |
| 17–3446–00 | Laurel County | 20,343 |
| 17–3448–00 | Lawrence County | 8,509 |
| 17–3454–00 | Letcher County | 9,694 |
| 17–3456–00 | Lewis County | 12,295 |
| 17–3462–00 | Logan County | 9,069 |
| 17–3466–00 | McCracken County | 24,886 |
| 17–3468–00 | McCreary County | 8,756 |
| 17–3472–00 | Madison County | 15,159 |
| 17–3474–00 | Magoffin County | 10,517 |
| 17–3476–00 | Marion County | 10,353 |
| 17–3478–00 | Marshall County | 14,731 |
| 17–3484–00 | Meade County | 7,176 |
| 17–3494–00 | Montgomery County | 8,625 |
| 17–3496–00 | Morgan County | 7,110 |
| 17–3498–00 | Muhlenberg County | 14,319 |
| 17–3500–00 | Nelson County | 16,574 |
| 17–3504–00 | Ohio County | 11,834 |
| 17–3514–00 | Perry County | 12,509 |
| 17–3516–00 | Pike County | 32,144 |
| 17–3520–00 | Pulaski County | 23,125 |
| 17–3528–00 | Russell County | 20,936 |
| 17–3538–00 | Taylor County | 28,178 |
| 17–3546–00 | Union County | 6,979 |
| 17–3548–00 | Warren County | 37,181 |
| 17–3552–00 | Wayne County | 11,818 |
| 17–3556–00 | Whitley County | 13,826 |
| 17–3562–00 | State Set-Aside Committee, KY | 168,141 |
| Kentucky Total | | 1,339,527 |
| Louisiana | | |
| 17–3564–00 | Shreveport/Bossier, Caddo Parishes | 166,631 |
| 17–3574–00 | Acadia Parish | 22,631 |
| 17–3576–00 | Allen Parish | 9,925 |
| 17–3578–00 | Ascension Parish | 27,091 |
| 17–3580–00 | Assumption Parish | 8,262 |
| 17–3582–00 | Avoyelles Parish | 19,800 |
| 17–3584–00 | Beauregard Parish | 13,661 |
| 17–3586–00 | Bienville Parish | 13,052 |
| 17–3598–00 | Calcasieu Parish | 80,320 |
| 17–3606–00 | Catahoula Parish | 7,522 |
| 17–3608–00 | Claiborne Parish | 8,016 |
| 17–3610–00 | Concordia Parish | 18,483 |
| 17–3612–00 | De Soto Parish | 13,315 |
| 17–3614–00 | East Baton Rouge Parish | 152,904 |
| 17–3618–00 | East Carroll Parish | 7,209 |
| 17–3620–00 | East Feliciana Parish | 7,423 |
| 17–3622–00 | Evangeline Parish | 10,748 |
| 17–3624–00 | Franklin Parish | 16,920 |
| 17–3626–00 | Grant Parish | 8,690 |
| 17–3628–00 | Iberia Parish | 32,177 |
| 17–3630–00 | Iberville Parish | 14,978 |
| 17–3632–00 | Jackson Parish | 6,649 |
| 17–3634–00 | Jefferson Parish | 159,488 |
| 17–3638–00 | Jefferson Davis Parish | 12,657 |
| 17–3640–00 | Lafayette Parish | 62,297 |
| 17–3644–00 | Lafourche Parish | 20,146 |

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

| | | |
|---|---|---|
| 17–3648–00 | Lincoln Parish | 9,020 |
| 17–3650–00 | Livingston Parish | 36,638 |
| 17–3652–00 | Madison Parish | 11,258 |
| 17–3654–00 | Morehouse Parish | 23,174 |
| 17–3656–00 | Natchitoches Parish | 18,862 |
| 17–3658–00 | New Orleans City/Orleans Parish | 201,738 |
| 17–3660–00 | Ouachita Parish | 64,700 |
| 17–3664–00 | Plaquemines Parish | 7,933 |
| 17–3666–00 | Pointe Coupee Parish | 12,245 |
| 17–3668–00 | Rapides Parish | 53,525 |
| 17–3672–00 | Red River Parish | 11,324 |
| 17–3674–00 | Richland Parish | 13,793 |
| 17–3676–00 | Sabine Parish | 10,748 |
| 17–3678–00 | St Bernard Parish | 27,454 |
| 17–3680–00 | St Charles Parish | 15,652 |
| 17–3684–00 | St James Parish | 9,958 |
| 17–3686–00 | St John Baptist Parish | 18,813 |
| 17–3688–00 | St Landry Parish | 40,143 |
| 17–3690–00 | St Martin Parish | 27,190 |
| 17–3692–00 | St Mary Parish | 23,964 |
| 17–3694–00 | St Tammany Parish | 55,022 |
| 17–3696–00 | Tangipahoa Parish | 53,541 |
| 17–3700–00 | Terrebonne Parish | 25,709 |
| 17–3702–00 | Union Parish | 10,814 |
| 17–3704–00 | Vermilion Parish | 23,487 |
| 17–3706–00 | Vernon Parish | 17,167 |
| 17–3708–00 | Washington Parish | 20,491 |
| 17–3710–00 | Webster Parish | 27,190 |
| 17–3712–00 | West Baton Rouge Parish | 8,180 |
| 17–3714–00 | West Carroll Parish | 13,233 |
| 17–3720–00 | State Set-Aside Committee, LA | 16,900 |
| | Lousiana Total | 1,830,861 |
| Maine: | | |
| 17–3726–00 | Androscoggin County | 49,657 |
| 17–3728–00 | Aroostook County | 49,081 |
| 17–3730–00 | Cumberland County | 62,297 |
| 17–3734–00 | Franklin County | 17,052 |
| 17–3738–00 | Kennebec County | 54,101 |
| 17–3740–00 | Knox County | 12,953 |
| 17–3744–00 | Oxford County | 27,042 |
| 17–3746–00 | Penobscot County | 62,495 |
| 17–3748–00 | Piscataquis County | 9,908 |
| 17–3752–00 | Somerset County | 34,778 |
| 17–3754–00 | Waldo County | 18,895 |
| 17–3756–00 | Washington County | 27,750 |
| 17–3760–00 | State Set-Aside Committee, ME | 49,831 |
| | Maine Total | 475,840 |
| Maryland: | | |
| 17–3774–00 | Allegany County | 49,937 |
| 17–3776–00 | Anne Arundel County | 155,834 |
| 17–3778–00 | Baltimore County | 320,029 |
| 17–3782–00 | Caroline County | 12,147 |
| 17–3786–00 | Cecil County | 48,208 |
| 17–3790–00 | Dorchester County | 27,207 |
| 17–3794–00 | Garrett County | 30,894 |
| 17–3800–00 | Kent County | 11,604 |
| 17–3806–00 | Prince Georges County | 354,592 |
| 17–3812–00 | Somerset County | 18,878 |
| 17–3816–00 | Washington County | 53,574 |
| 17–3818–00 | Wicomico County | 45,147 |
| 17–3820–00 | Worcester County | 44,505 |
| 17–3822–00 | Baltimore City | 483,203 |
| 17–3824–00 | State Set-Aside Committee, MD | 298,670 |
| | Maryland Total | 1,954,429 |
| Massachusetts: | | |
| 17–4476–00 | Barnstable County | 93,339 |
| 17–4482–00 | Bristol County | 246,424 |
| 17–4490–00 | Essex County | 232,269 |
| 17–4502–00 | Hampden County | 159,619 |
| 17–4510–00 | Middlesex County | 364,945 |
| 17–4540–00 | Plymouth County | 160,278 |

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

| | | |
|---|---|---|
| 17–4550–00 | Suffolk County | 220,616 |
| 17–4554–00 | Worcester County | 224,007 |
| 17–4558–00 | State Set-Aside Committee, MA | 149,436 |
| | Massachusetts Total | 1,850,933 |
| Michigan: | | |
| 17–4561–00 | Holland/Allegan, Ottawa Counties | 82,970 |
| 17–4560–00 | Lansing/Eaton, Ingham Counties | 108,086 |
| 17–4638–00 | Alpena County | 19,339 |
| 17–4640–00 | Antrim County | 9,530 |
| 17–4642–00 | Arenac County | 9,118 |
| 17–4648–00 | Bay County | 42,464 |
| 17–4650–00 | Benzie County | 7,703 |
| 17–4652–00 | Berrien County | 64,190 |
| 17–4654–00 | Branch County | 12,673 |
| 17–4656–00 | Calhoun County | 47,139 |
| 17–4660–00 | Cass County | 18,451 |
| 17–4664–00 | Cheboygan County | 21,166 |
| 17–4666–00 | Chippewa County | 24,030 |
| 17–4668–00 | Clare County | 12,854 |
| 17–4674–00 | Delta County | 21,281 |
| 17–4682–00 | Emmet County | 21,561 |
| 17–4684–00 | Genesee County | 177,971 |
| 17–4688–00 | Gladwin County | 11,719 |
| 17–4690–00 | Gogebic County | 11,752 |
| 17–4694–00 | Gratiot County | 17,068 |
| 17–4696–00 | Hillsdale County | 13,694 |
| 17–4698–00 | Houghton County | 15,636 |
| 17–4700–00 | Huron County | 12,641 |
| 17–4710–00 | Iosco County | 14,780 |
| 17–4714–00 | Isabella County | 16,294 |
| 17–4716–00 | Jackson County | 51,451 |
| 17–4718–00 | Kalamazoo County | 59,631 |
| 17–4722–00 | Kalkaska County | 8,180 |
| 17–4724–00 | Kent County | 156,163 |
| 17–4744–00 | Mackinac County | 11,818 |
| 17–4758–00 | Manistee County | 12,394 |
| 17–4760–00 | Marquette County | 29,577 |
| 17–4762–00 | Mason County | 15,373 |
| 17–4764–00 | Mecosta County | 12,048 |
| 17–4766–00 | Menominee County | 12,459 |
| 17–4774–00 | Montcalm County | 23,981 |
| 17–4776–00 | Montmorency County | 6,732 |
| 17–4778–00 | Muskegon County | 62,577 |
| 17–4780–00 | Newaygo County | 24,754 |
| 17–4782–00 | Oakland County | 285,481 |
| 17–4796–00 | Oceana County | 16,772 |
| 17–4798–00 | Ogemaw County | 10,501 |
| 17–4802–00 | Osceola County | 11,357 |
| 17–4810–00 | Presque Isle County | 11,291 |
| 17–4812–00 | Roscommon County | 10,402 |
| 17–4814–00 | Saginaw County | 73,654 |
| 17–4818–00 | St. Clair County | 61,886 |
| 17–4822–00 | Sanilac County | 18,895 |
| 17–4824–00 | Schoolcraft County | 6,847 |
| 17–4828–00 | Tuscola County | 22,631 |
| 17–4830–00 | Van Buren County | 28,474 |
| 17–4832–00 | Washtenaw County | 53,195 |
| 17–4836–00 | Wayne County | 215,284 |
| 17–4844–00 | Detroit City | 478,512 |
| 17–4854–00 | Wexford County | 20,656 |
| 17–4856–00 | State Set-Aside Committee, MI | 321,698 |
| | Michigan Total | 2,948,784 |
| Minnesota: | | |
| 17–4856–05 | Mankato/Blue Earth, Nicollette Counties | 18,599 |
| 17–4857–00 | St. Cloud City/Benton, Sherburne, Stearns Counties | 67,992 |
| 17–4898–00 | Aitkin County | 7,917 |
| 17–4902–00 | Becker County | 13,974 |
| 17–4904–00 | Beltrami County | 16,788 |
| 17–4914–00 | Carlton County | 13,595 |
| 17–4918–00 | Cass County | 12,361 |
| 17–4924–00 | Clay County | 11,949 |
| 17–4926–00 | Clearwater County | 7,555 |

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

| | | |
|---|---|---|
| 17–4932–00 | Crow Wing County | 22,664 |
| 17–4938–00 | Douglas County | 9,201 |
| 17–4950–00 | Hennepin County | 231,249 |
| 17–4964–00 | Hubbard County | 7,571 |
| 17–4968–00 | Itasca County | 24,376 |
| 17–4972–00 | Kanabec County | 7,522 |
| 17–4974–00 | Kandiyohi County | 10,846 |
| 17–4978–00 | Koochiching County | 7,752 |
| 17–4990–00 | Lyon County | 7,127 |
| 17–4996–00 | Marshall County | 7,176 |
| 17–5002–00 | Mille Lacs County | 10,205 |
| 17–5004–00 | Morrison County | 15,521 |
| 17–5012–00 | Nobles County | 7,308 |
| 17–5020–00 | Otter Tail County | 20,261 |
| 17–5024–00 | Pine County | 12,509 |
| 17–5028–00 | Polk County | 12,805 |
| 17–5032–00 | Ramsey County | 109,880 |
| 17–5048–00 | St. Louis County | 74,592 |
| 17–5066–00 | Todd County | 9,398 |
| 17–5082–00 | Winona County | 12,295 |
| 17–5088–00 | State Set-Aside Committee, MN | 249,324 |
| | Minnesota Total | 1,040,312 |
| Mississippi: | | |
| 17–5089–00 | Hattiesburg/Forrest, Lamar Counties | 26,762 |
| 17–5089–02 | Jackson/Hinds, Madison, Rankin Counties | 126,240 |
| 17–5090–00 | Adams County | 22,071 |
| 17–5092–00 | Alcorn County | 18,467 |
| 17–5096–00 | Attala County | 12,097 |
| 17–5100–00 | Bolivar County | 26,087 |
| 17–5102–00 | Calhoun County | 7,621 |
| 17–5106–00 | Chickasaw County | 13,793 |
| 17–5112–00 | Clarke County | 8,114 |
| 17–5114–00 | Clay County | 16,525 |
| 17–5116–00 | Coahoma County | 19,339 |
| 17–5118–00 | Copiah County | 14,467 |
| 17–5120–00 | Covington County | 7,670 |
| 17–5128–00 | George County | 10,830 |
| 17–5130–00 | Greene County | 6,617 |
| 17–5132–00 | Grenada County | 11,291 |
| 17–5134–00 | Hancock County | 10,484 |
| 17–5136–00 | Harrison County | 53,936 |
| 17–5142–00 | Holmes County | 13,875 |
| 17–5144–00 | Humphreys County | 9,184 |
| 17–5148–00 | Itawamba County | 10,188 |
| 17–5150–00 | Jackson County | 48,389 |
| 17–5152–00 | Jasper County | 6,798 |
| 17–5156–00 | Jefferson Davis County | 7,143 |
| 17–5158–00 | Jones County | 17,216 |
| 17–5166–00 | Lauderdale County | 30,910 |
| 17–5170–00 | Leake County | 8,164 |
| 17–5172–00 | Lee County | 28,622 |
| 17–5174–00 | Leflore County | 23,652 |
| 17–5176–00 | Lincoln County | 12,608 |
| 17–5178–00 | Lowndes County | 35,551 |
| 17–5182–00 | Marion County | 10,155 |
| 17–5184–00 | Marshall County | 13,628 |
| 17–5186–00 | Monroe County | 29,939 |
| 17–5190–00 | Neshoba County | 10,040 |
| 17–5194–00 | Noxubee County | 7,407 |
| 17–5196–00 | Oktibbeha County | 9,217 |
| 17–5198–00 | Panola County | 19,504 |
| 17–5200–00 | Pearl River County | 14,616 |
| 17–5204–00 | Pike County | 13,595 |
| 17–5206–00 | Pontotoc County | 8,575 |
| 17–5208–00 | Prentiss County | 14,978 |
| 17–5214–00 | Scott County | 10,468 |
| 17–5218–00 | Simpson County | 11,999 |
| 17–5224–00 | Sunflower County | 24,211 |
| 17–5226–00 | Tallahatchie County | 10,484 |
| 17–5228–00 | Tate County | 8,131 |
| 17–5230–00 | Tippah County | 10,369 |
| 17–5232–00 | Tishomingo County | 15,982 |
| 17–5236–00 | Union County | 7,555 |

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

| | | |
|---|---|---|
| 17–5238–00 | Walthall County | 6,682 |
| 17–5240–00 | Warren County | 22,088 |
| 17–5242–00 | Washington County | 41,526 |
| 17–5244–00 | Wayne County | 9,892 |
| 17–5250–00 | Winston County | 12,344 |
| 17–5254–00 | Yazoo County | 12,624 |
| 17–5256–00 | State Set-Aside Committee, MS | 67,939 |
| | Mississippi Total | 1,088,659 |
| Missouri: | | |
| 17–5257–00 | Joplin/Jasper, Newton Counties | 52,274 |
| 17–5258–00 | Kansas City/Clay, Jackson, Platte Counties | 342,199 |
| 17–5278–00 | Audrain County | 7,143 |
| 17–5280–00 | Barry County | 12,278 |
| 17–5284–00 | Bates County | 7,456 |
| 17–5290–00 | Boone County | 20,590 |
| 17–5294–00 | Buchanan County | 34,827 |
| 17–5298–00 | Butler County | 15,932 |
| 17–5304–00 | Camden County | 15,883 |
| 17–5306–00 | Cape Girardeau County | 22,862 |
| 17–5332–00 | Crawford County | 11,192 |
| 17–5344–00 | Douglas County | 9,135 |
| 17–5346–00 | Dunklin County | 16,327 |
| 17–5354–00 | Greene County | 64,157 |
| 17–5362–00 | Henry County | 7,505 |
| 17–5370–00 | Howell County | 16,788 |
| 17–5384–00 | Johnson County | 8,740 |
| 17–5388–00 | Laclede County | 14,846 |
| 17–5390–00 | Lafayette County | 10,583 |
| 17–5392–00 | Lawrence County | 14,912 |
| 17–5396–00 | Lincoln County | 13,579 |
| 17–5398–00 | Linn County | 8,213 |
| 17–5402–00 | McDonald County | 7,390 |
| 17–5404–00 | Macon County | 6,699 |
| 17–5410–00 | Marion County | 11,752 |
| 17–5414–00 | Miller County | 12,262 |
| 17–5416–00 | Mississippi County | 7,357 |
| 17–5422–00 | Montgomery County | 6,913 |
| 17–5424–00 | Morgan County | 7,818 |
| 17–5426–00 | New Madrid County | 10,633 |
| 17–5438–00 | Pemiscot County | 12,937 |
| 17–5442–00 | Pettis County | 16,459 |
| 17–5444–00 | Phelps County | 11,850 |
| 17–5446–00 | Pike County | 6,699 |
| 17–5452–00 | Polk County | 8,921 |
| 17–5454–00 | Pulaski County | 10,649 |
| 17–5460–00 | Randolph County | 9,365 |
| 17–5474–00 | St. Francois County | 26,367 |
| 17–5476–00 | St. Louis County | 291,258 |
| 17–5480–00 | Saline County | 7,407 |
| 17–5486–00 | Scott County | 17,200 |
| 17–5492–00 | Stoddard County | 17,611 |
| 17–5494–00 | Stone County | 26,005 |
| 17–5498–00 | Taney County | 41,592 |
| 17–5500–00 | Texas County | 13,068 |
| 17–5506–00 | Washington County | 13,184 |
| 17–5510–00 | Webster County | 8,954 |
| 17–5514–00 | Wright County | 9,250 |
| 17–5516–00 | St. Louis City | 199,977 |
| 17–5518–00 | State Set-Aside Committee, MO | 231,963 |
| | Missouri Total | 1,778,961 |
| Montana: | | |
| 17–5530–00 | Big Horn County | 7,407 |
| 17–5540–00 | Cascade County | 32,967 |
| 17–5558–00 | Flathead County | 46,694 |
| 17–5560–00 | Gallatin County | 20,475 |
| 17–5564–00 | Glacier County | 12,410 |
| 17–5570–00 | Hill County | 8,378 |
| 17–5576–00 | Lake County | 12,871 |
| 17–5578–00 | Lewis and Clark County | 22,862 |
| 17–5582–00 | Lincoln County | 15,290 |
| 17–5592–00 | Missoula County | 37,839 |
| 17–5596–00 | Park County | 9,102 |

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

| | | |
|---|---|---|
| 17–5610–00 | Ravalli County | 15,982 |
| 17–5618–00 | Sanders County | 6,814 |
| 17–5622–00 | Silver Bow County | 15,175 |
| 17–5640–00 | Yellowstone County | 51,187 |
| 17–5644–00 | State Set-Aside Committee, MT | 49,138 |
| | Montana Total | 364,591 |
| Nebraska: | | |
| 17–5686–00 | Buffalo County | 8,987 |
| 17–5722–00 | Douglas County | 94,458 |
| 17–5782–00 | Lincoln County | 8,904 |
| 17–5828–00 | Scotts Bluff County | 11,143 |
| 17–5858–00 | State Set-Aside Committee, NE | 104,013 |
| | Nebraska Total | 227,505 |
| Nevada: | | |
| 17–5866–00 | Churchill County | 9,003 |
| 17–5868–00 | Clark County | 414,766 |
| 17–5886–00 | Lyon County | 13,628 |
| 17–5904–00 | Carson City | 22,499 |
| 17–5906–00 | State Set-Aside Committee, NV | 91,905 |
| | Nevada Total | 551,801 |
| New Hampshire: | | |
| 17–5942–00 | State Set-Aside Committee, NH | 165,008 |
| | New Hampshire Total | 165,008 |
| New Jersey: | | |
| 17–5948–00 | Atlantic County | 167,190 |
| 17–5950–00 | Bergen County | 297,332 |
| 17–5954–00 | Camden County | 203,153 |
| 17–5960–00 | Cape May County | 83,496 |
| 17–5962–00 | Cumberland County | 97,207 |
| 17–5966–00 | Essex County | 374,804 |
| 17–5978–00 | Hudson County | 362,262 |
| 17–5988–00 | Mercer County | 123,623 |
| 17–5994–00 | Middlesex County | 272,215 |
| 17–6004–00 | Monmouth County | 216,732 |
| 17–6012–00 | Ocean County | 183,254 |
| 17–6018–00 | Passaic County | 244,679 |
| 17–6034–00 | Union County | 230,969 |
| 17–6042–00 | State Set-Aside Committee, NJ | 312,067 |
| | New Jersey Total | 3,168,983 |
| New Mexico: | | |
| 17–6044–00 | Bernalillo County | 210,478 |
| 17–6050–00 | Chaves County | 33,445 |
| 17–6052–00 | Cibola County | 18,056 |
| 17–6054–00 | Colfax County | 6,929 |
| 17–6056–00 | Curry County | 16,656 |
| 17–6060–00 | Dona Ana County | 97,733 |
| 17–6064–00 | Eddy County | 25,906 |
| 17–6066–00 | Grant County | 14,286 |
| 17–6074–00 | Lea County | 20,096 |
| 17–6076–00 | Lincoln County | 6,830 |
| 17–6080–00 | Luna County | 50,973 |
| 17–6082–00 | McKinley County | 35,041 |
| 17–6086–00 | Otero County | 23,075 |
| 17–6090–00 | Rio Arriba County | 31,272 |
| 17–6094–00 | Sandoval County | 31,058 |
| 17–6096–00 | San Juan County | 74,263 |
| 17–6098–00 | San Miguel County | 19,586 |
| 17–6100–00 | Santa Fe County | 40,917 |
| 17–6106–00 | Socorro County | 6,929 |
| 17–6108–00 | Taos County | 30,531 |
| 17–6114–00 | Valencia County | 24,919 |
| 17–6116–00 | State Set-Aside Committee, NM | 19,013 |
| | New Mexico Total | 837,992 |
| New York: | | |
| 17–6120–00 | Albany County | 88,302 |
| 17–6126–00 | Allegany County | 30,778 |
| 17–6130–00 | Broome County | 69,868 |
| 17–6136–00 | Cattaraugus County | 50,825 |
| 17–6138–00 | Cayuga County | 34,284 |

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

| | | |
|---|---|---|
| 17–6140–00 | Chautauqua County | 64,108 |
| 17–6142–00 | Chemung County | 33,461 |
| 17–6144–00 | Chenango County | 24,623 |
| 17–6146–00 | Clinton County | 42,826 |
| 17–6150–00 | Cortland County | 26,943 |
| 17–6152–00 | Delaware County | 17,595 |
| 17–6154–00 | Dutchess County | 74,181 |
| 17–6156–00 | Erie County | 411,195 |
| 17–6168–00 | Essex County | 25,758 |
| 17–6170–00 | Franklin County | 31,157 |
| 17–6172–00 | Fulton County | 31,157 |
| 17–6176–00 | Greene County | 21,397 |
| 17–6180–00 | Herkimer County | 33,280 |
| 17–6182–00 | Jefferson County | 70,724 |
| 17–6186–00 | Lewis County | 17,710 |
| 17–6192–00 | Monroe County | 237,832 |
| 17–6200–00 | Montgomery County | 25,544 |
| 17–6202–00 | Nassau County | 387,988 |
| 17–6212–00 | Niagara County | 120,447 |
| 17–6216–00 | Oneida County | 88,352 |
| 17–6220–00 | Onondaga County | 148,641 |
| 17–6228–00 | Orange County | 102,622 |
| 17–6230–00 | Orleans County | 21,808 |
| 17–6232–00 | Oswego County | 61,573 |
| 17–6234–00 | Otsego County | 27,898 |
| 17–6240–00 | Rensselaer County | 59,894 |
| 17–6254–00 | St. Lawrence County | 69,901 |
| 17–6258–00 | Schenectady County | 54,496 |
| 17–6264–00 | Schuyler County | 9,102 |
| 17–6268–00 | Steuben County | 53,475 |
| 17–6270–00 | Suffolk County | 487,071 |
| 17–6282–00 | Sullivan County | 33,247 |
| 17–6286–00 | Tompkins County | 26,055 |
| 17–6290–00 | Warren County | 36,309 |
| 17–6296–00 | Westchester County | 272,577 |
| 17–6308–00 | Wyoming County | 25,133 |
| 17–6310–00 | Yates County | 9,332 |
| 17–6314–00 | New York City | 4,763,411 |
| 17–6312–00 | State Set-Aside Committee, NY | 262,312 |
| | New York Total | 8,585,192 |
| North Carolina: | | |
| 17–6316–00 | High Point City/Davidson, Guilford Counties | 167,388 |
| 17–6315–00 | Kannapolis/Cabarrus, Rowan Counties | 59,005 |
| 17–6317–00 | Rocky Mount/Edgecombe, Nash Counties | 82,673 |
| 17–6326–00 | Anson County | 11,867 |
| 17–6328–00 | Ashe County | 14,632 |
| 17–6332–00 | Beaufort County | 26,680 |
| 17–6334–00 | Bertie County | 8,016 |
| 17–6336–00 | Bladen County | 17,743 |
| 17–6338–00 | Brunswick County | 27,338 |
| 17–6340–00 | Buncombe County | 44,028 |
| 17–6360–00 | Cherokee County | 11,274 |
| 17–6368–00 | Columbus County | 27,026 |
| 17–6370–00 | Craven County | 26,696 |
| 17–6372–00 | Cumberland County | 77,752 |
| 17–6378–00 | Dare County | 16,294 |
| 17–6386–00 | Duplin County | 17,891 |
| 17–6388–00 | Durham County | 41,131 |
| 17–6394–00 | Forsyth County | 68,222 |
| 17–6398–00 | Franklin County | 10,155 |
| 17–6400–00 | Gaston County | 59,516 |
| 17–6406–00 | Graham County | 7,044 |
| 17–6408–00 | Granville County | 9,793 |
| 17–6418–00 | Halifax County | 34,054 |
| 17–6420–00 | Harnett County | 20,442 |
| 17–6422–00 | Haywood County | 21,676 |
| 17–6426–00 | Hertford County | 6,830 |
| 17–6428–00 | Hoke County | 8,575 |
| 17–6434–00 | Jackson County | 11,637 |
| 17–6436–00 | Johnston County | 22,894 |
| 17–6440–00 | Lee County | 15,570 |
| 17–6442–00 | Lenoir County | 25,874 |
| 17–6448–00 | Macon County | 9,332 |

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

| | | |
|---|---|---|
| 17–6452–00 | Martin County | 16,015 |
| 17–6458–00 | Mitchell County | 8,295 |
| 17–6460–00 | Montgomery County | 9,810 |
| 17–6466–00 | New Hanover County | 50,183 |
| 17–6468–00 | Northampton County | 9,941 |
| 17–6470–00 | Onslow County | 26,631 |
| 17–6472–00 | Orange County | 14,435 |
| 17–6476–00 | Pasquotank County | 11,620 |
| 17–6478–00 | Pender County | 12,756 |
| 17–6482–00 | Person County | 13,266 |
| 17–6484–00 | Pitt County | 48,982 |
| 17–6490–00 | Richmond County | 28,309 |
| 17–6492–00 | Robeson County | 65,293 |
| 17–6494–00 | Rockingham County | 41,510 |
| 17–6498–00 | Rutherford County | 24,458 |
| 17–6500–00 | Sampson County | 18,023 |
| 17–6502–00 | Scotland County | 21,841 |
| 17–6510–00 | Swain County | 13,743 |
| 17–6518–00 | Vance County | 19,850 |
| 17–6520–00 | Wake County | 88,961 |
| 17–6524–00 | Warren County | 7,456 |
| 17–6526–00 | Washington County | 7,110 |
| 17–6528–00 | Watauga County | 7,538 |
| 17–6530–00 | Wayne County | 34,580 |
| 17–6532–00 | Wilkes County | 15,685 |
| 17–6534–00 | Wilson County | 43,797 |
| 17–6536–00 | Yadkin County | 8,789 |
| 17–6540–00 | State Set-Aside Committee, NC | 304,499 |
| | North Carolina Total | 1,982,424 |
| North Dakota: | | |
| 17–6576–00 | Cass County | 12,443 |
| 17–6596–00 | Grand Forks County | 10,846 |
| 17–6642–00 | Rolette County | 7,752 |
| 17–6664–00 | Ward County | 9,991 |
| 17–6670–00 | State Set-Aside Committee, ND | 108,968 |
| | North Dakota total | 150,000 |
| Ohio: | | |
| 17–6672–00 | Columbus/Fairfield, Franklin Counties | 281,877 |
| 17–6678–00 | Adams County | 20,524 |
| 17–6680–00 | Allen County | 43,337 |
| 17–6684–00 | Ashtabula County | 47,320 |
| 17–6686–00 | Athens County | 21,249 |
| 17–6690–00 | Belmont County | 31,058 |
| 17–6692–00 | Brown County | 17,035 |
| 17–6694–00 | Butler County | 98,342 |
| 17–6698–00 | Carroll County | 11,126 |
| 17–6702–00 | Clark County | 49,706 |
| 17–6708–00 | Clinton County | 11,999 |
| 17–6710–00 | Columbiana County | 47,007 |
| 17–6712–00 | Coshocton County | 17,529 |
| 17–6714–00 | Crawford County | 20,952 |
| 17–6716–00 | Cuyahoga County | 516,746 |
| 17–6734–00 | Erie County | 34,844 |
| 17–6740–00 | Fayette County | 10,468 |
| 17–6748–00 | Gallia County | 19,208 |
| 17–6752–00 | Greene County | 39,880 |
| 17–6754–00 | Guernsey County | 23,520 |
| 17–6756–00 | Hamilton County | 254,571 |
| 17–6762–00 | Hardin County | 10,814 |
| 17–6764–00 | Harrison County | 6,979 |
| 17–6768–00 | Highland County | 17,150 |
| 17–6770–00 | Hocking County | 12,147 |
| 17–6772–00 | Holmes County | 9,546 |
| 17–6774–00 | Huron County | 40,078 |
| 17–6776–00 | Jackson County | 18,549 |
| 17–6778–00 | Jefferson County | 44,390 |
| 17–6780–00 | Knox County | 18,500 |
| 17–6784–00 | Lawrence County | 30,153 |
| 17–6786–00 | Licking County | 44,752 |
| 17–6790–00 | Lorain County | 123,163 |
| 17–6796–00 | Lucas County | 201,919 |
| 17–6802–00 | Mahoning County | 119,575 |

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

| | | |
|---|---|---|
| 17–6806–00 | Marion County | 26,334 |
| 17–6810–00 | Meigs County | 15,389 |
| 17–6816–00 | Monroe County | 9,447 |
| 17–6818–00 | Montgomery County | 182,234 |
| 17–6824–00 | Morgan County | 10,616 |
| 17–6826–00 | Morrow County | 13,414 |
| 17–6828–00 | Muskingum County | 47,780 |
| 17–6832–00 | Ottawa County | 22,318 |
| 17–6836–00 | Perry County | 16,229 |
| 17–6838–00 | Pickaway County | 14,517 |
| 17–6840–00 | Pike County | 18,056 |
| 17–6842–00 | Portage County | 51,566 |
| 17–6848–00 | Richland County | 58,824 |
| 17–6852–00 | Ross County | 34,251 |
| 17–6854–00 | Sandusky County | 32,622 |
| 17–6856–00 | Scioto County | 56,504 |
| 17–6858–00 | Seneca County | 29,824 |
| 17–6862–00 | Stark County | 135,852 |
| 17–6866–00 | Summit County | 193,821 |
| 17–6870–00 | Trumbull County | 100,449 |
| 17–6880–00 | Vinton County | 7,456 |
| 17–6884–00 | Washington County | 32,029 |
| 17–6886–00 | Wayne County | 35,815 |
| 17–6890–00 | Wood County | 35,305 |
| 17–6894–00 | State Set-Aside Committee, OH | 319,240 |
| | Ohio Total | 3,815,905 |
| Oklahoma: | | |
| 17–6896–00 | Oklahoma City/Canadian, McLain, Oklahoma Counties | 197,689 |
| 17–6897–00 | Tulsa/Osage, Tulsa Counties | 156,410 |
| 17–6902–00 | Adair County | 8,197 |
| 17–6914–00 | Bryan County | 6,781 |
| 17–6916–00 | Caddo County | 9,036 |
| 17–6922–00 | Carter County | 17,858 |
| 17–6924–00 | Cherokee County | 11,933 |
| 17–6926–00 | Choctaw County | 9,283 |
| 17–6930–00 | Cleveland County | 44,406 |
| 17–6938–00 | Comanche County | 30,136 |
| 17–6946–00 | Creek County | 19,175 |
| 17–6948–00 | Custer County | 7,012 |
| 17–6950–00 | Delaware County | 11,472 |
| 17–6956–00 | Garfield County | 14,632 |
| 17–6960–00 | Garvin County | 9,629 |
| 17–6962–00 | Grady County | 13,974 |
| 17–6972–00 | Haskell County | 8,657 |
| 17–6976–00 | Jackson County | 8,526 |
| 17–6982–00 | Kay County | 22,170 |
| 17–6988–00 | Latimer County | 8,361 |
| 17–6990–00 | Le Flore County | 21,644 |
| 17–6992–00 | Lincoln County | 10,221 |
| 17–6994–00 | Logan County | 7,028 |
| 17–7002–00 | McCurtain County | 19,158 |
| 17–7004–00 | McIntosh County | 8,411 |
| 17–7010–00 | Mayes County | 9,859 |
| 17–7014–00 | Muskogee County | 29,067 |
| 17–7028–00 | Okmulgee County | 19,372 |
| 17–7034–00 | Ottawa County | 14,221 |
| 17–7038–00 | Payne County | 9,513 |
| 17–7040–00 | Pittsburg County | 20,409 |
| 17–7042–00 | Pontotoc County | 12,213 |
| 17–7044–00 | Pottawatomie County | 20,623 |
| 17–7054–00 | Seminole County | 13,266 |
| 17–7056–00 | Sequoyah County | 21,890 |
| 17–7058–00 | Stephens County | 11,702 |
| 17–7068–00 | Wagoner County | 12,641 |
| 17–7078–00 | State Set-Aside Committee, OK | 66,478 |
| | Oklahoma Total | 943,053 |
| Oregon: | | |
| 17–7080–00 | Portland/Clackamas, Multnomah, Washington Counties | 532,349 |
| 17–7082–00 | Salem/Marion, Polk Counties | 147,275 |
| 17–7088–00 | Baker County | 10,846 |
| 17–7090–00 | Benton County | 17,776 |
| 17–7096–00 | Clatsop County | 17,348 |

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

| | | |
|---|---|---|
| 17–7098–00 | Columbia County | 21,676 |
| 17–7100–00 | Coos County | 43,748 |
| 17–7102–00 | Crook County | 11,604 |
| 17–7104–00 | Curry County | 12,328 |
| 17–7106–00 | Deschutes County | 63,696 |
| 17–7108–00 | Douglas County | 64,058 |
| 17–7112–00 | Grant County | 9,020 |
| 17–7116–00 | Hood River County | 16,805 |
| 17–7118–00 | Jackson County | 97,684 |
| 17–7120–00 | Jefferson County | 8,295 |
| 17–7122–00 | Josephine County | 40,720 |
| 17–7124–00 | Klamath County | 44,752 |
| 17–7126–00 | Lake County | 6,781 |
| 17–7128–00 | Lane County | 138,947 |
| 17–7132–00 | Lincoln County | 27,865 |
| 17–7134–00 | Linn County | 65,490 |
| 17–7136–00 | Malheur County | 19,981 |
| 17–7142–00 | Morrow County | 6,798 |
| 17–7154–00 | Tillamook County | 11,176 |
| 17–7156–00 | Umatilla County | 39,518 |
| 17–7158–00 | Union County | 14,286 |
| 17–7162–00 | Wasco County | 15,093 |
| 17–7170–00 | Yamhill County | 31,980 |
| 17–7172–00 | State Set-Aside Committee, OR | 7,413 |
| | Oregon Total | 1,545,308 |
| Pennsylvania: | | |
| 17–7174–00 | Bethlehem/Lehigh, Northampton Counties | 206,083 |
| 17–7180–00 | Allegheny County | 440,294 |
| 17–7184–00 | Armstrong County | 37,329 |
| 17–7186–00 | Beaver County | 67,844 |
| 17–7188–00 | Bedford County | 27,371 |
| 17–7190–00 | Berks County | 124,446 |
| 17–7194–00 | Blair County | 53,821 |
| 17–7198–00 | Bradford County | 23,701 |
| 17–7208–00 | Cambria County | 78,246 |
| 17–7212–00 | Carbon County | 31,107 |
| 17–7214–00 | Centre County | 30,466 |
| 17–7218–00 | Clarion County | 17,644 |
| 17–7220–00 | Clearfield County | 51,270 |
| 17–7222–00 | Clinton County | 20,261 |
| 17–7224–00 | Columbia County | 34,498 |
| 17–7226–00 | Crawford County | 34,021 |
| 17–7230–00 | Dauphin County | 75,794 |
| 17–7234–00 | Delaware County | 186,464 |
| 17–7242–00 | Erie County | 123,623 |
| 17–7246–00 | Fayette County | 70,708 |
| 17–7252–00 | Fulton County | 8,312 |
| 17–7254–00 | Greene County | 22,713 |
| 17–7256–00 | Huntingdon County | 28,935 |
| 17–7258–00 | Indiana County | 46,085 |
| 17–7260–00 | Jefferson County | 23,997 |
| 17–7262–00 | Juniata County | 12,213 |
| 17–7264–00 | Lackawanna County | 111,312 |
| 17–7268–00 | Lancaster County | 119,163 |
| 17–7272–00 | Lawrence County | 38,596 |
| 17–7274–00 | Lebanon County | 35,601 |
| 17–7282–00 | Luzerne County | 175,338 |
| 17–7284–00 | Lycoming County | 58,693 |
| 17–7286–00 | McKean County | 22,499 |
| 17–7288–00 | Mercer County | 41,312 |
| 17–7290–00 | Mifflin County | 22,730 |
| 17–7292–00 | Monroe County | 60,437 |
| 17–7306–00 | Northumberland County | 46,233 |
| 17–7310–00 | Philadelphia City/County | 683,706 |
| 17–7314–00 | Potter County | 10,089 |
| 17–7316–00 | Schuylkill County | 77,143 |
| 17–7320–00 | Somerset County | 42,201 |
| 17–7324–00 | Susquehanna County | 18,072 |
| 17–7326–00 | Tioga County | 19,734 |
| 17–7330–00 | Venango County | 24,639 |
| 17–7334–00 | Washington County | 80,781 |
| 17–7336–00 | Wayne County | 22,384 |
| 17–7338–00 | Westmoreland County | 158,665 |

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

| | | |
|---|---|---|
| 17–7340–00 | Wyoming County | 19,405 |
| 17–7342–00 | York County | 119,361 |
| 17–7344–00 | State Set-Aside Committee, PA | 429,663 |
| | Pennsylvania Total | 4,315,003 |
| Rhode Island: | | |
| 17–7354–00 | Providence Census County | 255,806 |
| 17–7368–00 | State Set-Aside Committee, RI | 96,772 |
| | Rhode Island Total | 352,578 |
| South Carolina: | | |
| 17–7370–00 | Abbeville County | 9,102 |
| 17–7372–00 | Aiken County | 51,698 |
| 17–7376–00 | Anderson County | 34,844 |
| 17–7378–00 | Bamberg County | 7,950 |
| 17–7380–00 | Barnwell County | 11,883 |
| 17–7382–00 | Beaufort County | 15,965 |
| 17–7384–00 | Berkeley County | 28,441 |
| 17–7388–00 | Charleston County | 77,127 |
| 17–7394–00 | Cherokee County | 13,858 |
| 17–7396–00 | Chester County | 18,714 |
| 17–7398–00 | Chesterfield County | 22,680 |
| 17–7400–00 | Clarendon County | 13,184 |
| 17–7402–00 | Colleton County | 9,744 |
| 17–7404–00 | Darlington County | 31,173 |
| 17–7406–00 | Dillon County | 15,373 |
| 17–7410–00 | Edgefield County | 6,633 |
| 17–7412–00 | Fairfield County | 11,554 |
| 17–7414–00 | Florence County | 45,756 |
| 17–7416–00 | Georgetown County | 32,194 |
| 17–7418–00 | Greenville County | 57,047 |
| 17–7422–00 | Greenwood County | 23,207 |
| 17–7424–00 | Hampton County | 6,584 |
| 17–7426–00 | Horry County | 59,450 |
| 17–7430–00 | Kershaw County | 17,167 |
| 17–7432–00 | Lancaster County | 21,463 |
| 17–7434–00 | Laurens County | 13,628 |
| 17–7436–00 | Lee County | 12,196 |
| 17–7442–00 | Marion County | 20,360 |
| 17–7444–00 | Marlboro County | 22,993 |
| 17–7446–00 | Newberry County | 12,937 |
| 17–7450–00 | Orangeburg County | 43,452 |
| 17–7452–00 | Pickens County | 23,783 |
| 17–7454–00 | Richland County | 59,335 |
| 17–7460–00 | Spartanburg County | 66,017 |
| 17–7462–00 | Sumter County | 34,218 |
| 17–7464–00 | Union County | 15,521 |
| 17–7466–00 | Williamsburg County | 29,231 |
| 17–7468–00 | York County | 47,287 |
| 17–7470–00 | State Set-Aside Committee, SC | 49,769 |
| | South Carolina Total | 1,093,518 |
| South Dakota | | |
| 17–7486–00 | Brown County | 7,160 |
| 17–7580–00 | Pennington County | 20,508 |
| 17–7614–00 | State Set-Aside Committee, SD | 122,332 |
| | South Dakota | 150,000 |
| Tennessee: | | |
| 17–7616–00 | Anderson County | 27,404 |
| 17–7618–00 | Bedford County | 15,982 |
| 17–7620–00 | Benton County | 10,106 |
| 17–7624–00 | Blount County | 30,136 |
| 17–7626–00 | Bradley County | 34,399 |
| 17–7628–00 | Campbell County | 19,405 |
| 17–7632–00 | Carroll County | 18,813 |
| 17–7634–00 | Carter County | 28,852 |
| 17–7640–00 | Claiborne County | 10,863 |
| 17–7642–00 | Clay County | 9,513 |
| 17–7644–00 | Cocke County | 22,401 |
| 17–7646–00 | Coffee County | 19,685 |
| 17–7648–00 | Crockett County | 8,345 |
| 17–7650–00 | Cumberland County | 20,475 |
| 17–7652–00 | Davidson County | 152,492 |

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

| | | |
|---|---|---|
| 17–7656–00 | Decatur County | 8,657 |
| 17–7658–00 | De Kalb County | 9,826 |
| 17–7660–00 | Dickson County | 14,303 |
| 17–7662–00 | Dyer County | 14,961 |
| 17–7664–00 | Fayette County | 10,731 |
| 17–7666–00 | Fentress County | 10,764 |
| 17–7668–00 | Franklin County | 14,171 |
| 17–7670–00 | Gibson County | 22,384 |
| 17–7672–00 | Giles County | 12,361 |
| 17–7674–00 | Grainger County | 9,415 |
| 17–7676–00 | Greene County | 44,044 |
| 17–7678–00 | Grundy County | 7,291 |
| 17–7680–00 | Hamblen County | 26,581 |
| 17–7682–00 | Hamilton County | 108,712 |
| 17–7688–00 | Hardeman County | 18,319 |
| 17–7690–00 | Hardin County | 16,656 |
| 17–7692–00 | Hawkins County | 22,055 |
| 17–7694–00 | Haywood County | 15,027 |
| 17–7696–00 | Henderson County | 19,734 |
| 17–7698–00 | Henry County | 16,969 |
| 17–7700–00 | Hickman County | 6,847 |
| 17–7702–00 | Houston County | 7,110 |
| 17–7704–00 | Humphreys County | 10,962 |
| 17–7708–00 | Jefferson County | 21,199 |
| 17–7710–00 | Johnson County | 9,842 |
| 17–7712–00 | Knox County | 101,848 |
| 17–7718–00 | Lauderdale County | 14,402 |
| 17–7720–00 | Lawrence County | 35,930 |
| 17–7722–00 | Lewis County | 9,908 |
| 17–7724–00 | Lincoln County | 17,743 |
| 17–7726–00 | Loudon County | 13,118 |
| 17–7728–00 | McMinn County | 25,972 |
| 17–7730–00 | McNairy County | 13,957 |
| 17–7732–00 | Macon County | 9,777 |
| 17–7734–00 | Madison County | 31,025 |
| 17–7738–00 | Marion County | 13,875 |
| 17–7740–00 | Marshall County | 10,040 |
| 17–7742–00 | Maury County | 28,787 |
| 17–7744–00 | Meigs County | 6,946 |
| 17–7746–00 | Monroe County | 21,792 |
| 17–7748–00 | Montgomery County | 38,382 |
| 17–7754–00 | Morgan County | 8,789 |
| 17–7756–00 | Obion County | 15,702 |
| 17–7758–00 | Overton County | 13,612 |
| 17–7764–00 | Polk County | 7,900 |
| 17–7766–00 | Putnam County | 27,799 |
| 17–7768–00 | Rhea County | 17,644 |
| 17–7770–00 | Roane County | 28,178 |
| 17–7774–00 | Rutherford County | 55,483 |
| 17–7776–00 | Scott County | 10,731 |
| 17–7780–00 | Sevier County | 41,263 |
| 17–7782–00 | Shelby County | 312,194 |
| 17–7786–00 | Smith County | 7,407 |
| 17–7788–00 | Stewart County | 6,699 |
| 17–7790–00 | Sullivan County | 47,583 |
| 17–7794–00 | Tipton County | 18,994 |
| 17–7798–00 | Unicoi County | 8,361 |
| 17–7804–00 | Warren County | 24,935 |
| 17–7806–00 | Washington County | 34,169 |
| 17–7808–00 | Wayne County | 15,965 |
| 17–7810–00 | Weakley County | 16,574 |
| 17–7812–00 | White County | 14,435 |
| 17–7818–00 | State Set-Aside Committee, TN | 85,709 |
| | Tennessee Total | 2,121,420 |
| Texas: | | |
| 17–7820–00 | Abilene/Jones, Taylor Counties | 40,933 |
| 17–7822–00 | Amarillo/Potter, Randall Counties | 65,852 |
| 17–7824–00 | Austin/Travis, Williamson Counties | 258,093 |
| 17–7826–00 | Dallas/Collin, Dallas, Denton Counties | 929,752 |
| 17–7829–00 | Houston/Ft Bend, Harris Counties | 1,389,089 |
| 17–7830–00 | Longview/Gregg, Harrison Counties | 101,749 |
| 17–7856–00 | Anderson County | 18,220 |
| 17–7860–00 | Angelina County | 33,083 |

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

| | | |
|---|---|---|
| 17–7862–00 | Aransas County | 9,991 |
| 17–7868–00 | Atascosa County | 12,789 |
| 17–7870–00 | Austin County | 6,979 |
| 17–7876–00 | Bastrop County | 14,286 |
| 17–7880–00 | Bee County | 9,629 |
| 17–7882–00 | Bell County | 72,387 |
| 17–7886–00 | Bexar County | 436,624 |
| 17–7896–00 | Bowie County | 55,928 |
| 17–7900–00 | Brazoria County | 113,880 |
| 17–7902–00 | Brazos County | 21,742 |
| 17–7912–00 | Brown County | 14,994 |
| 17–7916–00 | Burnet County | 8,279 |
| 17–7918–00 | Caldwell County | 10,056 |
| 17–7920–00 | Calhoun County | 10,600 |
| 17–7924–00 | Cameron County | 261,978 |
| 17–7934–00 | Cass County | 19,257 |
| 17–7938–00 | Chambers County | 8,641 |
| 17–7940–00 | Cherokee County | 14,731 |
| 17–7964–00 | Comal County | 17,085 |
| 17–7970–00 | Cooke County | 9,892 |
| 17–7972–00 | Coryell County | 16,755 |
| 17–8004–00 | Deaf Smith County | 9,250 |
| 17–8020–00 | Dimmit County | 10,056 |
| 17–8024–00 | Duval County | 7,752 |
| 17–8026–00 | Eastland County | 6,633 |
| 17–8028–00 | Ector County | 57,096 |
| 17–8034–00 | Ellis County | 33,329 |
| 17–8036–00 | El Paso County | 494,165 |
| 17–8040–00 | Erath County | 7,275 |
| 17–8044–00 | Fannin County | 9,299 |
| 17–8060–00 | Freestone County | 6,732 |
| 17–8062–00 | Frio County | 8,838 |
| 17–8066–00 | Galveston County | 147,818 |
| 17–8080–00 | Gray County | 7,341 |
| 17–8084–00 | Grayson County | 34,942 |
| 17–8090–00 | Grimes County | 6,765 |
| 17–8092–00 | Guadalupe County | 17,940 |
| 17–8094–00 | Hale County | 17,891 |
| 17–8104–00 | Hardin County | 24,392 |
| 17–8122–00 | Hays County | 22,467 |
| 17–8126–00 | Henderson County | 22,253 |
| 17–8128–00 | Hidalgo County | 564,625 |
| 17–8132–00 | Hill County | 10,698 |
| 17–8134–00 | Hockley County | 9,447 |
| 17–8138–00 | Hopkins County | 12,311 |
| 17–8142–00 | Howard County | 9,365 |
| 17–8146–00 | Hunt County | 25,215 |
| 17–8148–00 | Hutchinson County | 8,888 |
| 17–8158–00 | Jasper County | 29,429 |
| 17–8162–00 | Jefferson County | 134,486 |
| 17–8170–00 | Jim Wells County | 19,158 |
| 17–8180–00 | Kaufman County | 25,166 |
| 17–8188–00 | Kerr County | 6,798 |
| 17–8196–00 | Kleberg County | 13,924 |
| 17–8200–00 | Lamar County | 19,306 |
| 17–8202–00 | Lamb County | 7,374 |
| 17–8214–00 | Liberty County | 32,984 |
| 17–8216–00 | Limestone County | 7,917 |
| 17–8226–00 | Lubbock County | 74,823 |
| 17–8234–00 | McLennan County | 75,810 |
| 17–8248–00 | Matagorda County | 34,547 |
| 17–8250–00 | Maverick County | 80,665 |
| 17–8252–00 | Medina County | 11,357 |
| 17–8256–00 | Midland County | 38,070 |
| 17–8260–00 | Milam County | 8,197 |
| 17–8268–00 | Montgomery County | 77,637 |
| 17–8272–00 | Morris County | 9,250 |
| 17–8276–00 | Nacogdoches County | 22,335 |
| 17–8278–00 | Navarro County | 17,825 |
| 17–8280–00 | Newton County | 11,834 |
| 17–8282–00 | Nolan County | 7,719 |
| 17–8284–00 | Nueces County | 165,512 |
| 17–8292–00 | Orange County | 62,380 |
| 17–8294–00 | Palo Pinto County | 11,982 |

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

| | | |
|---|---|---|
| 17–8296–00 | Panola County | 11,785 |
| 17–8302–00 | Pecos County | 6,830 |
| 17–8304–00 | Polk County | 14,616 |
| 17–8310–00 | Presidio County | 17,183 |
| 17–8324–00 | Reeves County | 9,052 |
| 17–8336–00 | Rusk County | 20,854 |
| 17–8344–00 | San Patricio County | 34,333 |
| 17–8354–00 | Shelby County | 10,616 |
| 17–8358–00 | Smith County | 85,982 |
| 17–8364–00 | Starr County | 97,092 |
| 17–8376–00 | Tarrant County | 413,483 |
| 17–8402–00 | Titus County | 13,019 |
| 17–8404–00 | Tom Green County | 28,458 |
| 17–8414–00 | Tyler County | 9,546 |
| 17–8416–00 | Upshur County | 17,134 |
| 17–8420–00 | Uvalde County | 20,261 |
| 17–8422–00 | Val Verde County | 29,067 |
| 17–8424–00 | Van Zandt County | 13,891 |
| 17–8426–00 | Victoria County | 32,111 |
| 17–8430–00 | Walker County | 8,262 |
| 17–8432–00 | Waller County | 9,382 |
| 17–8438–00 | Webb County | 110,456 |
| 17–8442–00 | Wharton County | 18,269 |
| 17–8446–00 | Wichita County | 47,139 |
| 17–8452–00 | Willacy County | 25,281 |
| 17–8458–00 | Wilson County | 7,160 |
| 17–8462–00 | Wise County | 11,785 |
| 17–8464–00 | Wood County | 12,641 |
| 17–8468–00 | Young County | 8,526 |
| 17–8470–00 | Zapata County | 6,995 |
| 17–8472–00 | Zavala County | 16,805 |
| 17–8474–00 | State Set-Aside Committee, TX | 220,434 |
| | Texas Total | 7,970,990 |
| Utah: | | |
| 17–8480–00 | Cache County | 17,200 |
| 17–8482–00 | Carbon County | 7,489 |
| 17–8496–00 | Iron County | 7,703 |
| 17–8510–00 | Salt Lake County | 212,140 |
| 17–8518–00 | Sanpete County | 7,094 |
| 17–8526–00 | Uintah County | 8,460 |
| 17–8528–00 | Utah County | 64,931 |
| 17–8536–00 | Washington County | 17,842 |
| 17–8540–00 | Weber County | 62,923 |
| 17–8544–00 | State Set-Aside Committee, UT | 67,242 |
| | Utah Total | 473,024 |
| Vermont: | | |
| 17–8552–00 | Caledonia County | 12,509 |
| 17–8554–00 | Chittenden County | 33,692 |
| 17–8566–00 | Orleans County | 14,780 |
| 17–8568–00 | Rutland County | 22,829 |
| 17–8576–00 | State Set-Aside Committee, VT | 66,190 |
| | Vermont Total | 150,000 |
| Virginia: | | |
| 17–8584–00 | Accomack County | 19,290 |
| 17–8610–00 | Buchanan County | 24,096 |
| 17–8616–00 | Caroline County | 10,600 |
| 17–8618–00 | Carroll County | 9,349 |
| 17–8634–00 | Dickenson County | 17,973 |
| 17–8652–00 | Giles County | 10,501 |
| 17–8658–00 | Grayson County | 7,324 |
| 17–8664–00 | Halifax County | 29,396 |
| 17–8674–00 | Isle of Wight County | 9,908 |
| 17–8684–00 | Lancaster County | 9,233 |
| 17–8686–00 | Lee County | 14,385 |
| 17–8690–00 | Louisa County | 9,563 |
| 17–8698–00 | Mecklenburg County | 13,562 |
| 17–8702–00 | Montgomery County | 13,068 |
| 17–8710–00 | Northumberland County | 8,411 |
| 17–8716–00 | Page County | 10,649 |
| 17–8720–00 | Pittsylvania County | 28,309 |
| 17–8724–00 | Prince Edward County | 9,332 |

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

| | | |
|---|---|---|
| 17–8730–00 | Pulaski County | 13,398 |
| 17–8742–00 | Russell County | 24,392 |
| 17–8744–00 | Scott County | 11,258 |
| 17–8748–00 | Smyth County | 18,648 |
| 17–8760–00 | Tazewell County | 31,700 |
| 17–8764–00 | Washington County | 23,635 |
| 17–8766–00 | Westmoreland County | 8,164 |
| 17–8768–00 | Wise County | 28,375 |
| 17–8770–00 | Wythe County | 13,348 |
| 17–8778–00 | Bristol City | 6,863 |
| 17–8792–00 | Danville City | 28,326 |
| 17–8810–00 | Hopewell City | 8,690 |
| 17–8814–00 | Lynchburg City | 16,870 |
| 17–8822–00 | Newport News City | 63,729 |
| 17–8824–00 | Norfolk City | 86,080 |
| 17–8828–00 | Petersburg City | 18,911 |
| 17–8832–00 | Portsmouth City | 51,072 |
| 17–8836–00 | Richmond City | 70,938 |
| 17–8838–00 | Roanoke City | 29,708 |
| 17–8846–00 | Suffolk City | 22,713 |
| 17–8856–00 | State Set-Aside Committee, VA | 605,986 |
| Virginia Total | | 1,437,751 |
| Washington: | | |
| 17–8858–00 | Adams County | 14,978 |
| 17–8860–00 | Asotin County | 7,225 |
| 17–8862–00 | Benton County | 73,588 |
| 17–8864–00 | Chelan County | 43,616 |
| 17–8866–00 | Clallam County | 30,169 |
| 17–8868–00 | Clark County | 99,346 |
| 17–8872–00 | Cowlitz County | 47,649 |
| 17–8874–00 | Douglas County | 19,257 |
| 17–8878–00 | Franklin County | 33,346 |
| 17–8882–00 | Grant County | 49,196 |
| 17–8884–00 | Grays Harbor County | 41,263 |
| 17–8888–00 | Jefferson County | 10,188 |
| 17–8890–00 | King County | 489,836 |
| 17–8896–00 | Kitsap County | 77,045 |
| 17–8898–00 | Kittitas County | 14,616 |
| 17–8900–00 | Klickitat County | 14,764 |
| 17–8902–00 | Lewis County | 40,555 |
| 17–8906–00 | Mason County | 21,117 |
| 17–8908–00 | Okanogan County | 36,358 |
| 17–8910–00 | Pacific County | 12,476 |
| 17–8912–00 | Pend Oreille County | 8,016 |
| 17–8914–00 | Pierce County | 233,553 |
| 17–8920–00 | Skagit County | 52,636 |
| 17–8922–00 | Skamania County | 6,600 |
| 17–8924–00 | Snohomish County | 162,434 |
| 17–8928–00 | Spokane County | 145,020 |
| 17–8932–00 | Stevens County | 24,277 |
| 17–8934–00 | Thurston County | 78,625 |
| 17–8938–00 | Walla Walla County | 26,466 |
| 17–8940–00 | Whatcom County | 71,745 |
| 17–8944–00 | Yakima County | 180,390 |
| 17–8948–00 | State Set-Aside Committee, WA | 20,440 |
| Washington Total | | 2,186,790 |
| West Virginia: | | |
| 17–8950–00 | Huntington/Cabell, Wayne Counties | 54,463 |
| 17–8954–00 | Barbour County | 11,916 |
| 17–8956–00 | Berkeley County | 22,088 |
| 17–8958–00 | Boone County | 11,966 |
| 17–8960–00 | Braxton County | 9,135 |
| 17–8962–00 | Brooke County | 13,101 |
| 17–8970–00 | Clay County | 7,802 |
| 17–8974–00 | Fayette County | 26,318 |
| 17–8978–00 | Grant County | 7,999 |
| 17–8980–00 | Greenbrier County | 19,389 |
| 17–8982–00 | Hampshire County | 8,443 |
| 17–8984–00 | Hancock County | 16,327 |
| 17–8988–00 | Harrison County | 41,213 |
| 17–8990–00 | Jackson County | 14,418 |
| 17–8994–00 | Kanawha County | 80,698 |

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

| | | |
|---|---|---|
| 17–8998–00 | Lewis County | 10,007 |
| 17–9000–00 | Lincoln County | 12,756 |
| 17–9002–00 | Logan County | 22,779 |
| 17–9004–00 | McDowell County | 13,924 |
| 17–9006–00 | Marion County | 35,173 |
| 17–9008–00 | Marshall County | 17,546 |
| 17–9010–00 | Mason County | 16,492 |
| 17–9012–00 | Mercer County | 25,018 |
| 17–9014–00 | Mineral County | 10,254 |
| 17–9016–00 | Mingo County | 19,010 |
| 17–9018–00 | Monongalia County | 25,100 |
| 17–9024–00 | Nicholas County | 16,706 |
| 17–9026–00 | Ohio County | 19,372 |
| 17–9034–00 | Preston County | 16,541 |
| 17–9036–00 | Putnam County | 19,652 |
| 17–9038–00 | Raleigh County | 41,279 |
| 17–9040–00 | Randolph County | 19,339 |
| 17–9042–00 | Ritchie County | 7,884 |
| 17–9044–00 | Roane County | 11,604 |
| 17–9048–00 | Taylor County | 8,806 |
| 17–9050–00 | Tucker County | 7,176 |
| 17–9054–00 | Upshur County | 12,344 |
| 17–9062–00 | Wetzel County | 11,324 |
| 17–9066–00 | Wood County | 40,522 |
| 17–9068–00 | Wyoming County | 11,801 |
| 17–9070–00 | State Set-Aside Committee, WV | 38,201 |
| | West Virginia Total | 835,886 |
| Wisconsin: | | |
| 17–9072–00 | Eau Claire/Chippewa, Eau Claire Counties | 43,550 |
| 17–9098–00 | Ashland County | 8,838 |
| 17–9102–00 | Bayfield County | 7,703 |
| 17–9104–00 | Brown County | 60,668 |
| 17–9120–00 | Clark County | 15,406 |
| 17–9126–00 | Dane County | 65,869 |
| 17–9134–00 | Douglas County | 17,101 |
| 17–9136–00 | Dunn County | 11,291 |
| 17–9148–00 | Grant County | 18,385 |
| 17–9158–00 | Jackson County | 7,538 |
| 17–9162–00 | Juneau County | 12,377 |
| 17–9164–00 | Kenosha County | 42,119 |
| 17–9170–00 | La Crosse County | 26,499 |
| 17–9176–00 | Langlade County | 8,674 |
| 17–9182–00 | Marathon County | 40,884 |
| 17–9184–00 | Marinette County | 18,171 |
| 17–9190–00 | Milwaukee County | 300,344 |
| 17–9198–00 | Monroe County | 15,373 |
| 17–9200–00 | Oconto County | 12,970 |
| 17–9214–00 | Polk County | 13,727 |
| 17–9216–00 | Portage County | 24,047 |
| 17–9220–00 | Racine County | 60,404 |
| 17–9226–00 | Rock County | 47,254 |
| 17–9230–00 | Rusk County | 7,686 |
| 17–9236–00 | Sawyer County | 9,201 |
| 17–9242–00 | Taylor County | 8,312 |
| 17–9246–00 | Vernon County | 9,497 |
| 17–9248–00 | Vilas County | 8,229 |
| 17–9252–00 | Washburn County | 7,275 |
| 17–9264–00 | Waushara County | 8,822 |
| 17–9266–00 | Winnebago County | 42,333 |
| 17–9272–00 | State Set-Aside Committee, WI | 311,854 |
| | Wisconsin Total | 1,292,401 |
| Wyoming: | | |
| 17–9288–00 | Fremont County | 21,676 |
| 17–9302–00 | Natrona County | 27,898 |
| 17–9326–00 | State Set-Aside Committee, WY | 100,426 |
| | Wyoming Total | 150,000 |
| American Samoa: | | |
| 17–9328–00 | American Samoa | 105,525 |
| | American Samoa Total | 105,525 |
| Guam: | | |

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM ALLOCATIONS—PHASE 17—Continued

| | |
|---|---|
| 17–9330–00 Guam | 100,500 |
| Guam Total | 100,500 |
| Northern Marianas: | |
| 17–9332–00 Northern Mariana Islands | 65,325 |
| Northern Marianas Total | 65,325 |
| Puerto Rico: | |
| 17–9334–00 Puerto Rico | 2,509,650 |
| Puerto Rico Total | 2,509,650 |
| Virgin Islands: | |
| 17–9340–00 Virgin Islands | 140,700 |
| Virgin Islands Total | 140,700 |

[FR Doc. 99–10528 Filed 4–27–99; 8:45 am]
BILLING CODE 6718–02–P

federal register

Wednesday
April 28, 1999

# Part IV

# Department of Education

## Office of Special Education and Rehabilitative Services; National Institute on Disability and Rehabilitation Research; Inviting Nominations for Individuals To Serve as Peer Reviewers on Standing Panels; Notice

## DEPARTMENT OF EDUCATION

### Office of Special Education and Rehabilitative Services; National Institute on Disability and Rehabilitation Research; Notice Inviting Nominations for Individuals to Serve as Peer Reviewers on Standing Panels

*Purpose:* The purpose of this notice is to invite interested parties to nominate qualified individuals to serve three-year terms as peer reviewers on standing panels.

**FOR FURTHER INFORMATION CONTACT:** Robert Jaeger, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3422, Switzer Building, Washington, DC. 20202–2645. Telephone: (202) 205–8061. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–9136. Internet: Robert__Jaeger@ed.gov

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

**SUPPLEMENTARY INFORMATION:** Section 202(f)(1) of the Rehabilitation Act, as amended, requires the Director of NIDRR to provide for scientific review of all applications for financial assistance for research, training, and demonstration projects. The scientific peer review must be conducted by individuals who are scientists or other experts in the rehabilitation field (including the independent living field), including knowledgeable individuals with disabilities, and the individuals representatives, who are not Federal employees, and who are competent to review applications for the financial assistance.

NIDRR's current peer review process uses *ad hoc* panels that are selected on a competition by competition basis. Many constituents have criticized the *ad hoc* panel system, and the Institute of Medicine, in its report Enabling America, recommended that NIDRR establish a standing panel review process in order to enhance its peer review process. One of the recommendations from the steering committee for NIDRR's long-range planning process was that NIDRR devise improvements to its research application review process. In 1997–1998, NIDRR formed a Standing Panel Working Group (SPWG) to evaluate NIDRR's existing peer review procedures and compare them to practices of other Federal agencies. Representatives from the National Institutes of Health, the National Science Foundation, the Department of Veterans Affairs, and the Department of Health and Human Services, all with direct experience with peer review systems served on the SPWG. The SPWG produced a report on current practices at other agencies, and a recommendation for NIDRR to establish standing panels aligned with the objectives in the proposed Long-Range Plan (LRP). The proposed LRP can be accessed on the World Wide Web at:

http://www.ed.gov/legislation/FedRegister/announcements/1998–4/102698a.html

NIDRR plans to use standing panels of peer reviewers to evaluate Field Initiated Project (FIP) applications and applications for Small Business Innovative Research (SBIR) projects. NIDRR receives approximately 200 FIP applications and 200 SBIR applications per year. NIDRR plans to use standing panels in order to enhance continuity, provide for more extensive feedback, and obtain the services of better qualified reviewers, including those with disabilities and those from diverse backgrounds.

NIDRR plans for peer reviewers to serve for three-year terms on the standing panels, with two meetings to be held per year: one for FIP reviews and one for SBIR reviews. Because NIDRR plans to have staggered terms, there will be an ongoing need for candidates for appointment. The nomination process will remain open on a continuous basis, and nominations may be made at any time.

The format for submitting nominations for the new standing panels is in the Appendix. Individuals should review the list of standing panels NIDRR intends to form, and nominate *ONE* individual to serve as a member of *ONE* of these standing panels. Individuals may not nominate more than one person or nominate the same person for more than one panel. The nominator should be well acquainted with the nominee and have insight as to the nominee's abilities as a peer reviewer. Individuals may be qualified to be peer reviewers on the basis of education and training or some combination of personal and professional experience with disability. Nominators must contact the individual they wish to nominate to determine if the prospective nominee is willing to serve, and to avoid multiple nominations. Nominators must obtain the nominee's resume or curriculum vitae for submission to NIDRR. Individuals may not nominate themselves.

The standing panels NIDRR intends to form are based on the research agenda stated in the proposed LRP. They are as follows: (1) Employment Outcomes; (2) Health and Function; (3) Technology for Access and Function; (4) Independent Living and Community Integration; and (5) Statistics, Outcomes Research, Disability Studies, Rehabilitation Science, and Policy.

### Electronic Access to This Document

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http://ocfo.ed.gov/fedreg.html
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To use the PDF you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the preceding sites. If you have questions about using the PDF, call the U.S. Government Printing Office (GPO) at (202) 512–1530 or, toll free at 1–888–293–6498.

**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at:

http://www.access.gpo.gov/nara/index.html

Applicable Program Regulations: 34 CFR Part 350.

**Program Authority:** 29 U.S.C. 760–764.

Dated: April 22, 1999.

**Judith E. Heumann,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

### Appendix—Nomination Procedure

Prospective panel members must be nominated by an individual who is well acquainted with the nominee and has insight as to the nominee's abilities as a peer reviewer. Nominators must contact the individual they wish to nominate to determine if the prospective nominee is willing to serve, and to avoid multiple nominations. If multiple nominations for a single individual are received, only the first nomination received by NIDRR will be processed. Individuals may not nominate themselves. The nominator should forward two items to NIDRR:

1. One Page Cover Letter

This is prepared by the nominator, and should include:

(1) The name of the nominee, mailing address, and other contact information for both nominator and nominee; (2) the name of the panel the individual is being nominated to; (3) a brief description of the qualifications of the nominee to serve as a member of that

standing panel; and (4) a brief statement as to how the nominator is acquainted with the nominee.

2. Complete Resume or Curriculum Vitae of Nominee

This may be in any format and length, but must include sufficient information to evaluate the nominee's credentials, including their education and experience.

These documents should be sent by mail to: Robert J. Jaeger, Ph.D., Standing Panel Nominations, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3422, Switzer Building, Washington, DC. 20202–2645.

If the documents are sent by courier service, the following address should be used: Robert J. Jaeger, Ph.D., Standing Panel Nominations, U.S. Department of Education; 330 C St., SW.; Room 3422, Switzer Building, Washington, DC. 20202–2645. Telephone 202–205–8061.

Nominations by fax, e-mail, or other electronic versions will not be accepted. Confirmation of receipt of nomination will be sent by regular mail to all nominators and nominees.

[FR Doc. 99–10607 Filed 4–27–99; 8:45 am]

BILLING CODE 4000–01–U

federal register

Wednesday
April 28, 1999

# Part V

# Department of Education

## Community Technology Centers Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1999; Notice

## DEPARTMENT OF EDUCATION

**[CFDA No. 84.341]**

## Community Technology Centers Program; Notice Inviting Applications for New Awards for Fiscal year (FY) 1999

*Note to Applicants:* This notice is a complete application package. Together with the statute authorizing these grants and the Education Department General Administrative Regulations (EDGAR), this notice contains all of the information, application forms, and instructions needed to apply for a grant under this competition. These grants are authorized by Title III, section 3122 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Improving America's Schools Act of 1994 (20 U.S.C. 6832).

*Purpose of Program:* The purpose of the Community Technology Centers program is to increase access to technology and promote the use of technology in education through the development of model programs that demonstrate the educational effectiveness of technology in urban and rural areas and economically distressed communities.

*Eligible Applicants:* State educational agencies, local educational agencies, institutions of higher education, and other public and private nonprofit or for-profit agencies and organizations are eligible to receive grants under this program. A group of eligible entities is also eligible to receive a grant if the group follows the procedures for group applications in 34 CFR 75.127–129 of EDGAR.

*Deadline for Transmittal of Applications:* June 14, 1999.

**Note:** See information on Technical Assistance Workshops under **SUPPLEMENTARY INFORMATION**.

*Deadline for Intergovernmental Review:* August 13, 1999.

*Estimated Available Funds:* $9,250,000.

*Matching Requirement:* Recipients of grants under this program must share in the cost of the activities assisted under the grant. Grant recipients must make available non-Federal contributions in cash or in kind in the following percentages, as authorized under section 3122(d) of ESEA:

*First year:* Non-federal contribution—30 percent of the cost of activities assisted under the grant.

*Second year:* Non-federal contribution—40 percent of the cost of activities assisted under the grant.

*Third year:* Non-federal contribution—50 percent of the cost of activities assisted under the grant.

*Estimated Range of Awards:* $75,000–$300,000 each year.

*Estimated Average Size of Awards:* $180,000.

*Estimated Number of Awards:* 40 to 60.

*Project Period:* 36 months.

Please note that all applicants for multi-year awards are required to provide detailed budget information for the total grant period requested. The Department will determine at the time of the initial award the funding levels for each year of the grant award.

**Note:** The Department of Education is not bound by any estimates in this notice.

*Applicable Regulations:* The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 85, and 86.

**SUPPLEMENTARY INFORMATION:** A 1998 Department of Commerce study, Falling through the Net II: New Data on the Digital Divide, showed that although more Americans now own computers, minority and low-income households are still far less likely to have computers or online access to the Internet than more affluent households. The report showed that the ''digital divide'' between the technology ''have's'' and ''have not's''—especially low-income individuals, minorities and the young in rural areas and central cities—is significant. In view of the time that it will take to connect these individuals to online access at home, the report advocated that schools, libraries, postsecondary institutions, and community organizations make computers and technology accessible to them.

### Description of Program

The Community Technology Centers program is established to provide access to computers and technology, particularly educational technology, to adults and children in low-income communities who otherwise would lack that access. The program is authorized under section 3122 of ESEA. Under section 3122, the Secretary may carry out a variety of activities that promote the use of technology in education. These activities include the development of model programs, such as community technology centers, that demonstrate the educational effectiveness of technology in urban and rural areas and economically distressed communities. Under the Community Technology Centers program, the Secretary will award grants to establish or expand community technology centers that provide access to computers and technology for individuals in economically distressed urban and rural communities.

Applicants under this program are encouraged to propose an array of services and activities that provide access to computers and information technology for local community residents, such as:

1. *After-school Activities* for children of all ages to use software that provides homework help and academic enrichment, exploration of the Internet, and multimedia activities, including web page design and creation.

2. *Adult Education and Family Literacy*, including GED, English as a second Language, and adult basic education classes or programs, introduction to computers, intergenerational activities, and lifelong learning opportunities through technology and the Internet.

3. *Career Development and Job Preparation*, such as computer skills training (basic and advanced), resume writing workshops, and access to databases of employment opportunities, career information, and other online materials.

4. *Small Business Activities*, such as computer-based training for basic entrepreneurial skills and electronic commerce, as well as access to information on business start-up programs.

5. *Home Access* to computers and technology, such as assistance and services to promote the acquisition, installation, and use of information technology in the home through web-based television, network PCs, or other computer technology.

Although a single eligible applicant may apply for a grant under this program, the Secretary encourages applications from partnerships that include local community organizations or agencies. The Secretary will give a competitive preference to applications from eligible applicants that demonstrate substantial community support and commitment to the establishment or expansion of a community technology center or centers.

As indicated in the discussion of matching above, recipients of grants under this program must share in the cost of activities assisted under the grants through non-Federal contributions. The non-Federal share of activities may be in the form of cash or in-kind contributions, fairly valued.

### Technical Assistance Workshops

We will hold four technical assistance workshops to assist applicants in preparing grant applications for the Community Technology Centers

program. The dates, times, and locations of the workshops are as follows:

1. May 7, 1999, 9:00 a.m. to 12:00 noon, Dallas County Community College District, Bill J. Priest Institute for Economic Development, 1402 Corinth Street, Rooms A and B (seating capacity 150), Dallas, Texas.

2. May 10, 1999, 1:00 p.m. to 4:00 p.m., Olive Harvey College, 10001 South Woodlawn Avenue, Bruce Cherry Theater (seating capacity 250), Chicago, Illinois.

3. May 10, 1999, 9:00 a.m. to 12:00 noon, Medgar Evers College, 1650 Bedford Avenue, Auditorium (seating capacity 400), Brooklyn, New York.

4. May 12, 1999, 9:00 a.m. to 12:00 noon, Los Angeles Community College District, Southwest College, 1600 West Imperial Highway, Little Theatre (seating capacity 350), Los Angeles, California.

**Assistance to Individuals With Disabilities at the Technical Assistance Workshops**

The technical assistance workshop sites are accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the workshop (e.g., interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice at least two weeks before the scheduled workshop date. Although we will attempt to meet a request we receive after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

*Waiver of Proposed Rulemaking:* In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed rules. Ordinarily, this practice would have applied to the priorities and selection criteria in this notice. Section 437(d)(1) of the General Education Provisions Act (GEPA), however, exempts rules that apply to the first competition under a new or substantially revised program from this requirement. Although statutory authorization for this program has existed since 1994, the program was funded for the first time under the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, enacted October 22, 1998. As this competition is the first competition under the program, it therefore qualifies as a new competitive grants program. The Secretary, in accordance with section 437(d)(1) of GEPA, to ensure timely awards, has decided to forego public comments with respect to the competitive priorities and selection criteria. The competitive priorities and selection criteria will apply only to the fiscal year 1999 grant competition.

*Competitive Priorities:*

The Secretary will give preference to applications that meet one or both of the competitive priorities in the next two paragraphs. (34 CFR 75.105 (b)(2)(iii) and (c)(2)(i)).

Competitive Priority 1

Projects that demonstrate substantial community support of, and commitment to, the establishment or expansion of a community technology center or centers. The Secretary will award up to three additional points depending on how well an application meets this priority. These points would be in addition to any points the applicant earns under the selection criteria.

Competitive Priority 2

Projects that use the program funds to establish or expand a community technology center or centers in an Empowerment Zone, including a Supplemental Empowerment Zone, or an Enterprise Community designated by the United States Department of Housing and Urban Development or the United States Department of Agriculture. The Secretary will award three additional points to an application that meets this priority. These points would be in addition to any points the applicant earns under the selection criteria.

**Note:** A list of areas that have been designated as Empowerment Zones and Enterprise Communities is published in the Appendix to this notice.

*Definition:* In addition to definitions in the statute and EDGAR, the following definition applies:

*Economically distressed* means a county or equivalent division of local government of a State in which, according to the most recent available data from the United States Bureau of the Census, a significant percentage of the residents have an annual income that is at or below the poverty level.

*Selection Criteria:* (a)(1) The Secretary uses the following selection criteria to evaluate applications for grants under this competition. In all instances where the word ''project'' appears in the selection criteria, the reference to a community technology center should be made.

(2) The maximum composite score for all of these criteria is 100 points.

(3) The maximum score for each criterion and factor is indicated in parentheses.

(b) *Meeting the purposes of the authorizing statute.* (10 points) The Secretary considers how well the project meets the purposes of section 3122(a) and (c)(10) of ESEA by developing a model project that demonstrates the educational effectiveness of technology and expands access to information technology and related services in an economically distressed urban or rural community.

(c) *Need for project.* (30 points) (1) The Secretary considers the need for the proposed project.

(2) In determining the need for the proposed project, the Secretary considers the following factors:

(i) The magnitude of the need for the services to be provided or the activities to be carried out by the proposed project. (15 points)

(ii) The extent to which the proposed project will focus on serving or otherwise addressing the needs of disadvantaged individuals. (15 points)

(d) *Quality of project design.* (20 points) (1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable. (10 points)

(ii) The extent to which the proposed project will establish linkages with other appropriate agencies and organizations providing services to the target population. (10 points)

(e) *Quality of project personnel.* (10 points) (1) The Secretary considers the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the qualifications, including relevant training and experience, of the project director or principal investigator. (10 points)

(f) *Quality of the management plan.* (10 points) (1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks. (5 points)

(ii) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate. (5 points)

(g) *Adequacy of resources.* (10 points) (1) The Secretary considers the adequacy of resources for the proposed project.

(2) In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(i) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization. (5 points)

(ii) The extent to which the costs are reasonable in relation to the number of persons to be served and to the anticipated results and benefits. (5 points)

(h) *Quality of project evaluation.* (10 points) (1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible. (5 points)

(ii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes. (5 points)

**Note:** In accordance with EDGAR 34 CFR 75.118, 75.590, 75.720, and 80.40, grant recipients must submit an annual performance report that provides the most current performance and financial expenditure information on project activities, including the recipient's progress in achieving the objectives in its approved application. If a recipient fails to submit a performance report that meets these requirements, the Secretary denies continued funding for the grant.

## Intergovernmental Review of Federal Programs

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR Part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedures established in each State under the Executive order. The address of each State Single Point of Contact is in the Appendix to this notice.

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372-CFDA #84.341, U.S. Department of Education, Room 7E200, 400 Maryland Avenue, SW, Washington, DC 20202–0125.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, D.C. time) on the date indicated in this notice. PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS*.

## Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant must-

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.341) Washington, DC 20202–4725 or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington, D.C. time) on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.341), Room 3633, Regional Office Building #3, 7th and D Streets, SW., Washington, D.C.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

*Notes*

(1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9494.

(3) The applicant must indicate on the envelope and—if not provided by the Department—in Item 3 of the Application for Federal Assistance (ED 424) the CFDA number—and suffix letter, if any—of the competition under which the application is being submitted.

## Application Instructions and Forms

The appendix to this notice contains the following forms and instructions, a statement regarding estimated public reporting burden, a notice to applicants regarding compliance with section 427 of the General Education Provisions Act (GEPA), various assurances and certifications, and a checklist for applicants.

a. Instructions for the Application Narrative.

b. Estimated Public Reporting Burden Statement.

c. Notice to All Applicants (compliance with section 427 of GEPA).

d. Checklist for Applicants.

e. An excerpt of Public Law 103–382.

f. Application for Federal Assistance (ED 424, Exp. 06/30/2001) and instructions.

g. Budget Information-Non-construction Programs (ED Form No. 524) and instructions.

h. Assurances-Non-Construction Programs (Standard Form 424B) and instructions.

i. Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013) and instructions.

j. Certifications regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions (ED 80–0014, 9/90) and instructions.

**Note:** ED 80–0014 is intended for the use of grantees and should not be transmitted to the Department.

k. Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions.

An applicant may submit information on photostatic copies of the application, budget forms, assurances, and certifications as printed in this notice in the **Federal Register**. However, the application form, assurances, and certifications must each have an original signature. All applicants must submit ONE original signed application, including ink signatures on all forms and assurances, and TWO copies of the application, one bound and one unbound copy suitable for photocopying. Please mark each application as ''original'' or ''copy''. No grant may be awarded unless a completed application form, including the signed assurances and certifications, has been received.

**FOR FURTHER INFORMATION CONTACT:** Norris Dickard, Community Technology Centers Program, Office of Vocational and Adult Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4076, Switzer Building, Washington, DC 20202–7240. Telephone: (202) 205–9873. E-mail: norris__dickard@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this notice in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph. Please note, however, that the Department is not able to reproduce in an alternate format the standard forms included in the notice.

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To use the PDF you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the PDF, call the U.S. Government Printing Office at (202) 512–1530 or, toll free, at 1–888–293–6498.

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**Program Authority:** 20 U.S.C. 6832.

Dated: April 22, 1999.

**Robert Muller,**

*Acting Assistant Secretary for Vocational and Adult Education.*

## Appendix—Instructions for the Application Narrative

The narrative is the section of the application where the selection criteria used by reviewers in evaluating the application are addressed. The narrative must encompass each function or activity for which funds are being requested. Before preparing the Application Narrative, an applicant should read carefully the description of the program and the selection criteria the Secretary uses to evaluate applications.

The Secretary strongly requests the applicant to limit the Application Narrative (not including the Abstract) to no more than 20 double-spaced, typed pages (on one side only). The Department has found that successful applications for similar programs generally meet this page limit.

1. Begin with a one-page Abstract summarizing the proposed community technology center project, including a short description of the population to be served by the project, project objectives, and planned project activities;

2. Include a table of contents listing the parts of the narrative in the order of the selection criteria and the page numbers where the parts of the narrative are found. Be sure to number the pages.

3. Describe how the applicant meets the competitive priority(ies), if applicable.

4. Describe fully the proposed project in light of the selection criteria in the order in which the criteria are listed in the application package. Do not simply paraphrase the criteria.

5. In the application budget, include a description of the non-federal contributions that the applicant will make for each year of the project in amounts not less than the non-federal contributions as required in this notice. Budget line items must support the goals and objectives of the proposed project.

6. Provide the following in response to the attached ''Notice to all Applicants'': (1) a reference to the portion of the application in which information appears as to how the applicant is addressing steps to promote equitable access and participation, or (2) a separate statement that contains that information.

7. Attach copies of all required assurances and forms.

**Estimated Public Reporting Burden**

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB Control Number for this information collection is 1830–0539 (Expiration Date: 04/30/2002). The time required to complete this information collection is estimated to average 40 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. *If you have any comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to:* U.S. Department of Education, Washington, DC 20202–4651.

*If you have comments or concerns regarding the status of your individual submission of this form, write directly to:* Community Technology Centers Program, Division of Adult Education and Literacy, Office of Vocational and Adult Education, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202–7240.

**Checklist for Applicants**

The following forms and other items must be included in the application in the order listed below:

1. Application for Federal Assistance (ED 424).

2. Budget Information—Non-construction Programs ED Form No. 524).

3. Application Narrative, including information that addresses section 427 of the General Education Provisions Act. (See the section entitled ''NOTICE TO ALL APPLICANTS'').

4. Assurances—Non-Construction Programs (SF 242B).

5. Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013).

6. Disclosure of Lobbying Activities (Standard Form LLL).

BILLING CODE 4000–01–P

OMB Control No. 1801-0004 (Exp. 8/31/2001)

## NOTICE TO ALL APPLICANTS

The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provision is Section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Pub. L. 103-382).

### To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new grant awards under this program. **ALL APPLICANTS FOR NEW AWARDS MUST INCLUDE INFORMATION IN THEIR APPLICATIONS TO ADDRESS THIS NEW PROVISION IN ORDER TO RECEIVE FUNDING UNDER THIS PROGRAM.**

(If this program is a State-formula grant program, a State needs to provide this description only for projects or activities that it carries out with funds reserved for State-level uses. In addition, local school districts or other eligible applicants that apply to the State for funding need to provide this description in their applications to the State for funding. The State would be responsible for ensuring that the school district or other local entity has submitted a sufficient section 427 statement as described below.)

### What Does This Provision Require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its Federally-assisted program for students, teachers, and other program beneficiaries with special needs. This provision allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation: gender, race, national origin, color, disability, or age. Based on local circumstances, you should determine whether these or other barriers may prevent your students, teachers, etc. from such access or participation in, the Federally-funded project or activity. The description in your application of steps to be taken to overcome these barriers need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information may be provided in a single narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

### What are Examples of How an Applicant Might Satisfy the Requirement of This Provision?

The following examples may help illustrate how an applicant may comply with Section 427.

(1) An applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.

(2) An applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in braille for students who are blind.

(3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it intends to conduct "outreach" efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

### Estimated Burden Statement for GEPA Requirements

The time required to complete this information collection is estimated to vary from 1 to 3 hours per response, with an average of 1.5 hours, including the time to review instructions, search existing data resources, gather and maintain the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, DC 20202-4651.

## EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES
(as of January 13, 1999)

EMPOWERMENT ZONES

**California:** Los Angeles, Oakland, Santa Ana, Riverside County*
**Connecticut**: New Haven+
**Florida**: Miami+
**Georgia**: Atlanta, Cordele*+
**Illinois**: Chicago, East St. Louis+, Ullin*
**Indiana**: Gary, East Chicago
**Kentucky**: Kentucky Highlands* (Clinton, Jackson, and Wayne Counties)
**Maryland**: Baltimore
**Massachusetts**: Boston+
**Michigan**: Detroit
**Minnesota**: Minneapolis+
**Mississippi**: Mid-Delta* (Bolivar, Holmes, Humphreys, LeFlore, Sunflower, Washington Counties)
**Missouri/Kansas**: Kansas City, Kansas City
**Missouri**: St. Louis+
**New Jersey**: Cumberland County
**New York**: Harlem, Bronx
**North Dakota**: Lake Agassiz*
**Ohio**: Cleveland, Cincinnati, Columbus+
**Ohio/West Virginia**: Ironton/Huntington+
**Pennsylvania/New Jersey:** Philadephia/ Camden
**South Carolina**: Columbia/Sumter
**South Dakota**: Oglala Sioux Reservation in Pine Ridge*
**Tennessee**: Knoxville
**Texas**: Houston, El Paso+, Rio GrandeValley* (Cameron, Hidalgo, Starr, and Willacy Counties)
**Virginia**: Norfolk+/Portsmouth

ENTERPRISE COMMUNITIES

**Alabama**: Birmingham
**Alabama**: Chambers County* Greene County*, Sumter County*
**Alaska**: Juneau*
**Arizona**: Arizona Border* (Cochise, Santa Cruz and Yuma Counties), Phoenix, Window Rock*
**Arkansas**: East Central* (Cross, Lee, Monroe, and St. Francis Counties), Mississippi County*, Pulaski County
**California**: Imperial County*, Los Angeles, Huntington Park, San Diego, San Francisco, Bayview, Hunter's Point, Watsonville*, Orange Cove*
**Colorado**: Denver
**Connecticut**: Bridgeport, New Haven
**Delaware**: Wilmington
**District of Columbia**: Washington
**Florida**: Jackson County*, Miami, Dade County, Tampa, Immokalee*
**Georgia**: Albany, Central Savannah River*(Burke, Hancock, Jefferson, McDuffie, Tallafero, and Warren Counties), Crisp County*, Dooley County*
**Hawaii:** Kaunakakai*
**Illinois**: East St. Louis, Springfield
**Indiana**: Indianapolis, Austin*
**Iowa**: Des Moines
**Kansas**: Leoti*
**Kentucky**: Louisville, Bowling Green*
**Louisiana**: Macon Ridge* (Catahoula, Concordia, Franklin, Morehouse, and Tensas Parishes), New Orleans, Northeast Louisiana Delta* (Madison Parish), Ouachita Parish
**Maine:** Lewiston*
**Massachusetts**: Lowell, Springfield
**Michigan**: Five Cap*, Flint, Muskegon, Harrison*
**Minnesota**: Minneapolis, St. Paul
**Mississippi**: Jackson, North Delta Area* (Panola, Quitman, and Tallahatchie Counties)
**Missouri**: East Prairie*, St. Louis
**Montana**: Poplar*
**Nebraska**: Omaha
**Nevada**: Clarke County, Las Vegas
**New Hampshire**: Manchester
**New Jersey**: Newark
**New Mexico**: Albuquerque, La Jicarita* (Mora, Rio Arriba, Taos Counties), Deming*
**New York**: Albany, Schenectady, Troy
**New York**: Buffalo, Rochester
**New York**: Newburgh, Kingston
**North Carolina**: Charlotte
**North Carolina**: Edgecombe, Halifax, Robeson, Wilson Counties*
**Ohio**: Akron, Columbus, Greater Portsmouth* (Scioto County)
**Oklahoma**: Choctaw, McCurtain Counties*, Oklahoma City, Ada*
**Oregon:** Josephine County*, Portland
**Pennsylvania**: Harrisburg, Lock Haven*, Pittsburgh, Uniontown*
**Rhode Island**: Providence
**South Carolina**: Charleston, Williamsburg, Florence County*, Hallandale*
**South Dakota**: Beadle, Spink Counties*
**Tennessee**: Fayette, Haywood Counties*, Memphis, Nashville, Rutledge*
**Tennessee/Kentucky**: Scott, McCreary Counties*
**Texas**: Dallas, El Paso, San Antonio, Waco, Uvalde*
**Utah**: Ogden
**Vermont**: Burlington
**Virginia**: Accomack (Northampton County)*, Norfolk
**Washington**: Lower Yakima County*, Seattle, Tacoma, Collie*
**West Virginia**: Charleston*, Huntington, McDowell County*, West Central Appalachia* (Braxton, Clay, Fayette, Nicholas, and Roane)
**Wisconsin**: Milwaukee, Keshena*

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* Denotes rural designee
+Also an Enterprise Community, Round One

For further information consult the following Internet site: http://www.ezec.gov

## STATE SINGLE POINT OF CONTACT
(As of April 22, 1999)

**Note:** In accordance with Executive Order 12372, Intergovernmental Review of Federal Programs, this listing represents the designated State Single Points of Contact (SSPOCs). Because participation is voluntary, some States and Territories no longer participate in the process. These include: Alabama, Alaska, American Samoa, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, and Washington.

The jurisdictions not listed no longer participate in the process. However, an applicant is still eligible to apply for a grant or grants even if its respective State, Territory, Commonwealth, etc. does not have a SSPOC.

**ARIZONA**
Ms. Joni Saad
Arizona State Clearinghouse
3800 N. Central Avenue
Fourteenth Floor
Phoenix, Arizona 85012
Telephone:(602) 280-1315
FAX:(602) 280-8144
jonis@ep.state.az.us

**ARKANSAS**
Mr. Tracy L. Copeland
Manager, State Clearinghouse
Office of Intergovernmental Services
Department of Finance and Administration
1515 W. 7th St., Room 412
Little Rock, Arkansas 72203
Telephone: (501) 682-1074
FAX: (501) 682-5206
tlcopeland@dfa.state.ar.us

**CALIFORNIA**
Grants Coordination
State Clearinghouse
Office of Planning and Research
1400 10th Street, Room 121
Sacramento, California 95814
Telephone: (916) 445-0613
FAX: (916) 323-3018
No e-mail address

**DELAWARE**
Executive Department
Office of the Budget
540 S. Dupont Highway
Suite 5
Dover, Delaware 19901
Telephone: (302) 739-3326
FAX: (302) 739-5661
No e-mail address

**DISTRICT OF COLUMBIA**
Mr. Charles Nichols
State Single Point of Contact
Office of Grants Management and Development
717 14th Street, N.W. - Suite 1200
Washington, D.C. 20005
Telephone: (202) 727-1700 (direct)
(202) 727-6537 (secretary)
FAX: (202) 727-1617
No e-mail address

**FLORIDA**
Florida State Clearinghouse
Department of Community Affairs
2555 Shumard Oak Blvd.
Tallahassee, Florida 32399-2100
Telephone: (850) 922-5438
FAX: (850) 414-0479
Contact: Ms. Cherie Trainor
(850) 414-5495
cherie.trainor@dca.state.fl.us

**GEORGIA**
Ms. Deborah Stephens
Coordinator
Georgia State Clearinghouse
270 Washington Street, S.W. - 8th Floor
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Telephone: (404) 656-3855
FAX: (404) 656-7901
ssda@mail.opb.state.ga.us

**ILLINOIS**
Ms. Virginia Bova, Single Point of Contact
Illinois Department of Commerce and
Community Affairs
James R. Thompson Center
100 West Randolph, Suite 3-400
Chicago, IL 60601
Telephone: (312) 814-6028
FAX: (312) 814-1800

**INDIANA**
Ms. Allison Becker
State Budget Agency
212 State House
Indianapolis, Indiana 46204-2796
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FAX: (317) 233-3323
No e-mail address

**IOWA**
Mr. Steven R. McCann
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Iowa Department of Economic Development
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steve.mccann.@ided.state.ia.us

**KENTUCKY**
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Sandra Brewer, Executive Secretary
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Frankfort, Kentucky 40601
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**MAINE**
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**MARYLAND**
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**MICHIGAN**
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Southeast Michigan Council of Governments
660 Plaza Drive - Suite 1900
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pfaff@semcog.org

**MISSISSIPPI**
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550 High Street
303 Walters Sillers Building
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No e-mail address

**MISSOURI**
Ms. Lois Pohl
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P.O. Box 809
Jefferson Building, Room 915
Jefferson City, Missouri 65102
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FAX: (573) 522-4395
pohll_@mail.oa.state.mo.us

**NEVADA**
Department of Administration
State Clearinghouse
209 E. Musser Street, Room 200
Carson City, Nevada 89710
Telephone: (702) 684-0222
FAX: (702) 684-0260
Contact: Ms. Heather Elliot
(702) 684-0209
helliot@govmail.state.nv.us

**NEW HAMPSHIRE**
Mr. Jeffrey H. Taylor
Director, New Hampshire Office of State Planning
Attn: Intergovernmental Review Process
Mr. Mike Blake
2 ½ Beacon Street
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Telephone: (603) 271-4991
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**NEW MEXICO**
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No e-mail address

**NEW YORK**
New York State Clearinghouse
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State Capitol
Albany, New York 12224
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No e-mail address

**NORTH CAROLINA**
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**NORTH DAKOTA**
North Dakota Single Point of Contact
Office of Intergovernmental Assistance
600 East Boulevard Avenue
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Bismarck, North Dakota 58505-0170
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No e-mail address

**RHODE ISLAND**
Mr. Kevin Nelson
Review Coordinator
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**SOUTH CAROLINA**
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State Single Point of Contact
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**TEXAS**
Mr. Tom Adams
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**UTAH**
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**WEST VIRGINIA**
Mr. Fred Cutlip, Director
Community Development Division
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**WISCONSIN**
Mr. Jeff Smith
Section Chief, Federal/State Relations
Wisconsin Department of Administration
101 East Wilson Street - 6th Floor
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Madison, Wisconsin 53707
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**WYOMING**
Ms. Sandy Ross
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Department of Administration and Information
2001 Capitol Avenue, Room 214
Cheyenne, WY 82002
Telephone: (307) 777-5492
FAX: (307) 777-3696
sross1@missc.state.wy.us

**TERRITORIES**
**GUAM***
Mr. Joseph Rivera
Acting Director
Bureau of Budget and Management Research
Office of the Governor
P.O. Box 2950
Agana, Guam 96932
Telephone: (671) 475-9411 or 9412
FAX: (671) 472-2825

**PUERTO RICO**
Ms. Elsa Luis
Director
Federal Proposals Division
1100 17th Street, N.W.
Suite 800
Washington, D.C. 20036
Telephone: (202) 778-0750
FAX: (202) 530-5559

**NORTH MARIANA ISLANDS**
Mr. Alvaro A. Santos, Executive Officer
Office of Management and Budget
Office of the Governor
Saipan, MP 96950
Telephone: (670) 664-2256
FAX: (670) 664-2272
Contact person: Ms. Jacoba T. Seman
Federal Programs Coordinator
Telephone: (670) 664-2289
FAX: (670) 664-2272

**VIRGIN ISLANDS***
Nellon Bowry
Director, Office of Management and Budget
#41 Norregade Emancipation Garden Station
Second Floor
Saint Thomas, Virgin Islands 00802
Please direct all questions and correspondence about intergovernmental review to: Linda Clarke
Telephone: (809) 774-0750
FAX: (809) 776-0069

Note: This list is based on the most current information provided by the States. Information on any changes or apparent errors should be provided to Sherron Duncan at the Office of Management and Budget (202) 395-3914 and to the State in question. Changes to the list will only be made upon formal notification by the State. The list is updated every six months and is also published biannually in the Catalog of Federal Domestic Assistance. The last changes made were to Delaware, Indiana, Missouri, New Mexico, Puerto Rico, Rhode Island, Utah, and Wisconsin.

*Guam and the Virgin Islands are not confirmed.

# Application for Federal Education Assistance

**Note: If available, please provide application package on diskette and specify the file format.**

**U.S. Department of Education**

Form Approved
OMB No. 1875-0106
Exp. 06/30/2001

## Applicant Information

**1.** Name and Address

Legal Name:_____

Address:_____

City ____ State ____ County ____ ZIP Code + 4 ____

Organizational Unit

**2.** Applicant's D-U-N-S Number [ ][ ][ ][ ][ ][ ][ ][ ][ ]

**3.** Catalog of Federal Domestic Assistance #: 8 4 3 4 1 ➡ Title: Community Technology Centers Program

**4.** Project Director:_____

Address:_____

City ____ State ____ ZIP Code + 4 ____

Tel. #: ( ) ____-____ Fax #: ( ) ____-____

E-Mail Address:_____

**5.** Is the applicant delinquent on any Federal debt? ☐ Yes ☐ No
*(If "Yes," attach an explanation.)*

**6.** Type of Applicant *(Enter appropriate letter in the box.)* ☐

| | |
|---|---|
| A State | H Independent School District |
| B County | I Public College or University |
| C Municipal | J Private, Non-Profit College or University |
| D Township | K Indian Tribe |
| E Interstate | L Individual |
| F Intermunicipal | M Private, Profit-Making Organization |
| G Special District | N Other *(Specify)*:____ |

**7.** Novice Applicant ☐ Yes ☐ No

## Application Information

**8.** Type of Submission:

| *—PreApplication* | *—Application* |
|---|---|
| ☐ Construction | ☐ Construction |
| ☐ Non-Construction | ☒ Non-Construction |

**9.** Is application subject to review by Executive Order 12372 process?

☐ Yes *(Date made available to the Executive Order 12372 process for review):* __/__/____

☐ No *(If "No," check appropriate box below.)*

☐ Program is not covered by E.O. 12372.

☐ Program has not been selected by State for review.

**10.** Proposed Project Dates: **Start Date:** __/__/____ **End Date:** __/__/____

**11.** Are any research activities involving human subjects planned at any time during the proposed project period? ☐ Yes ☐ No

a. If "Yes," Exemption(s) #: ☐ **OR** b. Assurance of Compliance #: ☐

c. IRB approval date: ____ { ☐ Full IRB **or** ☐ Expedited Review

**12.** Descriptive Title of Applicant's Project:

## Estimated Funding

| | | |
|---|---|---|
| **13a.** Federal | $ | .00 |
| **b.** Applicant | $ | .00 |
| **c.** State | $ | .00 |
| **d.** Local | $ | .00 |
| **e.** Other | $ | .00 |
| **f.** Program Income | $ | .00 |
| **g. TOTAL** | $ | .00 |

## Authorized Representative Information

**14.** To the best of my knowledge and belief, all data in this preapplication/application are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

**a.** Typed Name of Authorized Representative

**b.** Title

**c.** Tel. #: ( ) ____-____ Fax #: ( ) ____-____

**d.** E-Mail Address:

**e. Signature of Authorized Representative** Date: __/__/____

REV. 1/12/99

ED 424

## Instructions for ED 424

1. **Legal Name and Address.** Enter the legal name of applicant and the name of the primary organizational unit which will undertake the assistance activity.

2. **D-U-N-S Number.** Enter the applicant's D-U-N-S Number. If your organization does not have a D-U-N-S Number, you can obtain the number by calling 1-800-333-0505 or by completing a D-U-N-S Number Request Form. The form can be obtained via the Internet at the following URL: **http://www.dnb.com/dbis/aboutdb/intlduns.htm.**

3. **Catalog of Federal Domestic Assistance (CFDA) Number.** Enter the CFDA number and title of the program under which assistance is requested.

4. **Project Director.** Name, address, telephone and fax numbers, and e-mail address of the person to be contacted on matters involving this application.

5. **Federal Debt Delinquency.** Check **"Yes"** if the applicant's organization is delinquent on any Federal debt. (This question refers to the applicant's organization and not to the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.) Otherwise, check **"No."**

6. **Type of Applicant.** Enter the appropriate letter in the box provided.

7. **Novice Applicant.** Check **"Yes"** only if assistance is being requested under a program that gives special consideration to novice applicants and you meet the program requirements for novice applicants. By checking "Yes" the applicant certifies that it meets the novice applicant requirements specified by ED. Otherwise, check **"No."**

8. **Type of Submission.** Self-explanatory.

9. **Executive Order 12372.** Check **"Yes"** if the application is subject to review by Executive Order 12372. Also, please enter the month, date, and four (4) digit year (e.g., 12/12/2000). Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. Otherwise, check **"No."**

10. **Proposed Project Dates.** Please enter the month, date, and four (4) digit year (e.g., 12/12/2000).

11. **Human Subjects.** Check "Yes" <u>or</u> "No". If research activities involving human subjects are <u>**not**</u> planned <u>**at any time**</u> during the proposed project period, check **"No." The remaining parts of item 11 are then not applicable.**

    If research activities involving human subjects, whether or not exempt from Federal regulations for the protection of human subjects, <u>**are**</u> planned <u>**at any time**</u> during the proposed project period, either at the applicant organization or at any other performance site or collaborating institution, check **"Yes."** If <u>**all**</u> the research activities are designated to be exempt under the regulations, enter, in item 11a, the exemption number(s) corresponding to one or more of the six exemption categories listed in **"Protection of Human Subjects in Research"** attached to this form. Provide sufficient information in the application to allow a determination that the designated exemptions in item 11a, are appropriate. **Provide this narrative information in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page. Skip the remaining parts of item 11.**

    If <u>**some or all**</u> of the planned research activities involving human subjects are covered (nonexempt), skip item 11a and continue with the remaining parts of item 11, as noted below. In addition, follow the instructions in **"Protection of Human Subjects in Research"** attached to this form to prepare the six-point narrative about the nonexempt activities. **Provide this six-point narrative in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

    **If the applicant organization has an approved Multiple Project Assurance of Compliance** on file with the Grants Policy and Oversight Staff (GPOS), U.S. Department of Education, or with the Office for Protection from Research Risks (OPRR), National Institutes of Health, U.S. Department of Health and Human Services, that covers the specific activity, enter the Assurance number in item 11b and the date of approval by the Institutional Review Board (IRB) of the proposed activities in item 11c. This date must be no earlier than one year before the receipt date for which the application is submitted and must include the four (4) digit year (e.g., 2000). Check the type of IRB review in the appropriate box. An IRB may use the expedited review procedure if it complies with the requirements of 34 CFR 97.110. If the IRB review is delayed beyond the submission of the application, enter **"Pending"** in item 11c. If your application is recommended/selected for funding, a follow-up certification of IRB approval from an official signing for the applicant organization must be sent to and received by the designated ED official within 30 days after a specific formal request from the designated ED official. **If the applicant organization does not have** on file with GPOS or OPRR **an approved Assurance of Compliance** that covers the proposed research activity, enter **"None"** in item 11b and skip 11c. In this case, the applicant organization, by the signature on the application, is declaring that it will comply with 34 CFR 97 within 30 days after a specific formal request from the designated ED official for the Assurance(s) and IRB certifications.

12. **Project Title.** Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

13. **Estimated Funding.** Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate <u>**only**</u> the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 13.

14. **Certification.** To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office.

    Be sure to enter the telephone and fax number and e-mail address of the authorized representative. Also, in item 14e, please enter the month, date, and four (4) digit year (e.g., 12/12/2000) in the date signed field.

### Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1875-0106**. The time required to complete this information collection is estimated to average between 15 and 45 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, D.C. 20202-4651. **If you have comments or concerns regarding the status of your individual submission of this form write directly to:** Joyce I. Mays, Application Control Center, U.S. Department of Education, 7th and D Streets, S.W. ROB-3, Room 3633, Washington, D.C. 20202-4725.

# PROTECTION OF HUMAN SUBJECTS IN RESEARCH (Attachment to ED 424)

## I. Instructions to Applicants about the Narrative Information that Must be Provided if Research Activities Involving Human Subjects are Planned

If you marked item 11 on the application "Yes" and designated exemptions in 11a, **(all research activities are exempt),** provide sufficient information in the application to allow a determination that the designated exemptions are appropriate. Research involving human subjects that is exempt from the regulations is discussed under **II.B. "Exemptions,"** below. The Narrative must be succinct. **Provide this information in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

If you marked "Yes" to item 11 on the face page, and designated no exemptions from the regulations **(some or all of the research activities are nonexempt),** address the following six points for each nonexempt activity. In addition, if research involving human subjects will take place at collaborating site(s) or other performance site(s), provide this information before discussing the six points. Although no specific page limitation applies to this section of the application, be succinct. Provide the six-point narrative and discussion of other performance sites in an **"Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

(1) Provide a detailed description of the proposed involvement of human subjects. Describe the characteristics of the subject population, including their anticipated number, age range, and health status. Identify the criteria for inclusion or exclusion of any subpopulation. Explain the rationale for the involvement of special classes of subjects, such as children, children with disabilities, adults with disabilities, persons with mental disabilities, pregnant women, prisoners, institutionalized individuals, or others who are likely to be vulnerable.

(2) Identify the sources of research material obtained from individually identifiable living human subjects in the form of specimens, records, or data. Indicate whether the material or data will be obtained specifically for research purposes or whether use will be made of existing specimens, records, or data.

(3) Describe plans for the recruitment of subjects and the consent procedures to be followed. Include the circumstances under which consent will be sought and obtained, who will seek it, the nature of the information to be provided to prospective subjects, and the method of documenting consent. State if the Institutional Review Board (IRB) has authorized a modification or waiver of the elements of consent or the requirement for documentation of consent.

(4) Describe potential risks (physical, psychological, social, legal, or other) and assess their likelihood and seriousness. Where appropriate, describe alternative treatments and procedures that might be advantageous to the subjects.

(5) Describe the procedures for protecting against or minimizing potential risks, including risks to confidentiality, and assess their likely effectiveness. Where appropriate, discuss provisions for ensuring necessary medical or professional intervention in the event of adverse effects to the subjects. Also, where appropriate, describe the provisions for monitoring the data collected to ensure the safety of the subjects.

(6) Discuss why the risks to subjects are reasonable in relation to the anticipated benefits to subjects and in relation to the importance of the knowledge that may reasonably be expected to result.

## II. Information on Research Activities Involving Human Subjects

### A. Definitions.

A research activity involves human subjects if the activity is research, as defined in the Department's regulations, and the research activity will involve use of human subjects, as defined in the regulations.

**—Is it a research activity?**

The ED Regulations for the Protection of Human Subjects, Title 34, Code of Federal Regulations, Part 97, define research as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge." *If an activity follows a deliberate plan whose purpose is to develop or contribute to generalizable knowledge, such as an exploratory study or the collection of data to test a hypothesis, it is research.* Activities which meet this definition constitute research whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities.

**—Is it a human subject?**

The regulations define human subject as "a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information." *(1) If an activity involves obtaining information about a living person by manipulating that person or that person's environment, as might occur when a new instructional technique is tested, or by communicating or interacting with the individual, as occurs with surveys and interviews, the definition of human subject is met. (2) If an activity involves obtaining private information about a living person in such a way that the information can be linked to that individual (the identity of the subject is or may be readily determined by the investigator or associated with the information), the definition of human subject is met.* [Private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a school health record).]

**B. Exemptions.**

Research activities in which the only involvement of human subjects will be in one or more of the following six categories of ***exemptions*** are not covered by the regulations:

(1) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (a) research on regular and special education instructional strategies, or (b) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: (a) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (b) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation. ***If the subjects are children, this exemption applies only to research involving educational tests or observations of public behavior when the investigator(s) do not participate in the activities being observed.*** [Children are defined as persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law or jurisdiction in which the research will be conducted.]

(3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior that is not exempt under section (2) above, if the human subjects are elected or appointed public officials or candidates for public office; or federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

(4) Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or otherwise examine: (a) public benefit or service programs; (b) procedures for obtaining benefits or services under those programs; (c) possible changes in or alternatives to those programs or procedures; or (d) possible changes in methods or levels of payment for benefits or services under those programs.

(6) Taste and food quality evaluation and consumer acceptance studies, (a) if wholesome foods without additives are consumed or (b) if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S Department of Agriculture.

***Copies of the Department of Education's Regulations for the Protection of Human Subjects, 34 CFR Part 97 and other pertinent materials on the protection of human subjects in research are available from the Grants Policy and Oversight Staff (GPOS) Office of the Chief Financial and Chief Information Officer, U.S. Department of Education, Washington, D.C., telephone: (202) 708-8263, and on the U.S. Department of Education's Protection of Human Subjects in Research Web Site at http://ocfo.ed.gov/humansub.htm.***

U.S. DEPARTMENT OF EDUCATION

BUDGET INFORMATION

NON-CONSTRUCTION PROGRAMS

OMB Control No. 1880--0538

Expiration Date: 10/31/99

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

| Budget Categories | Project Year 1 (a) | Project Year 2 (b) | Project Year 3 (c) | Project Year 4 (d) | Project Year 5 (e) | **Total (f)** |
|---|---|---|---|---|---|---|
| 1. Personnel | | | | | | |
| 2. Fringe Benefits | | | | | | |
| 3. Travel | | | | | | |
| 4. Equipment | | | | | | |
| 5. Supplies | | | | | | |
| 6. Contractual | | | | | | |
| 7. Construction | | | | | | |
| 8. Other | | | | | | |
| 9. Total Direct Costs (lines 1-8) | | | | | | |
| 10. Indirect Costs | | | | | | |
| 11. Training Stipends | | | | | | |
| **12. Total Costs (lines 9-11)** | | | | | | |

ED FORM NO. 524

| Name of Institution/Organization | Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form. |
|---|---|

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

| Budget Categories | Project Year 1 (a) | Project Year 2 (b) | Project Year 3 (c) | Project Year 4 (d) | Project Year 5 (e) | **Total (f)** |
|---|---|---|---|---|---|---|
| 1. Personnel | | | | | | |
| 2. Fringe Benefits | | | | | | |
| 3. Travel | | | | | | |
| 4. Equipment | | | | | | |
| 5. Supplies | | | | | | |
| 6. Contractual | | | | | | |
| 7. Construction | | | | | | |
| 8. Other | | | | | | |
| 9. Total Direct Costs (lines 1-8) | | | | | | |
| 10. Indirect Costs | | | | | | |
| 11. Training Stipends | | | | | | |
| **12. Total Costs (lines 9-11)** | | | | | | |

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED FORM NO. 524

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours per response, including the time reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and the Office of Management and Budget, Paperwork Reduction Project 1875-0102, Washington DC 20503.

# INSTRUCTIONS FOR ED FORM 524

## General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

## Section A - Budget Summary U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

## Section B - Budget Summary Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e): For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

## Section C - Other Budget Information Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.

2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.

3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.

4. Provide other explanations or comments you deem necessary.

## ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.**

**Note:** Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §§874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12 Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1721 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

| SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL | TITLE |
|---|---|
| APPLICANT ORGANIZATION | DATE SUBMITTED |

**Standard Form 424B (Rev. 7-97) Back**

## CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

### 1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

### 2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

### 3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address. city, county, state, zip code)

_____

_____

_____

Check [ ] if there are workplaces on file that are not identified here.

**DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

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As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

| NAME OF APPLICANT | PR/AWARD NUMBER AND / OR PROJECT NAME |
|---|---|
| PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE | |
| SIGNATURE | DATE |

ED 80-0013 12/98

## Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion — Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

**Instructions for Certification**

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," " person," "primary covered transaction," " principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**Certification**

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

| NAME OF APPLICANT | PR/AWARD NUMBER AND/OR PROJECT NAME |
|---|---|
| PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE | |
| SIGNATURE | DATE |

ED 80-0014, 9/90 (Replaces GCS-009 (REV.12/88), which is obsolete)

Approved by OMB
0348-0046

## Disclosure of Lobbying Activities

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure)

| | | |
|---|---|---|
| **1. Type of Federal Action:**<br>a. contract<br>____ b. grant<br>c. cooperative agreement<br>d. loan<br>e. loan guarantee<br>f. loan insurance | **2. Status of Federal Action:**<br>a. bid/offer/application<br>_____ b. initial award<br>c. post-award | **3. Report Type:**<br>a. initial filing<br>_____ b. material change<br><br>**For material change only:**<br>Year _____ quarter _____<br>Date of last report_____ |
| **4. Name and Address of Reporting Entity:**<br>____ Prime _____ Subawardee<br>Tier_____, if Known:<br><br>**Congressional District, if known:** | **5. If Reporting Entity in No. 4 is Subawardee,** Enter Name and Address of Prime:<br><br>**Congressional District, if known:** | |
| **6. Federal Department/Agency:** | **7. Federal Program Name/Description:**<br><br>CFDA Number, *if applicable*: _____ | |
| **8. Federal Action Number,** *if known:* | **9. Award Amount,** *if known:*<br><br>**$** | |
| **10. a. Name and Address of Lobbying Registrant** *(if individual, last name, first name, MI):* | **b. Individuals Performing Services** *(including address if different from No. 10a) (last name, first name, MI):* | |
| **11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.** | **Signature:** _____<br><br>**Print Name:**_____<br><br>**Title:**_____<br><br>**Telephone No.:** _____ **Date:** _____ | |
| **Federal Use Only** | **Authorized for Local Reproduction**<br>**Standard Form - LLL (Rev. 7-97)** | |

## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

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According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503

EXCERPT FROM PUB.L. 103-382

ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965, AS AMENDED BY

# IMPROVING AMERICA'S SCHOOLS ACT OF 1994

## TITLE III. TECHNOLOGY FOR EDUCATION

## ``SEC. 3122. FEDERAL LEADERSHIP.

``(a) Program Authorized.--In order to provide Federal leadership in promoting the use of technology in education, the Secretary, in consultation with the National Science Foundation, the Department of Commerce, the United States National Commission on Libraries and Information Sciences, and other appropriate Federal agencies, may carry out activities designed to achieve the purposes of this part directly or by awarding grants or contracts competitively and pursuant to a peer review process to, or entering into contracts with, State educational agencies, local educational agencies, institutions of higher education, or other public and private nonprofit or for-profit agencies and organizations.
``(b) Assistance.--

``(1) In general.--The Secretary shall provide assistance to the States to enable such States to plan effectively for the use of technology in all schools throughout the State in accordance with the purpose and requirements of section 317 of the Goals 2000: Educate America Act.
``(2) Other federal agencies.--For the purpose of carrying out coordinated or joint activities consistent with the purposes of this part, the Secretary may accept funds from, and transfer funds to, other Federal agencies.

``(c) Uses of Funds.--The Secretary shall use funds made available to carry out this section for activities designed to carry out the purpose of this part, such as--

``(1) providing assistance to technical assistance providers to enable such providers to improve substantially the services such providers offer to educators regarding the uses of technology for education, including professional development;
``(2) providing development grants to technical assistance providers, to enable such providers to improve substantially the services such providers offer to educators on the educational uses of technology, including professional development;
``(3) consulting with representatives of industry, elementary and secondary education, higher education, adult and family education, and appropriate experts in technology and educational applications of technology in carrying out activities under this subpart;
``(4) research on, and the development of, guidelines to facilitate maximum interoperability, efficiency and easy exchange of data for effective use of technology in education;
``(5) research on, and the development of, applications for education of the most advanced and newly emerging technologies which research shall be coordinated, when appropriate, with the Office of Educational Research and Improvement, and other Federal agencies;
``(6) the development, demonstration, and evaluation of the educational aspects of high performance computing and communications technologies and of the national information infrastructure, in providing professional development for teachers, school librarians, and other educators; enriching academic curricula for elementary and secondary schools; facilitating communications among schools, local educational agencies, libraries, parents, and local communities and in other such areas as the Secretary deems appropriate;

``(7) the development, demonstration, and evaluation of applications of existing technology in preschool education, elementary and secondary education, training and lifelong learning, and professional development of educational personnel;

``(8) the development and evaluation of software and other products, including multimedia television programming, that incorporate advances in technology and help achieve the National Education Goals, State content standards and State student performance standards;

``(9) the development, demonstration, and evaluation of model strategies for preparing teachers and other personnel to use technology effectively to improve teaching and learning;

``(10) the development of model programs that demonstrate the educational effectiveness of technology in urban and rural areas and economically distressed communities;

``(11) research on, and the evaluation of, the effectiveness and benefits of technology in education;

``(12) a biennial assessment of, and report to the public regarding, the uses of technology in elementary and secondary education throughout the United States upon which private businesses and Federal, State, tribal, and local governments may rely for decisionmaking about the need for, and provision of, appropriate technologies in schools, which assessment and report shall use, to the extent possible, existing information and resources;

``(13) conferences on, and dissemination of information regarding, the uses of technology in education;

``(14) the development of model strategies to promote gender equity concerning access to, and the use of, technology in the classroom;

``(15) encouraging collaboration between the Department and other Federal agencies in the development, implementation, evaluation and funding of applications of technology for education, as appropriate; and

``(16) such other activities as the Secretary determines will meet the purposes of this subpart.

``(d) Non-Federal Share.--

``(1) In general.--Subject to paragraphs (2) and (3), the Secretary may require any recipient of a grant or contract under this section to share in the cost of the activities assisted under such grant or contract, which non-Federal share shall be announced through a notice in the Federal Register and may be in the form of cash or in-kind contributions, fairly valued.

``(2) Increase.--The Secretary may increase the non-Federal share that is required of a recipient of a grant or contract under this section after the first year such recipient receives funds under such grant or contract.

``(3) Maximum.--The non-Federal share required under this section shall not exceed 50 percent of the cost of the activities assisted pursuant to a grant or contract under this section.

[FR Doc. 99–10622 Filed 4–23–99; 12:24 pm]
BILLING CODE 4000–01–C

federal register

Wednesday
April 28, 1999

# Part VI

# Environmental Protection Agency

## 40 CFR Part 82

## Protection of Stratospheric Ozone; Listing of Substitutes for Ozone-Depleting Substances; Final Rule

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 82**

**[FRL–6332–3]**

**RIN 2060–AG12**

## Protection of Stratospheric Ozone; Listing of Substitutes for Ozone-Depleting Substances

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** This action imposes restrictions or prohibitions on substitutes for ozone-depleting substances (ODSs) under the U.S. Environmental Protection Agency's (EPA) Significant New Alternatives Policy (SNAP) program. SNAP implements section 612 of the Clean Air Act, as amended in 1990, which requires EPA to evaluate substitutes for the ODSs to reduce overall risk to human health and the environment. Through these evaluations, SNAP generates lists of acceptable and unacceptable substitutes for each of the major industrial use sectors. The intended effect of the SNAP program is to expedite movement away from ozone-depleting compounds while avoiding a shift into substitutes posing other environmental problems.

On March 18, 1994, EPA promulgated a final rulemaking setting forth its plan for administering the SNAP program, and has since issued decisions on the acceptability and unacceptability of a number of substitutes. In this Final Rule (FRM), EPA is issuing its decisions on the acceptability of certain substitutes included in a May 21, 1997 notice of proposed rulemaking. Specifically, this action clarifies the criteria for unique fittings used in motor vehicle air-conditioning systems, and addresses the acceptability of certain substitutes in the fire suppression, solvent, and aerosol sectors, and the unacceptability of substitutes in the refrigeration and air conditioning, solvents, aerosols, fire suppression, and adhesives, coatings, & inks sectors.

**EFFECTIVE DATE:** May 28, 1999.

**ADDRESSES:** Written comments and data are available in Docket A–91–42, U.S. Environmental Protection Agency, OAR Docket and Information Center, 401 M Street, SW, Room M–1500, Mail Code 6102, Washington, DC 20460. The docket may be inspected between 8 a.m. and 5:30 p.m. on weekdays. Telephone (202) 260–7548; fax (202) 260–4400. As provided in 40 CFR part 2, a reasonable fee may be charged for photocopying.

**FOR FURTHER INFORMATION CONTACT:** The Stratospheric Protection Hotline at (800) 296–1996. Kelly Davis at (202) 564–2303 or fax (202) 565–2096, Analysis and Review Branch, Stratospheric Protection Division, Mail Code 6205J, Washington, DC 20460. Overnight or courier deliveries should be sent to 501 3rd Street, NW, Washington, DC, 20001. EPA's Ozone World Wide Web site at ''http://www.epa.gov/ozone/title6/snap/''.

**SUPPLEMENTARY INFORMATION:** This action is divided into four sections:

I. Section 612 Program
A. Statutory Requirements
B. Regulatory History
II. Listing of Substitutes
III. Administrative Requirements
IV. Additional Information

### I. Section 612 Program

*A. Statutory Requirements*

Section 612 of the Clean Air Act (CAA) authorizes EPA to develop a program for evaluating alternatives to ozone-depleting substances. EPA is referring to this program as the Significant New Alternatives Policy (SNAP) program. The major provisions of section 612 are:

- *Rulemaking*—Section 612(c) requires EPA to promulgate rules making it unlawful to replace any class I (chlorofluorocarbon, halon, carbon tetrachloride, methyl chloroform, methyl bromide, and hydrobromofluorocarbon) or class II (hydrochlorofluorocarbon) substance with any substitute that the Administrator determines may present adverse effects to human health or the environment where the Administrator has identified an alternative that (1) reduces the overall risk to human health and the environment, and (2) is currently or potentially available.
- *Listing of Unacceptable/Acceptable Substitutes*—Section 612(c) also requires EPA to publish a list of the substitutes unacceptable for specific uses. EPA must publish a corresponding list of acceptable alternatives for specific uses.
- *Petition Process*—Section 612(d) grants the right to any person to petition EPA to add a substitute to or delete a substitute from the lists published in accordance with section 612(c). The Agency has 90 days to grant or deny a petition. Where the Agency grants the petition, EPA must publish the revised lists within an additional six months.
- *90-day Notification*—Section 612(e) requires EPA to require any person who produces a chemical substitute for a class I substance to notify the Agency not less than 90 days before new or existing chemicals are introduced into interstate commerce for significant new uses as substitutes for a class I substance. The producer must also provide the Agency with the producer's health and safety studies on such substitutes.
- *Outreach*—Section 612(b)(1) states that the Administrator shall seek to maximize the use of federal research facilities and resources to assist users of class I and II substances in identifying and developing alternatives to the use of such substances in key commercial applications.
- *Clearinghouse*—Section 612(b)(4) requires the Agency to set up a public clearinghouse of alternative chemicals, product substitutes, and alternative manufacturing processes that are available for products and manufacturing processes which use class I and II substances.

*B. Regulatory History*

On March 18, 1994, EPA published the Final Rulemaking (59 FR 13044) which described the process for administering the SNAP program and issued EPA's first acceptability lists for substitutes in the major industrial use sectors. These sectors include: refrigeration and air conditioning; foam blowing; solvent cleaning; fire suppression and explosion protection; sterilants; aerosols; adhesives, coatings and inks; and tobacco expansion. These sectors comprise the principal industrial sectors that historically consumed large volumes of ozone-depleting compounds.

The Agency defines a ''substitute'' as any chemical, product substitute, or alternative manufacturing process, whether existing or new, that could replace a class I or class II substance. Anyone who produces a substitute must provide the Agency with health and safety studies on the substitute at least 90 days before introducing it into interstate commerce for significant new use as an alternative. This requirement applies to chemical manufacturers, but may include importers, formulators or end-users when they are responsible for introducing a substitute into commerce.

### II. Listing of Substitutes

To develop the lists of unacceptable and acceptable substitutes, EPA conducts screens of health and environmental risk posed by various substitutes for ozone-depleting compounds in each use sector. The outcome of these risk screens can be found in the public docket, as described above in the **ADDRESSES** portion of this document.

Under section 612, the Agency has considerable discretion in the risk

management decisions it can make in SNAP. The Agency has identified five possible decision categories: acceptable; acceptable subject to use conditions; acceptable subject to narrowed use limits; unacceptable; and pending. Fully acceptable substitutes, *i.e.*, those with no restrictions, can be used for all applications within the relevant sector end-use. Conversely, it is illegal to replace an ODS with a substitute listed by SNAP as unacceptable. A pending listing represents substitutes for which the Agency has not received complete data or has not completed its review of the data.

After reviewing a substitute, the Agency may make a determination that a substitute is acceptable only if certain conditions of use are met to minimize risk to human health and the environment. Such substitutes are described as ''acceptable subject to use conditions.'' Use of such substitutes without meeting associated use conditions renders these substitutes unacceptable and subjects the user to enforcement for violation of section 612 of the Clean Air Act.

Even though the Agency can restrict the use of a substitute based on the potential for adverse effects, it may be necessary to permit a narrowed range of use within a sector end-use because of the lack of alternatives for specialized applications. Users intending to adopt a substitute acceptable with narrowed use limits must ascertain that other acceptable alternatives are not technically feasible. Companies must document the results of their evaluation, and retain the results on file for the purpose of demonstrating compliance. This documentation shall include descriptions of substitutes examined and rejected, processes or products in which the substitute is needed, reason for rejection of other alternatives, *e.g.*, performance, technical or safety standards, and the anticipated date other substitutes will be available and projected time for switching to other available substitutes. Use of such substitutes in applications and end-uses which are not specified as acceptable in the narrowed use limit renders these substitutes unacceptable.

In this final rule, EPA is issuing its decision on the acceptability of certain substitutes not previously reviewed by the Agency. Today's rule incorporates decisions proposed on May 21, 1997, at 62 FR 27873 (referred to hereinafter as ''the proposal''). As described in the final rule for the SNAP program (59 FR 13044), EPA believes that notice-and-comment rulemaking is required to place any alternative on the list of prohibited substitutes, to list a substitute as acceptable only under certain use conditions or narrowed use limits, or to remove an alternative from either the list of prohibited or acceptable substitutes.

Parts A–E below present a detailed discussion of the substitute listing determinations by major use sector. Tables summarizing listing decisions in this Final Rule are in Table 1 and Appendix H. Appendix H will appear in the Code of Federal Regulations (CFR) at 40 CFR part 82. Listings in Table 1 will not appear in the CFR and add to the list of alternatives acceptable with no limitations. Such listings do not impose any sanction, nor do they remove any prior license to use a substitute. The comments contained in Appendix H provide additional information on substitutes determined to be either unacceptable, acceptable subject to narrowed use limits, or acceptable subject to use conditions. Since comments are not part of the regulatory decision, they are not mandatory for use of a substitute. Nor should the comments be considered comprehensive with respect to other legal obligations pertaining to the use of the substitute. However, EPA encourages users of substitutes to apply all comments in their application of these substitutes, regardless of any regulatory requirements. In many instances, the comments simply allude to sound operating practices that have already been identified in existing industry and/or building-code standards. Thus, many of the comments, if adopted, would not require significant changes in existing operating practices for the affected industry.

*A. Refrigeration and Air Conditioning—Class I*

1. Acceptable Subject to Use Conditions

a. CFC–12 Automobile and Non-automobile Motor Vehicle Air Conditioners, Retrofit and New

(1) Criteria for Uniqueness of Fittings

*Current SNAP regulations require that each refrigerant used in motor vehicle air conditioning may only be used with a set of fittings that is unique to that refrigerant. This final rule clarifies minimum criteria for uniqueness of fittings.*

In the course of retrofitting a motor vehicle air-conditioning (MVAC) system, servicers of these systems, whether professional technicians or do-it-yourselfers, must affix fittings that are designed to work only with that refrigerant. To meet that goal, servicers must install fittings that satisfy the requirements set forth below.

- High-side screw-on fittings for each refrigerant must differ from high-side screw-on fittings for all other refrigerants, including CFC–12, and from low-side screw-on fittings for CFC–12;
- Low-side screw-on fittings for each refrigerant must differ from low-side screw-on fittings for all other refrigerants, including CFC–12;
- High-side screw-on fittings for a given refrigerant must differ from low-side screw-on fittings for that refrigerant, to protect against connecting a low-pressure system to a high-pressure one;
- High-side quick-connect fittings for each refrigerant must differ from high-side quick-connect fittings for all other refrigerants, including CFC–12 (if they exist);
- Low-side quick-connect fittings for each refrigerant must differ from low-side quick-connect fittings for all other refrigerants, including CFC–12 (if they exist);
- High-side quick-connect fittings for a given refrigerant must differ from low-side quick-connect fittings for that refrigerant, to protect against connecting a low-pressure system to a high-pressure one;
- For each type of container, the fitting for each refrigerant must differ from the fitting for that type of container for all other refrigerants, including CFC–12.

For screw-on fittings, ''differ'' means that either the diameter must differ by at least 1/16 inch or the thread direction must be reversed (i.e. right-handed vs. left-handed). Simply changing the thread pitch is not sufficient. For quick-connect fittings, ''differ'' means that a person using normal force and normal tools (including wrenches) must not be able to cross-connect fittings. Following are some examples:

- a 3/8 (6/16) inch outside diameter screw-on fitting with a right-hand thread differs from a 5/16 inch outside diameter screw-on fitting with a right-hand thread;
- a 3/8 inch outside diameter screw-on fitting with a left-hand thread differs from a 3/8 inch outside diameter screw-on fitting with a right-hand thread;
- a 3/8 inch outside diameter screw-on fitting with a right-hand thread pitch of 18 threads/inch does not differ from a 3/8 inch outside screw-on diameter fitting with a right-hand thread pitch of 24 threads/inch;
- a quick-connect fitting differs from another quick-connect fitting if all combinations of the same type male and female parts (high, low, small can, 30-lb. cylinder) will not connect using normal tools.

The sole exception to the 1/16 inch difference requirement is the difference between the small can fittings for GHG–X4 and R–406A. The GHG–X4 small can fitting uses a metric measurement, and is slightly less than 1/16 inch larger than the small can fitting for R–406A. EPA has concluded that these fittings will not cross-connect, and therefore they may be used. No other exception exists, although EPA will consider any requests on a case-by-case basis.

2. Response to Comments

A commenter noted that the fittings for small cans of GHG–X4 are not 1/16 inch different from those of other refrigerants, and expressed concern that the fittings would be disallowed under the criteria for uniqueness in today's rule. The commenter further suggested that because the fittings were metric and EPA had confirmed they would not cross-thread with other fittings, that an exception be granted. EPA agrees and discusses this above.

*B. Refrigeration and Air Conditioning—Class II*

1. Unacceptable Substitutes

a. NARM–22

*NARM–22, which consists of HCFC–22, HFC–23, and HFC–152a, is unacceptable as a substitute for HCFC–22 in all new and retrofitted end-uses.*

NARM–22 contains HCFC–22, which is a class II ozone-depleting substance. EPA does not believe it is appropriate to replace a class II refrigerant with a blend containing a class II refrigerant. Listing this blend as acceptable would be a barrier to a smooth transition away from ozone-depleting refrigerants. Other alternatives to HCFC–22 are already acceptable that do not contain any ozone-depleting refrigerants.

In addition, HFC–23 has a lifetime of 250 years, and its 100-year global warming potential (GWP) is 11,700.[1] Both of these characteristics are considerably higher than other HFCs and HCFCs. Other acceptable HCFC–22 substitutes do not contain such high global warming components. The 1993 Climate Change Action Plan directs EPA to narrow the scope of uses allowed for HFCs with high global warming potentials where better alternatives exist. For this reason, and the fact that NARM–22 contains HCFC–22, the use of this blend as an HCFC–22 substitute is unacceptable.

*C. Solvents Cleaning*

1. Acceptable Substitutes

a. Metals Cleaning

(1) HFC–4310mee

*HFC–4310mee is an acceptable substitute for CFC–113 and methyl chloroform (MCF) in metals cleaning.* This chemical does not deplete the ozone layer since it does not contain chlorine or bromine. Review under the SNAP program and the Toxic Substances Control Act premanufacture notification program determined that a time-weighted average workplace exposure standard of 200 ppm and a workplace exposure ceiling of 400 ppm established by the submitting company would adequately protect human health and that the industry can meet these exposure limits using the types of equipment specified in the product safety information provided by the chemical manufacturer. The ceiling limit, established by the submitting company, was set based on a potential acute central nervous system effect above 1500 ppm.

2. Unacceptable Substitutes

a. Chlorobromomethane

*Chlorobromomethane (CBM) is unacceptable as a substitute for CFC–113, methyl chloroform (MCF), and HCFC–141b in metals cleaning, electronics cleaning and precision cleaning.* CBM, also called Halon 1011, has been used as a fire suppressant. EPA has received notification that it can also be used as a solvent and that it is a potential substitute for the ozone-depleting solvents CFC–113, methyl chloroform and HCFC–141b. EPA received a SNAP submission requesting consideration of CBM as an acceptable substitute for CFC–113 and MCF in solvents cleaning of metals, electronics, and in precision cleaning.

Recent model analyses establish a best estimate for the ozone depletion potential (ODP) for CBM in the range of 0.07 to 0.15. Numerous other alternatives exist with either zero or much lower ODP that do not pose a comparable risk.

3. Response to Comments

Commenters identified six issues related to the proposed determination for chlorobromomethane:

- Ozone depletion potential of chlorobromomethane;
- Uncertainty in ODP calculation;
- CBM as a substitute for HCFC–141b;
- Comparison of CBM with CFC–113;
- CBM under the Montreal Protocol phaseout;
- Toxicological issues regarding CBM.

a. Ozone Depletion Potential of Chlorobromomethane

A number of the comments questioned the science employed in calculating the ODP of CBM. Other comments included studies to determine ODP conducted by separate groups. As these studies were completed, they were added to the docket during the comment period. The differences in estimates from the studies resulted in a conference among the modelers to compare results, and two of the modelers were found to have made miscalculations that affected their initial ODP estimates. Because the commenters were not privy to these collaborative conversations amongst the modelers, the Agency offers the following chronology to clarify the sequence of events leading to the agreement on ODP values.

The initial studies performed on CBM were the following: ''Estimates of the Atmospheric Lifetime and ODP of CBM,'' (Ko and Chang, 1994); Calculation of the ODP of CBM (Pyle and Bekki, 1994); ''Evaluation of ODP for CBM and 1-Bromo-Propane,'' (Wuebbles, Jain, and Patten, 1997). These studies produced ODP estimates for CBM ranging from 0.05 to 0.28. Because of inconsistencies between the models, Pyle, Bekki and Wuebbles met in the spring of 1997 to discuss the proper modeling procedures and appropriate variables to be used. The Pyle/Bekki model had not taken into account several key factors used in the standard assessments for determining ODP in international forums (*e.g.*, WMO, 1995). The meeting resulted in a clarification of various model parameters (*e.g.*, atmospheric lifetimes and atmospheric transport of different ozone-depleting compounds, relative reactivity of bromine, losses to the ocean sink), and recalculation of the original values. Based on their reanalyses, the group estimated the ODP for CBM, including the ocean sink, to be in the range of 0.07–0.15.

Based on additional sensitivity analyses on the potential effects of the ocean sink and the nearly negligible effects of the soil sink, Wuebbles et al. (1997) determined an ODP range of 0.11–0.13. Subsequently, extensive revisions were made to the underlying two-dimensional model to reflect recent data on various parameters including tropospheric chemistry and kinetic

[1] GWPs and atmospheric lifetimes cited in this document are from the Intergovernmental Panel on Climate Change (IPCC) report entitled *Climate Change 1995—The Science of Climate Change*, IPCC Second Assessment Report. More recent values for GWPs and atmospheric lifetimes published in the *Scientific Assessment of Ozone Depletion: 1998*, World Meteorological Organization Global Ozone Research and Monitoring Project—Report No. 44, may be somewhat different than the values cited here but do not alter any of the technical or policy determinations by EPA in this rule.

rates, atmospheric transport rates, and ozone hole processes. Based on these changes, Wuebbles et al. (1998) derived an ODP for CBM in the range of 0.08–0.1, with the range reflecting uncertainty in the ocean sink for CBM. A semi-empirical model used by a researcher in the NOAA Aeronomy Laboratory generated an ODP range comparable to the range derived in the analyses described above (Solomon, 1997).

Considering all available model results, EPA concludes that the best estimate for the ODP of CBM lies in the range 0.07 to 0.15 when an estimate for the ocean sink is included. This range is similar to the ODP for HCFC–141b, a compound also unacceptable for use as a solvent or adhesive, and whose use as a solvent is allowed only for specific aerosol applications exempted from the nonessential products prohibition under section 610 of the Clean Air Act.

b. Uncertainty in ODP Calculation

One commenter suggested that EPA should not make decisions until all areas of uncertainty are resolved and areas of disagreement among researchers have been understood. In fact, the Agency has attempted to gather and assess all available information from the full range of experts on the ODP of chlorobromomethane. Under section 612 of the CAA, the Agency has the obligation to reduce the overall risk to human health and the environment associated with substitutes to ozone-depleting substances. If new data become available after final rulemaking that are contrary to the current scientific understanding, section 612 of the CAA allows the Agency to reconsider its SNAP decision in response to either a petition or additional information.

c. CBM as a substitute for HCFC–141b

A commenter stated that in the past, the Agency has approved HCFC–141b while expressing concern for its ODP of 0.11, but that such approval was warranted to assist in the goal of the Montreal Protocol and section 612 of the CAA to move usage away from other compounds with higher ODPs (e.g., CFCs). The commenter believed that the same analysis applies to CBM as a substitute for HCFC–141b. The Agency disagrees with this comparison. In the case of HCFC–141b, there were no other viable alternatives for specific end-uses, and consequently HCFC–141b was deemed acceptable despite its relatively high ODP. HCFC–141b is scheduled for a production phaseout in 2003, and has been listed as unacceptable in many specific end-uses, including solvent end-uses, because available alternatives exist with a lower ODP. HCFC–141b use is banned under section 610 of the Clean Air Act (the nonessential products ban) for many uses, with exemptions limited to aerosol applications of wasp and hornet sprays, mold release agents, solvent cleaners for electronics applications, lubricants, aircraft maintenance products, and spinnerette cleaner lubricants. Considering that the ODP range for CBM is comparable to that of HCFC–141b and HCFC–141b is unacceptable as a substitute solvent in all end-uses, the Agency sees no environmental benefit to approving CBM.

d. Comparison of CBM with CFC–113

One commenter declared that the U.S. EPA must compare the ODP of CBM only to that of CFC–113, and not to the ODP of other substitutes. The Agency disagrees; under section 612(c) of the Clean Air Act (CAA), the Agency is required to compare substitutes to each other when they are available:

> ''* * * it shall be unlawful to replace any class I or class II substance with any substitute substance which the Administrator determines may present adverse effects to human health or the environment, when the Administrator has identified an alternative that reduces the overall risk to human health and the environment and is currently or potentially available.''

Recent model analyses establish a best estimate for the ODP for CBM in the range of 0.07 to 0.15. Numerous other alternatives exist with either zero or a much lower ODP that do not pose a comparable risk. Therefore, while the Agency does compare the substitute to the substance being replaced, if there are alternatives that pose a lower overall risk, EPA cannot list the substitute as acceptable.

e. CBM under the Montreal Protocol Phaseout

A commenter stated that the Montreal Protocol does not require the phaseout of CBM. While Parties to the Protocol have agreed to phase out many ozone-depleting substances, many other chemicals that pose risks to the ozone layer, including CBM, have not yet been addressed. Nevertheless, the CAA gives EPA authority to take actions more stringent than the Montreal Protocol, and the Agency believes that section 612 of the Act requires EPA to list CBM as an unacceptable substitute because of the environmental and health effect risks that it poses.

f. Toxicological Issues regarding CBM

Many commenters submitted comments regarding toxicological issues related to CBM. EPA is not addressing comments raised on toxicity issues at this time because the SNAP decision is based solely on the ODP of CBM.

*D. Fire Suppression and Explosion Protection*

1. Acceptable Subject to Use Conditions

a. Total Flooding Agents

(1) $C_3F_8$

*$C_3F_8$ is acceptable as a Halon 1301 substitute where other alternatives are not technically feasible due to performance or safety requirements: (a) because of their physical or chemical properties, or (b) where human exposure to the extinguishing agents may result in failure to meet applicable use conditions.*

See the discussion under ''Response to Comments'' (section II.D.4) of the changes made to the use limits on this agent. See Appendix H for a complete statement of the use conditions (unchanged) which apply to this agent in this end-use.

(2) $C_4F_{10}$

*$C_4F_{10}$ is acceptable as a Halon 1301 substitute where other alternatives are not technically feasible due to performance or safety requirements: (a) because of their physical or chemical properties, or (b) where human exposure to the extinguishing agents may result in failure to meet applicable use conditions.*

See the discussion under ''Response to Comments'' (section II.D.4) of the changes made to the use limits on this agent. See Appendix H for a complete statement of the use conditions (unchanged) which apply to this agent in this end-use.

(3) HFC–236fa

*HFC–236fa is acceptable as a Halon 1301 substitute when manufactured using any process that does not convert perfluoroisobutylene directly to HFC–236fa in a single step. HFC–236fa may be used in explosion suppression and explosion inertion applications without use limits, and may be used in fire suppression applications where other non-PFC agents or alternatives are not technically feasible due to performance or safety requirements: (a) because their physical or chemical properties, or (b) where human exposure to the extinguishing agents may result in failure to meet applicable use conditions.*

As discussed in the initial SNAP rulemaking (59 FR 13044, March 18, 1994), total flooding agents are acceptable for use in occupied areas only under the following conditions:

1. Where egress from an area cannot be accomplished within one minute, the employer shall not use the agent in

concentrations exceeding its ''no observed adverse effect level'' (NOAEL);

2. Where egress takes greater than 30 seconds but less than one minute, the employer shall not use the agent in a concentration greater than its ''lowest observed adverse effect level'' (LOAEL);

3. Agent concentrations greater than the LOAEL are only permitted in areas not normally occupied by employees provided that any employee in the area can escape within 30 seconds.

4. The employer shall assure that no unprotected employees enter the area during agent discharge.

These conditions were derived from an OSHA safety and health standard governing fire protection systems used in all workplaces (29 CFR part 1910, subpart L). This OSHA standard is designed to limit employee exposures to toxic levels of gaseous agents used in fixed total flood systems. Because OSHA had not set specific workplace standards for halon substitutes, EPA adopted the relevant provisions of 29 CFR part 1910, subpart L to govern the general use of halon substitute gaseous agents. As stated in the original SNAP rulemaking, EPA specifically defers to OSHA and has no intention to assume responsibility for regulating workplace safety in regard to fire protection (59 FR 13099 and 13101; also see discussion directly below).

The cardiac sensitization NOAEL of HFC–236fa is 10.0% (by volume) and its LOAEL is 15%. Cup burner tests with heptane indicate that the extinguishment concentration for this agent is 5.3%, thus making its calculated design concentration 6.4%. Compared to the cardiac sensitization values, these concentrations provide a sufficient margin of safety for use in a normally occupied area. HFC–236fa can replace Halon 1301 at a ratio of 1.3 by weight and 1.5 by volume. Due to its relatively high boiling point of minus 1.6 degrees centigrade, this agent may not be suitable in a low temperature environment.

The exposure concentration limits referred to here, set as conditions of acceptability under SNAP, are intended to protect worker safety in the absence of OSHA or other workplace limits established under voluntary consensus bodies. As suggested by the court in *Southern Pacific Transp. Co.* v. *Usery*, 539 F.2nd 386 (5th Cir.1976), ''the scope of the exemption created by [OSHA] § 4(b)(1) is determined by the [Agency's] intent.'' EPA wishes to clarify that it has no intention of duplicating or displacing OSHA coverage related to the use of personal protective equipment (e.g., respiratory protection), fire protection, hazard communication, worker training or any other occupational safety and health standard with respect to EPA's regulation of halon substitutes. In accordance with the National Technology Transfer and Advancement Act of 1995 (NTTAA), section 12(d), EPA will work in consultation with OSHA to encourage development of technical standards to be adopted by voluntary consensus standards bodies. Once applicable consensus standards are established, EPA will rescind the workplace standards established under this rulemaking.

In the original March 18, 1994 SNAP rulemaking (59 FR 13099), the Agency made clear that in cases like this (where EPA finds acceptable the use of an agent only under certain conditions), we have sought to avoid overlap with other existing regulatory authorities. In setting conditions for the safe use of halon substitutes in the workplace under SNAP, EPA has specifically deferred to OSHA's other regulations that govern workplace safety. As stated in the preamble to the original SNAP rule at 59 FR 13099, ''EPA has no intention to assume responsibility for regulating workplace safety especially with respect to fire protection, nor does the Agency intend SNAP regulations to bar OSHA from regulating under its Public Law 91–596 authority.''

In the March 18, 1994 final SNAP rule (59 FR 13044), EPA required manufacturers to submit information on manufacturing processes to allow an assessment of the risks posed to the general public and workers. EPA clarified in that action that acceptability determinations made on the basis of one company's submission would apply to the same chemical produced by other manufacturers, obviating the need for duplicative reporting requirements and review. However, manufacturers who believe a given manufacturing process may pose additional risks beyond those posed by other processes involving the same chemical were required to alert EPA to that increased hazard. The February 8, 1996 (61 FR 4736) Notice of Acceptability specifically discussed the manufacturing process used in making HFC–236fa, and that discussion is repeated below.

EPA is aware of several methods for manufacturing HFC–236fa, including one that produces HFC–236fa directly from perfluoroisobutylene (PFIB). PFIB is an extremely toxic substance that could pose risks in very small concentrations. Thus, EPA believes it is appropriate to distinguish among the different methods for producing HFC–236fa. This acceptability determination does not prohibit the manufacture of HFC–236fa directly from PFIB. Rather, it finds acceptable the production of HFC–236fa in processes that do not convert PFIB directly to HFC–236fa in a single step. If a manufacturer wishes to produce HFC–236fa directly from PFIB, it must submit that process to EPA for review under SNAP.

HFC–236fa does not deplete stratospheric ozone. However, it has an atmospheric lifetime of 209 years and a 100-year GWP of 6300. Concerns have been raised about this agent's potential atmospheric effects. Please see discussion in the ''Response to Comments'' section II.D.4 on this issue. This agent should be handled so as to minimize unnecessary emissions, including: avoiding discharge testing and training; providing a high level of maintenance to avoid leaks and accidental discharges; recovering HFC–236fa from fire protection equipment in conjunction with testing or servicing; and destroying HFC–236fa or recycling it for later use. In addition, EPA encourages manufacturers to develop aggressive product stewardship programs to help users avoid such unnecessary emissions.

While HFC–236fa may be used without ''last resort'' use restrictions in explosion protection applications, this is not so for other total flooding applications, see section II.D.2 below. Before users adopt it for general fire suppression applications in the total flooding end-use, they must first ascertain that other non-PFC substitutes or alternatives are not technically feasible due to performance or safety requirements. In contrast, if a PFC is the only other substitute that is technically feasible due to performance or safety requirements, then this agent may be used in a general fire suppression application. Potential users are expected to evaluate the technical feasibility of other non-PFC substitutes or alternatives to determine their adequacy to control the particular fire risk. Such assessment may include an evaluation of the performance or functional effectiveness of the non-PFC agents for the intended applications as well as the risk to personnel potentially exposed to the agent. Similarly, use of HFC–236fa would be appropriate where use of other non-PFC substitutes or alternatives would violate the workplace safety use conditions set forth in the SNAP rulemakings and thus pose risks of adverse health effects.

To assist users in their evaluation for general fire suppression applications, EPA has prepared a list of vendors manufacturing halon substitutes and alternatives. Although users are not required to report the results of their investigation to EPA, companies must

retain these results for five years for future reference.

2. Acceptable Subject to Narrowed Use Limits

a. Total Flooding Agents

(1) $C_3F_8$

*$C_3F_8$ is acceptable as a Halon 1301 substitute where other alternatives are not technically feasible due to performance or safety requirements: (a) because of their physical or chemical properties, or (b) where human exposure to the extinguishing agents may result in failure to meet applicable use conditions.*

See the discussion under ''Response to Comments'' (section II.D.4) of the changes made to the use limits on this agent. See Appendix H for a complete statement of the use conditions (unchanged) which apply to this agent in this end-use.

(2) $C_4F_{10}$

*$C_4F_{10}$ is acceptable as a Halon 1301 substitute where other alternatives are not technically feasible due to performance or safety requirements: (a) because of their physical or chemical properties, or (b) where human exposure to the extinguishing agents may result in failure to meet applicable use conditions.*

See the discussion under ''Response to Comments'' (section II.D.4) of the changes made to the use limits on this agent. See Appendix H for a complete statement of the use conditions (unchanged) which apply to this agent in this end-use.

(3) HFC–236fa

*HFC–236fa is acceptable as a Halon 1301 substitute when manufactured using any process that does not convert perfluoroisobutylene (PFIB) directly to HFC–236fa in a single step. HFC–236fa may be used in explosion suppression and explosion inertion applications, and may be used in fire suppression applications where other non-PFC agents or alternatives are not technically feasible due to performance or safety requirements: (a) because of their physical or chemical properties, or (b) where human exposure to the extinguishing agents may result in failure to meet applicable use conditions.* Please see the section on ''Acceptable Subject to Use Conditions'' (II.D.1) for a complete discussion of this agent. This agent is subject to the use conditions stated in that section.

b. Streaming Agents

(1) $C_6F_{14}$

*$C_6F_{14}$ is acceptable as a Halon 1211 substitute in nonresidential applications where other alternatives are not technically feasible due to performance or safety requirements: (a) because of their physical or chemical, or (b) where human exposure to the extinguishing agents may result in failure to meet applicable use conditions.*

See the discussion under ''Response to Comments'' (section II.D.4) of the changes made to the use limits on this agent. No applicable use conditions exist for this agent in the streaming agent end-use.

(2) HFC–236fa

*HFC–236fa is acceptable as a Halon 1211 substitute in nonresidential applications when manufactured using any process that does not convert perfluoroisobutylene (PFIB) directly to HFC–236fa in a single step.* The cardiac sensitization NOAEL of HFC–236fa is 10.0% and its LOAEL is 15%. (See preceding discussion regarding OSHA, HFC–236fa, and voluntary consensus workplace standards in section II.D.1) Cup burner tests with heptane indicate that the extinguishment concentration for this agent is 5.3%. Compared to Halon 1211, HFC–236fa has a weight equivalence of 1.08 to 2.15.

As discussed above, HFC–236fa does not deplete stratospheric ozone. However, it has an atmospheric lifetime of 209 years and a 100-year GWP of 6300. Concerns have been raised about this agent's potential atmospheric effects. Please see discussion in ''Response to Comments'' section II.D.4 regarding this issue. This agent should be handled so as to minimize unnecessary emissions, including: avoiding discharge testing and training; providing a high level of maintenance to avoid leaks and accidental discharges; recovering HFC–236fa from the fire protection equipment in conjunction with testing or servicing; and destroying HFC–236fa or recycling it for later use. In addition, EPA encourages manufacturers to develop aggressive product stewardship programs to help users avoid such unnecessary emissions.

Further, this agent may not be used in residential applications, e.g., by a private individual in applications in or around a permanent or temporary household, during recreation, or for any personal use or enjoyment. Use in watercraft or aircraft is excluded from the definition of residential use. As discussed in the ''Response to Comments'' section II.D.4, the use of this agent in local application extinguishing systems in textile process machinery is considered to be a streaming agent application.

(3) HFC–227ea

*HFC–227ea is acceptable as a Halon 1211 substitute in nonresidential applications.* The weight equivalence of this agent is 1.66 pounds per pound of Halon 1211. It has a cardiac sensitization NOAEL of 9.0%, and a LOAEL of 10.5%. (See preceding discussion regarding OSHA and voluntary consensus workplace standards in section II. D.1) Its cup burner extinguishment value is 5.8%.

This agent has no ozone depletion potential, a 100-year GWP of 2,900 relative to carbon dioxide, and an atmospheric lifetime of 36.5 years. It is already listed as acceptable subject to use conditions for use in total flooding applications as an alternative to Halon 1301 (See 59 FR 13107, March 18, 1994).

3. Unacceptable Substitutes

a. Total Flooding Agents

(1) Chlorobromomethane

*Chlorobromomethane (CBM) is unacceptable as a substitute for Halon 1301 in total flooding applications.* Recent analyses establish an ODP range for CBM of 0.07 to 0.15. Other alternatives exist for total flooding applications with lower or no ODP and do not pose a comparable risk. For example, HFC–227ea, as well as several inert gases, have no ODP. Additionally, current OSHA regulations prohibit the use of CBM as an extinguishing agent in fixed fire extinguishing systems where employees may be exposed. See 29 CFR 1910.160(b)(11).

4. Response to Comments

EPA received 197 letters with comments related to proposed halon substitute listings in the NPRM. Many of the letters were identical. This section summarizes the major comments and provides EPA's response to those comments. A supplemental response to comments document that addresses the remaining comments is available in the public docket for this rulemaking. The comments addressed in this document are grouped into the following four major categories:

- Limits on PFCs and other long-lived gases;
- HFC–236fa;
- Unrelated issues;
- Chlorobromomethane.

a. Limits on PFCs and Other Long-lived Gases

(1) Description of Use Limits

In the May 21, 1997 proposal, EPA proposed a change in the description of the use limits (often referred to as ''last resort'' use limits, first described in the June 13, 1995 final rule, 60 FR 31100) applicable to PFCs and other long-lived gases. Two commenters supported EPA's stated purpose in clarifying the

language but disagreed with the proposed change in language. One of the commenters opposed the proposed change because it eliminates the existing reference to cardiac sensitization. The commenter suggests that, despite EPA's statement that it is not changing but only clarifying policy, this change could be viewed by fire protection professionals, who might not read the preamble discussion, as a reduced concern by EPA for cardiac sensitization and therefore a change in policy. This commenter proposed alternative language, as follows:

''[X] is proposed acceptable as a Halon [1211/1301] substitute where other alternatives are not technically feasible due to performance or safety requirements: (a) due to their chemical or physical properties or (b) where human exposure may result in exposure to agent concentrations at or above established cardiac sensitization levels or below safe oxygen levels, in a failure to meet other applicable use conditions or in other unacceptable health effects under normal operating conditions.''

In response, EPA reiterates that the proposed change in language is indeed a clarification of, not a change in, policy and that reference to ''failure to meet applicable use conditions'' is the most precise way to refer to the existing use conditions for any halon substitute. Existing SNAP use conditions for ''clean agent'' halon substitutes (meaning they dissipate rapidly, leaving no residue thereby avoiding secondary damage to the property they are protecting) are generally based on two measurements of exposure to health risks: the concentration and the length of time a person is exposed to the agent. To describe the applicable use conditions as ''exposure to agent concentrations at or above established cardiac sensitization levels or below safe oxygen levels'' is imprecise (as is the original language, ''may approach cardiac sensitization levels'') because it refers only to the exposure concentration, i.e., a ''NOAEL,'' ''LOAEL,'' ''no effect level,'' or ''lowest effect level,'' and not to the length of exposure.

The applicable use conditions for each SNAP-listed acceptable halon substitute are listed in the Code of Federal Regulations chart in a column immediately adjacent to the decision column containing the narrowed use limit language, if applicable. See 40 CFR part 82, subpart G, appendices A through G. It is easy for any fire protection professional to check the applicable use conditions to see the cardiac sensitization NOAEL or LOAEL, or the oxygen deprivation ''no effect level'' or ''lowest effect level'' by simply reading the next column of the chart for a particular halon substitute. Thus, EPA believes the commenter's concerns are addressed by EPA's proposed revised language and therefore rejects the proposed alternative language suggested by this commenter.

A second commenter supported EPA's proposed change in language, with one exception. The exception is EPA's proposed decision not to change the phrase ''or result in other unacceptable health effects under normal operating conditions.'' The commenter suggests that this language may still allow for too much latitude regarding ability to select PFCs as an acceptable alternative. The commenter recommends deleting the phrase or, if that is not possible, changing the phrase to specify the type of unacceptable health effects, i.e., hypoxia for inert gases or cardiac sensitization for halocarbons. This would prevent system designers or specifiers from using theoretical or potentially insignificant health effects to justify the use of PFCs.

EPA acknowledges that the phrase ''or result in other unacceptable health effects under normal operating conditions'' is vague, and leaves open the possibility of citing unnamed health effects as reasons for using otherwise unacceptable halon substitutes. EPA's use of this phrase in the original language was intended to refer to hypoxia for inert gases. Other than halocarbon clean agents for which cardiac sensitization is the health effect of concern, inert gases were the only type of clean agents for which use conditions were imposed. In making the proposed change to ''failure to meet applicable use conditions,'' EPA no longer needs the phrase ''or result in other unacceptable health effects under normal operating conditions'' because both specified health effects, i.e., cardiac sensitization and hypoxia, are incorporated by reference to the ''applicable use conditions'' of halon substitutes. EPA's proposal should have made a corresponding change to delete the phrase ''or result in other unacceptable health effects under normal operating conditions,'' or it should have specifically identified other health effects that would be the basis of proposed use conditions for particular agents. The phrase adds no information without identifying specific health concerns, and contributes to the imprecision of the original language. Thus, EPA accepts the commenter's suggestion to delete this phrase, which EPA neglected to do in the proposal. The final language reads as follows:

''[X] is proposed acceptable as a Halon [1211/1301] substitute where other alternatives are not technically feasible due to performance or safety requirements: (a) because of their physical or chemical properties, or (b) where human exposure to the extinguishing agents may result in failure to meet applicable use conditions.''

(2) Changes to ''Comments'' Column in CFR

Each substitute reviewed under SNAP and found unacceptable, acceptable subject to narrowed use limits, or acceptable subject to use conditions is listed in charts in the Code of Federal Regulations by end-use. For each substitute, ''comments'' may be listed in a separate column, and they provide additional information on a substitute intended to help users apply sound operating practices (e.g., existing industry standards) for listed substitutes. EPA proposed a change to the ''comments'' which apply to halon substitutes for which the ''last resort'' use limits apply. One comment was received that opposed changing the language from ''making reasonable effort to undertake the following measures'' to ''taking the following measures.'' The commenter cites SNAP regulations at § 82.180(b)(2), where the users intending to adopt a restricted substitute are directed as follows:

—82.180(b)(2) Acceptable subject to use conditions. . . . Where users intending to adopt a substitute acceptable to use conditions must make reasonable efforts to ascertain that other alternatives are not feasible due to safety, performance or technical reasons, documentation of this assessment must be retained on file for the purpose of demonstrating compliance.

The commenter objects that EPA has not provided any basis for making the change, and that any changes to an existing regulation must be justified and explained. The commenter states this change unfairly singles out PFCs, and could confuse the user community in light of the regulatory language cited above.

EPA may have caused some confusion by incorrectly indicating in the preamble of the proposed rule that the ''last resort'' use limits at issue here are ''use conditions,'' when in fact they are not; instead, they are ''narrowed use limits.'' The instructions to users are worded differently in the regulatory text for these two different types of listing decisions.

''Narrowed use limits'' are described in § 82.180(b)(3) of the SNAP regulations, which provides that:

–82.180(b)(3) Acceptable subject to narrowed use limits. . . . Users intending to adopt a substitute acceptable with narrowed use limits must ascertain that other alternatives are not technically feasible. Companies must document the results of

their evaluation, and retain the results on file for the purpose of demonstrating compliance.''

The ''comments'' language, as proposed, that users must observe the limits by ''taking'' certain steps, conforms to the regulatory language that users ''must ascertain'' that other alternatives are not technically feasible. Thus, EPA is not changing the regulatory language but rather providing ''comment'' language that is consistent with the existing regulations. Although these instructions are contained in the ''comments'' column of the appendix to the final rule, the source of the instructions is the SNAP regulation itself. The only change is in the summary of this regulatory language which appears in the ''comments'' column as a convenience to users of substitutes.

This change in wording does not ''unfairly single out'' PFCs. EPA notes that the same ''last resort'' use restrictions apply to a non-PFC substitute, HFC–236fa, which is listed in this final rule as acceptable as a total flooding agent subject to these narrowed use limits.

(3) Procedural Aspects of EPA's review

The May 21, 1997 proposal discussed a petition that EPA received asking for reconsideration of the wording of use conditions for PFCs and other long-lived gases. EPA received one comment expressing concern that the procedure for EPA's review of this petition might be used in the future as a way to urge changes in proposed use conditions without providing sufficient technical justification for those changes. Specifically, the commenter raises a concern that it did not receive notice from EPA of the petition, as § 82.184(d)(1) of the SNAP regulations requires. Although, it is the original submitter of the substitutes which were the subject of the petition. Additionally, the commenter notes that the SNAP rule allows EPA to submit the petition for review by appropriate experts inside and outside EPA prior to proceeding to a proposed rule. The commenter recommends that EPA should rely on this provision in the future to engage in technical dialogue with affected companies and other stakeholders to ensure that any proposed rule resulting from the petition reflects such technical input.

In response, EPA regrets any concerns that may have been raised by the Agency's process in reviewing this petition, and assures the public that the Agency does not view the petition process as a way for interested parties to urge changes in SNAP regulatory conditions without providing sufficient technical justification for those changes. EPA acknowledges that the Agency failed to formally notify the commenter upon receipt of the petition, and EPA apologizes for this failure. EPA notes, however, that the commenter did contact the Agency to discuss the petition. This initial contact was followed by several discussions between representatives of EPA and representatives of the commenter over several months, as well as a letter from the commenter to EPA discussing the merits of the petition.

Although EPA failed to meet the required notice provision of § 82.184(d)(1) of the SNAP regulations, the purpose of the notice requirement—to provide the opportunity to communicate on the merits of the petition—was in fact fulfilled. EPA did not deny any opportunity to the commenter to participate in discussing the merits of the petition. EPA has placed in the docket for this rulemaking a description of the contacts between EPA staff and the commenter's staff on this subject; it is EPA's belief that the commenter fully participated in the process of commenting on the merits of the petition.

EPA agrees that in certain cases it may be appropriate to engage in technical dialogue with affected companies and other stakeholders to ensure that any proposed rule resulting from a petition reflects such technical input. However, the Agency notes that the SNAP regulations do not require such dialogue; rather, the regulations provide EPA with the discretion to allow internal or external experts an opportunity to review the petition. The Agency will determine on a case-by-case basis if and when to seek review by outside experts and whether additional dialogue with others is appropriate. In addition, § 82.184(d)(5) of the SNAP regulations requires EPA to follow standard rulemaking procedures whenever the Agency grants a petition to change an acceptable listing by imposing or deleting use conditions or limits, among other actions. Such rulemaking procedures require public notice and comment, which afford interested parties the opportunity to comment on the merits of EPA's decision on a petition, or to recommend that EPA consult with outside experts or others in a particular case. EPA has followed that process in this case.

In any event, EPA notes that it did engage in dialogue with stakeholders, including the commenter, on the merits of this petition prior to publishing the proposed rule, and the description in the docket explains EPA's contacts with the commenter in this regard. Further, as described above in discussing its response to the comments on the substance of the proposed changes, EPA believes there is sufficient technical justification for these changes, and that the justification was discussed with affected parties and adequately explained in the preamble to the proposed rule. Both commenters who provided written comments on EPA's proposed language, including this commenter, stated they supported EPA's purpose in clarifying the language.

b. HFC–236fa

(1) Use Conditions and Limits

EPA proposed various use conditions and use limits for HFC–236fa as a streaming agent and as a total flooding agent. Many comments objected to the lack of proposed ''last resort'' use limits to the streaming agent end-use of HFC–236fa. One commenter also specifically objected to the lack of proposed ''last resort'' use limits to explosion protection applications within the total flooding end-use of HFC–236fa. These comments were based on concerns that since this substitute's global warming potential (GWP) is high and its atmospheric lifetime is long, it should be subject to the same ''last resort'' use restrictions in all end-use categories and applications.

One commenter stated that the GWP of HFC–236fa is between 6,300 and 8,000 and that its atmospheric lifetime is 250 years; others stated that the GWP of HFC–236fa is more than three times that of HFC–227ea. For HFC–236fa, the 1995 IPCC Second Assessment Report lists a GWP of 6,300 (on a 100-year basis) not a range from 6,300 to 8,000, and an atmospheric lifetime of 209 years not 250 years. (Based on information available at the time, EPA listed the atmospheric lifetime of HFC–236fa as 250 years in the preamble to the May 21, 1997 proposed rule.) By comparison, the GWP (on a 100-year basis) for HFC–227ea is listed in the 1995 IPCC Report as 2,900, which is roughly one-half the listed value for HFC–236fa.

Several commenters stated that the GWP of HFC–236fa is higher than those of the PFCs. In fact, the GWP of HFC–236fa for the 100-year time horizon is comparable to the GWP of many PFCs. This is not the case, however, when comparisons are made in terms of GWPs integrated over a longer time horizon that reflects the significantly longer atmospheric lifetimes of PFCs. Because PFCs have atmospheric lifetimes at least an order of magnitude longer than HFC–236fa (2,600 to 50,000 years for PFCs versus 209 years for HFC–236fa), a more relevant comparison is in terms of

GWPs integrated over 500 years. As such, the GWP of HFC–236fa for the 500-year time horizon (4700 according to the 1995 IPCC report) is significantly lower than the 500-year GWP for any of the listed PFCs (which range between 10,000 and 14,000).

These commenters supported their concerns with both general statements regarding the need to limit use of greenhouse gases, and specific statements designed to show that the streaming agent end-use would be highly emissive, and/or that the streaming agent end-use would be at least as, if not more, emissive than the total flooding end-use. The general statements include the following: (a) HFC–236fa is 6,300 times more effective than carbon dioxide in its global warming potential; (b) HFC–236fa is not a byproduct or feedstock of another chemical's production, which was the justification for SNAP listing of HFC–23, another potent greenhouse gas, as a total flooding agent; (c) the unrestricted use of HFC–236fa as a streaming agent is tantamount to a decision to do nothing about global warming; and (d) the unrestricted use of HFC–236fa contradicts President Clinton's 1993 Climate Change Action Plan (CCAP), which directs EPA (in Action 40) to reduce the use of greenhouse gases as substitutes for ozone-depleting substances.

EPA appreciates the concerns for both global warming potential and atmospheric lifetime. EPA does not disagree with the first two general statements regarding the potency of HFC–236fa as a greenhouse gas and this agent's lack of status as a byproduct or feedstock in another chemical process.

With respect to the final two general statements, EPA disagrees that the lack of ''last resort'' restrictions on HFC–236fa in its use as a streaming agent is tantamount to a decision to do nothing about global warming, and that it contradicts Action 40 of the CCAP. In discussing HFCs generally as a halon substitute in the preamble to the original SNAP rule (59 FR 13100), EPA noted that, because HFCs can contribute to global warming, they are included in the CCAP, and EPA is directed to limit uses of gases with high global warming potentials as substitutes for ozone-depleting substances where better substitutes exist. EPA noted further that, because EPA is simultaneously also interested in promoting the broader shift away from ozone-depleting substances, any limits on use will be imposed in ways that preserve as much flexibility as possible for those trying to move to alternatives.

EPA evaluates substitutes within a comparative risk framework in order to fulfill both the mandate under Clean Air Act section 612 to identify alternatives to ozone-depleting substances which reduce overall risk to human health and the environment, and the President's direction under the CCAP. In evaluating a potential substitute by comparing risks, EPA compares the substitute to the original ODS it would replace and to other substitutes *by use*. Although it may be desirable to compare restrictions between end-uses such as streaming agents and total flooding agents, EPA's SNAP determinations require a relative comparison among all substitutes available for a particular end-use, as well as to the original ODS, at the time the comparison is made. See discussion in the preamble to the original SNAP rule, 59 FR 13044 (March 18, 1994), at pages 13046 and 13067–13069.

Thus, in evaluating the use of HFC–236fa as a streaming agent, EPA compared its use to that of other SNAP-listed and proposed streaming agent substitutes currently available. Of clean agent substitutes for Halon 1211, there are no commercially available alternatives for general fire protection use with both zero ozone depletion potential and low toxicity. HFC–236fa meets these criteria and thus can serve a unique role as a streaming agent, aiding in the transition from halons. Although some of the commercially available streaming agent substitutes which are not clean agents have no ozone depletion potential and are low in toxicity, they are not as widely applicable as halocarbon clean agent alternatives and thus are not suitable for general fire protection use.

EPA made a similar comparison of SNAP-listed and proposed halon substitutes which are commercially available in the total flooding agent end-use. By contrast to the streaming agent end-use, there are commercially available clean agent alternatives in the flooding agent end-use for general fire suppression which have both zero ozone depletion potential and low toxicity, such as HFC–227ea and the inert gases. In the explosion protection application, however, which is a type of total flooding use, the required design concentration is much higher than for general fire suppression. As a practical matter, this eliminates most of the SNAP-listed total flooding clean agent substitutes for use in explosion protection except for HFC–23 and the PFCs, some of which have even higher GWPs, and all of which have longer atmospheric lifetimes, than that of HFC–236fa. By comparison to the commercially available clean agent substitutes, HFC–236fa can serve a unique role in the explosion protection application of the total flooding agent end-use, but not in the general fire suppression applications of this end-use.

Responses are given below to each of the specific comments that emissions from streaming end-uses are high and are at least as great, if not greater, compared to total flooding end-uses. EPA notes that most of these statements were made without any specific supporting data.

(a) Expected discharge in a streaming application would be greater than if used in a flooding system.

As noted previously, EPA's SNAP determinations require a relative comparison among all substitutes available for a particular end-use, as well as to the original ODS, at the time the comparison is made. Nevertheless, streaming agent uses in fire extinguishers, whether handheld, wheeled, or vehicular, typically use many fewer pounds of agent than total flooding systems, which are piped into an enclosed space to flood the enclosure upon discharge. One would expect, therefore, that discharges from streaming applications would be less per discharge than those from a flooding system. It is not clear whether the commenters who claimed that ''expected discharge in a streaming application would be greater than if used in a flooding system'' (without any supporting data) meant discharges per unit or total discharges, which would require data on the total number of units in each end-use and/or the rates of discharge for each end-use.

(b) Both streaming and flooding systems are intended to be discharged, and are not closed systems.

EPA notes that all fire extinguishing uses are emissive by their nature, even though the cylinder or container which holds the agent is a ''closed system'' in the sense that the chemical is contained in equipment that precludes full emission unless emission is triggered. In order to extinguish a fire, however, the agent must be emitted from its container.

The emission of fire extinguishing agents is usually only done in case of fire, a life-threatening emergency. Other possible sources of emissions are leakage, accidental discharge, maintenance losses during servicing, and discharge during testing and training. EPA estimates the total amount of losses for leakage and discharges other than for fire protection is less than 5% per year. Of this amount, virtually none is due to testing and training. In response to the phaseout of halon and

concerns over atmospheric impacts of both halon and halocarbon substitutes, the fire protection community has greatly decreased the use of fire extinguishing agents in testing and training (formerly the single largest use of halon fire extinguishers). There is also a financial incentive to conserve halocarbon fire extinguishing agents which serve as clean agent substitutes for halon because they are more expensive than traditional fire extinguishing agents such as dry chemical and foam.

(c) Portable fire extinguishers are more numerous than flooding systems, and are discharged more often.

EPA has no data on the number of portable fire extinguishers versus flooding systems, nor on relative discharge rates of portables versus flooding systems. No data were offered by the commenters who claimed portables are more numerous, and are discharged more often. EPA believes that this type of comparison is not relevant to the risk comparison of particular substitutes within a particular end-use, but EPA refers to its earlier estimate of 5% total losses (not related to fire suppression) from all fire extinguishers as support for the statement that non-emergency emissions of halocarbon fire extinguishing agents in both streaming agent and total flooding agent end-uses is relatively small.

(d) This agent should be restricted to the ''original design concept'' of a closed system such as refrigeration substitutes for CFC–114 in heat pumps, which are subject to venting prohibitions.

This comment reflects concern about possible emissions from any fire extinguishing system, whether streaming or flooding. As noted above, fire extinguishing systems are by nature emissive but serve a valuable purpose in preventing or mitigating danger to human health and property. Fire extinguisher emission rates are relatively low and, when balanced against the risks of fire emergencies, are extremely valuable. Comparing refrigeration uses to fire suppression uses is not relevant to the risk comparison of particular fire suppression substitutes within a particular end-use. Previous decisions in another SNAP industrial sector are not relevant to decisions in a different SNAP industrial sector, just as decisions for a particular end-use within a single sector are not relevant to a different end-use in the same sector.

(e) This agent has a lower weight equivalence to Halon 1301 than to Halon 1211, is more effective as a Halon 1301 substitute than as a Halon 1211 substitute, and is probably more efficient as a flooding agent than as a streaming agent.

Weight equivalence relates the number of pounds of substitute required to replace each pound of halon to achieve the same fire extinguishing capability. A substitute's weight equivalence to halon is not the only measure of a substitute's efficiency or effectiveness in extinguishing fires. A substitute's extinguishing (or design) concentration is important as well as its storage volume equivalence to halon. Additional factors, which would be tested in full-scale performance fire testing by independent testing laboratories in order to rate particular products, include the extinguisher configurations, pressurization, nozzle and valve assembly as well as other characteristics. EPA notes that several portable fire extinguishing products using this agent have received performance ratings from an independent testing laboratory which could not have happened without satisfactory performance test results. These commenters provided no further information to support their statements that this agent may be more efficient and more effective as a replacement for halon 1301 in flooding systems than as a replacement for halon 1211 as a streaming agent. EPA is not aware of any evidence to support these statements.

Nevertheless, EPA notes that the reported weight equivalencies in the preamble to the proposed rule were based on information in the SNAP submission, which has become outdated due to further commercial development of portable fire extinguishing equipment using this agent as a replacement for halon 1211. EPA requested and obtained current information from the system designer regarding this agent's weight equivalence to halon 1211, and has placed in the public docket for this rulemaking the memo from the system designer providing this information, as well as information from Underwriters Laboratories, Inc., showing its current listing information for portable fire extinguishing products containing this agent.

The commenters are correct in identifying the weight equivalence of this agent to halon 1211 as 2.4 in the portable fire extinguishing product containing 6.0 pounds of this agent, since it apparently replaced a product with equivalent fire extinguishment ratings containing 2.5 pounds of halon 1211. However, there are three other sizes of portable extinguishers containing this agent which have weight equivalencies to halon 1211 ranging from 1.08 to 2.15. The product with 6.0 pounds of this agent, although it is still listed by UL, has been replaced by the system designer with a product containing 4.75 pounds of this agent, with the same UL rating, resulting in a weight equivalence to halon 1211 of 2.15. Thus, this agent's weight equivalence to halon 1211 currently ranges from 1.08 to 2.15, rather than a range of 1.1 to 1.5 as indicated in the preamble to the proposed rule.

Even if this agent's efficiency and effectiveness as a halon replacement were in doubt, these characteristics are not the only factors involved in making a SNAP determination on the substitute's acceptability. As stated in the preamble to the original SNAP rule, at 59 FR 13101 (March 18, 1994), EPA believes that efficacy of a substitute is a consideration in decision making in the fire suppression sector in order to help assess the risks of using a substitute, its health effects, and its potential to fill various niche markets. However, this is only one of many characteristics of a substitute that are evaluated in making a SNAP determination which fulfills the section 612 mandate to ''reduce overall risk to human health and the environment.'' See discussion in preamble to the original SNAP rule, 59 FR 13044 (March 18, 1994) at pages 13054–13056, and at pages 13068–13069, for more information on the characteristics to be evaluated.

(f) Since there are fewer limits on testing and training for streaming agents, and more testing and training is done with portable fire extinguishers than with flooding systems, the discussion in the preamble regarding the need to minimize emissions during such activities should be equally as strict for streaming agent uses as for total flooding agent uses.

EPA agrees that the discussion in the preamble regarding the need to minimize emissions during testing and training should be equally as strict for streaming agents as for total flooding agents; these two discussions in the preamble to the final rule are now the same. EPA notes that it has no information to support or oppose the statements made by these commenters that there are fewer limits on testing and training for streaming agents, and that more testing and training is done with portable fire extinguishers than with flooding systems.

(2) Use in Local Application Systems

Under the SNAP program, halon substitutes have been categorized as either those used in streaming applications (manually dispensed from

a hand-held or portable fire extinguisher), or in total flooding and explosion protection applications (a predetermined quantity of the gas is dispensed into an enclosed space and maintained at a certain concentration for a period of time throughout the entire protected space). Another well-recognized type of fire protection product, referred to as ''local application'' or ''pre-engineered'' local application extinguishing systems, is not clearly considered either a streaming agent system or a total flooding agent system. Local application extinguishers are designed to release a set amount of an extinguishing agent from a fixed nozzle or nozzles directly onto burning material. They have been used to provide fire protection for specialized industrial uses such as textile processing machinery.

The Agency received several comments, discussed below, that HFC–236fa be listed acceptable for use in a newly created category of local application or pre-engineered systems. Elsewhere in today's action, HFC–236fa is being listed as acceptable for use as a substitute for halon 1211 and halon 1301 in fire suppression and explosion protection; the Agency does not believe it is necessary or appropriate at this time, however, to designate under SNAP a new category of fire protection specifically for local application systems.

Although the vast majority of fire protection systems using halon and halon substitutes can be classified as streaming agents or total flooding agent systems, the local application systems defy easy classification in either category. Unlike total flooding systems, they are not designed to distribute the extinguishing agent evenly at a specific design concentration maintained throughout the entire volume of the protected space and, unlike streaming agents, they are not designed to allow a person to manipulate the discharge direction or quantity of the extinguishing agent. Local application or pre-engineered systems are mentioned in and may be subject to parts of National Fire Protection Association (NFPA) standards which apply to total flooding systems (NFPA 12, 12A, and 2001, for example). However, as mentioned by two commenters referred to below, local application systems primarily use halon 1211 (which is more commonly associated with streaming agents), rather than halon 1301 (which is more commonly associated with total flooding agents), as the fire extinguishant.

Five commenters urged EPA to list HFC–236fa acceptable for use in a third, distinct category—''local application'' systems. Three of the five commenters specifically urged acceptability of this agent as a replacement for halon 1211 in local application systems; two of these three commenters specifically urged acceptability of this agent as a replacement for halon 1211 in textile process machinery, and indicated that this type of use could be considered a streaming agent application.

The remaining two commenters urged EPA to list HFC–236fa acceptable for use in local application systems as a replacement for either halon 1211 or halon 1301. One of these commenters urged EPA to create an additional category for ''pre-engineered systems'' or ''local application systems'' or ''pre-engineered local application systems,'' which would be distinct from engineered total flooding systems.

The other commenter urged that EPA list HFC–236fa acceptable for use in local application systems as a type of streaming agent application, presumably as a replacement for halon 1211, and acceptable for use in local application systems as a type of total flooding agent application, presumably as a replacement for halon 1301. This commenter specifically urged EPA to consider such local application uses in the total flooding agent category as ''without prejudice'' (similar to the proposal for use in explosion suppression and explosion inertion applications in the total flooding agent category) and therefore not subject to the ''last resort'' restrictions which EPA proposed for general fire suppression applications in the total flooding agent category.

Based on the description from the commenters of local application systems generally, and local application systems for textile process machinery specifically, neither of EPA's existing risk assessment methodologies for halon substitutes are relevant to local application systems. The existing methodology for evaluating end-use exposure to streaming agent substitutes assumes the discharged extinguishing agent will be completely released into the protected space immediately following its discharge, resulting in a high concentration of extinguishing agent which eventually disperses throughout the space at lower concentrations. Local application systems for textile process machinery, by contrast, discharge the extinguishing agent at a very high concentration into the localized protected space, inside the machinery. The extinguishing agent is eventually released outside the machinery by dissipating into the rest of the space where the machinery is located. In neither case is there an alarm before discharge or is the extinguishing concentration maintained at a constant level in an enclosed space as for total flooding systems.

EPA's evaluation of the characteristics of local application systems, particularly in the case of textile process machinery (which is the only case presented to EPA with actual design specifications for use of this agent in a local application system) shows that exposure patterns for this type of use are more similar to streaming agents than total flooding agent systems. Evaluating the exposure risk of persons who are near the textile process machinery when a local application system is discharged requires modifying the streaming agent methodology to account for the different rate of release of the extinguishing agent. Based on relevant system and exposure specifications provided by one of the commenters, EPA has made these modifications. The Agency's analyses project that local application extinguishing systems using HFC–236fa located inside textile process machinery would maintain worker exposures below the cardiotoxicity NOAEL and LOAEL concentrations.

In summary, EPA agrees with the suggestion of some of the commenters that the use of HFC–236fa in local application systems inside textile process machinery as a replacement for halon 1211 is covered by the acceptability listing of this agent in the streaming agent end-use. Local application systems other than those used inside textile process machinery are not included in the streaming agent end-use since EPA's review is based solely on the specifications for such systems in textile process machinery. Thus, EPA rejects suggestions by some of the commenters that this agent be listed acceptable as a replacement for halon 1211 in local application systems generally.

Since EPA has no specific information on the potential use of this agent in local application systems as a replacement for halon 1301, and since the methodology for evaluating exposure to total flooding agents is not appropriate for the textile processing machinery system, EPA does not agree that local application systems using this agent as a replacement for halon 1301 are covered by the total flooding agent end-use. Thus, EPA is rejecting suggestions by some of the commenters that this agent be listed acceptable as a replacement for halon 1301 in local application systems, either as a separate end-use or as part of the total flooding

end-use. EPA welcomes information about potential uses of this agent and other halon substitutes in local application systems as a replacement for either halon 1211 or halon 1301, and may consider creating a separate end-use for local application extinguishing systems in the future. EPA notes the potential for environmental benefit if more use is made of these systems since they may require relatively small amounts of extinguishing agent and pose less risk of occupational exposure than other types of fire extinguishing systems, such as total flooding systems.

(3) ''Grandfathering'' Existing Uses of HFC–236fa

One commenter took issue with the following paragraph, which appeared in Section III.D.3 of the preamble to the proposed rule and was incorporated by reference in the proposed listing of HFC–236fa acceptable subject to use conditions in the total flooding agent end-use:

> ''In the event of the development of acceptable alternatives which EPA finds should not only replace halon 1301 and HFC–236fa in new systems, EPA may grandfather existing uses but only to the extent warranted by cost and timing as outlined in the original SNAP rule discussion of grandfathering of unacceptable substitutes (59 FR 13057).''

The commenter requested that this paragraph be modified and relocated. The commenter believes that such discussion is inappropriate when specifically isolated to comments about one particular substitute; to the extent this may be consistent with EPA's mandate under the Act, the commenter states it should be clear to potential end-users that the comments apply to all alternatives or to all members of a defined class of alternatives.

EPA has included similar language in the preamble discussion of specific listings of substitutes in previous rulemakings. (See discussion of PFCs as acceptable subject to narrowed use limits in the Solvents sector in the original SNAP rule (March 18, 1994) at 59 FR 13095-13096). This commenter suggests this statement by EPA is consistent with the scope of EPA's authority to permit the continuation of activities otherwise restricted where the balance of equities supports such grandfathering. See discussion in the preamble of the original SNAP rule (59 FR 13057).

EPA believes, since this language is merely a statement of the Agency's authority and not a stated intention to take such action, it is appropriate to include this statement in discussion of listings of any substitute, even if this statement is not included in its discussion of listings of all substitutes in a particular rulemaking. EPA can use its grandfathering authority, within the limits described above, any time it changes a listing of a substitute. EPA did not intend, however, to create confusion by including this language in the listing of this particular substitute alone; thus, EPA is deleting any reference in this final rule to potential grandfathering in this sector and refers end-users to the discussion of grandfathering in the original SNAP rule as described above.

c. Unrelated Issues

EPA received one letter with comments purportedly relating to this proposal but which actually are unrelated. This commenter asked that EPA modify the use conditions and/or change to unacceptable several halon substitutes currently listed as acceptable by SNAP. Since none of these listings was proposed to be changed in this rulemaking, the comments are not relevant to this final rule. In any event, the commenter did not provide adequate information to justify re-opening the listings which were made through notice-and-comment rulemakings in the past. A more complete discussion of this comment and EPA's response is contained in the Supplemental Response to Comments which is available in the public docket for this rulemaking.

d. Chlorobromomethane

As described in the response to comments received under the Solvents; Aerosols; and Adhesives, Coatings, and Inks sectors, EPA received several comments on its proposal listing of chlorobromomethane as unacceptable in those sectors. The same comments apply to the proposed listing of CBM as unacceptable in the total flooding end-use in the Fire Suppression and Explosion Protection sector with respect to its ozone depletion potential. See the discussion of the ODP of CBM under the solvents section, II.C.3. Specific information related to flooding systems is discussed under the unacceptable determination for CBM, II.D.3.

*E. Aerosols*

1. Acceptable Substitutes

a. Solvents

(1) HFC–4310mee

*HFC–4310mee is an acceptable substitute for CFC–113 and methyl chloroform (MCF) in aerosols.* For further information, see the discussion of HFC–4310mee in section II.C.1 above in the metals cleaning end-use within the solvents cleaning sector.

(2) HCFC–225 ca/cb

*HCFC–225 ca/cb is an acceptable substitute for CFC–113 and methyl chloroform (MCF) in aerosols.* HCFC–225 ca/cb blend is offered as a 45%-ca/55%-cb blend. The company-set exposure limit for the -ca isomer is 25 ppm. The company-set exposure limit for the -cb isomer is 250 ppm. Based on the results of exposure assessment studies, it is EPA's opinion that companies can meet the 25 ppm limit of the HCFC–225 ca isomer in defluxing and cleaning providing that the standard operating procedures and employee work habits are conducted in accordance with the procedures specified in the product safety information provided by the chemical manufacturer.

2. Unacceptable

a. Chlorobromomethane

*Chlorobromomethane is unacceptable as a substitute for CFC–113, methyl chloroform, and HCFC–141b in aerosols.* See the discussion of CBM in section II.C.2 above in the metals cleaning end-use within the solvents cleaning sector.

3. Response to Comments

EPA incorporates by reference the response to comments on chlorobromomethane in the solvents cleaning sector, II.C.3.

*F. Adhesives, coatings, and inks*

1. Unacceptable

a. Chlorobromomethane

*Chlorobromomethane is unacceptable as a substitute for CFC–113, methyl chloroform, and HCFC–141b in adhesives, coatings and inks.* See the discussion of CBM in section II.C.2 above in the metals cleaning end-use within the solvents cleaning sector.

2. Response to Comments

EPA incorporates by reference the response to comments on chlorobromomethane in the solvents cleaning sector, II.C.3.

## III. Administrative Requirements

*A. Executive Order 12866*

Under Executive Order 12866 (58 FR 51735; October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may: (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of

the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, OMB notified EPA that it considers this a ''significant regulatory action'' within the meaning of the Executive Order and EPA submitted this action to OMB for review. Changes made in response to OMB suggestions or recommendations have been documented in the public record.

*B. Unfunded Mandates Act*

Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act'') (signed into law on March 22, 1995) requires that the Agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by state, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the Agency to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule. Section 204 requires the Agency to develop a process to allow elected state, local, and tribal government officials to provide input in the development of any action containing a significant Federal intergovernmental mandate. Under section 205 of the Unfunded Mandates Act, the Agency must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement is prepared. The Agency must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the Agency explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this final rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less than $100 million in any one year, the Agency has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the Agency is not required to develop a plan with regard to small governments. Finally, because this FRM does not contain a significant intergovernmental mandate, the Agency is not required to develop a process to obtain input from elected state, local, and tribal officials.

*C. Regulatory Flexibility*

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This rule would not have a significant impact on a substantial number of small entities because costs of the SNAP requirements as a whole are expected to be minor. In fact, this rule offers regulatory relief to small businesses by providing alternatives to phased-out ozone-depleting substances. EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. The actions herein may well provide benefits for small businesses anxious to examine potential substitutes to any ozone-depleting class I and class II substances they may be using, by requiring manufacturers to make information on such substitutes available. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

*D. Paperwork Reduction Act*

EPA has determined that this final rule contains no information requirements subject to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, that are not already approved by the Office of Management and Budget (OMB). OMB has reviewed and approved two Information Collection Requests (ICRs) by EPA which are described in the March 18, 1994 rulemaking (59 FR 13044, at 13121, 13146–13147) and in the October 16, 1996 rulemaking (61 FR 54030, at 54038–54039). These ICRs included five types of respondent reporting and record-keeping activities pursuant to SNAP regulations: submission of a SNAP petition, filing a SNAP/TSCA Addendum, notification for test marketing activity, record-keeping for substitutes acceptable subject to narrowed use limits, and record-keeping for small volume uses. The OMB Control Numbers are 2060–0226 and 2060–0350.

*E. Submission to Congress and the Comptroller General*

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

*F. Executive Order 13045: ''Protection of Children From Environmental Health Risks and Safety Risks''*

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final rule is not subject to the Executive Order because it is not economically significant as defined in E.O. 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children, as the exposure limits and acceptability listings in this final rule primarily apply to the workplace.

*G. Executive Order 12875: Enhancing Intergovernmental Partnerships*

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance

costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

*H. Executive Order 13084: Consultation and Coordination with Indian Tribal Governments*

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments, because this regulation applies directly to facilities that use these substances and not to governmental entities. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

*I. National Technology Transfer and Advancement Act*

The National Technology Transfer and Advancement Act of 1995 (NTTAA), section 12(d), Public Law 104–113, requires federal agencies and departments to use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments. If use of such technical standards is inconsistent with applicable law or otherwise impractical, a federal agency or department may elect to use technical standards that are not developed or adopted by voluntary consensus standards bodies if the head of the agency or department transmits to the Office of Management and Budget an explanation of the reasons for using such standards. This rule does not mandate the use of any technical standards; accordingly, the NTTAA does not apply to this rule.

## IV. Additional Information

For copies of the comprehensive SNAP lists or additional information on SNAP, contact the Stratospheric Protection Hotline at 1–800–296–1996, Monday-Friday, between the hours of 10:00 a.m. and 4:00 p.m. (EST).

For more information on the Agency's process for administering the SNAP program or criteria for evaluation of substitutes, refer to the SNAP final rulemaking published in the **Federal Register** on March 18, 1994 (59 FR 13044). Notices and rulemakings under the SNAP program, as well as EPA publications on protection of stratospheric ozone, are available from EPA's Ozone Depletion World Wide Web site at ''http://www.epa.gov/ozone/title6/snap/'' and from the Stratospheric Protection Hotline number as listed above.

## List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: April 21, 1999.

**Carol M. Browner,**

*Administrator.*

**Note:** The following Table 1 will not appear in the Code of Federal Regulations.

## Table 1: Summary of Acceptable Decisions

SOLVENTS CLEANING—ACCEPTABLE SUBSITUTES

| End-use | Substitute | Decision | Comments |
|---|---|---|---|
| Metals cleaning w/CFC–113 | HFC–4310mee | Acceptable | Company-set time-weighted average workplace exposure standard of 200 ppm, and a workplace exposure ceiling of 400 ppm. |
| Metals cleaning w/MCF | HFC–4310mee | Acceptable | Company-set time-weighted average workplace exposure standard of 200 ppm and a workplace exposure ceiling of 400 ppm. |

AEROSOLS—ACCEPTABLE SUBSTITUTES

| End-use | Substitute | Decision | Comments |
|---|---|---|---|
| Solvent in aerosols w/CFC–113 | HFC–4310mee | Acceptable | Company-set time-weighted average workplace exposure standard of 200 ppm, and a workplace exposure ceiling of 400 ppm. |
| Solvent in aerosols w/MCF | HFC–4310mee | Acceptable | Company-set time-weighted average workplace exposure standard of 200 ppm, and a workplace exposure ceiling of 400 ppm. |
| Solvent in aerosols w/CFC–113 | HCFC–225ca/cb | Acceptable | Company-set time weighted average exposure limit of 25 ppm for the HCFC–225 ca isomer. |
| Solvent in aerosols w/MCF | HCFC–225ca/cb | Acceptable | Company-set time weighted average exposure limit of 25 ppm for the HCFC–225 ca isomer. |

For the reasons set out in the preamble, 40 CFR part 82 is amended as follows:

## PART 82—PROTECTION OF STRATOSPHERIC OZONE

1. The authority citation for Part 82 continues to read as follows:

**Authority:** 42 U.S.C. Sec. 7414, 7601, 7671–7671q.

2. Subpart G is amended by adding the following Appendix H to read as follows:

## Subpart G—Significant New Alternatives Policy Program

* * * * *

### Appendix H to Subpart G—Substitutes Subject to Use Restrictions and Unacceptable Substitutes, Effective May 28, 1999.

*CFC–12 Automobile and Non-automobile Motor Vehicle Air Conditioners, Retrofit and New*

Criteria for Uniqueness of Fittings

(a) All fittings for alternative motor vehicle refrigerants must meet the following requirements:

(1) high-side screw-on fittings for each refrigerant must differ from high-side screw-on fittings for all other refrigerants, including CFC–12, and from low-side screw-on fittings for CFC–12;

(2) low-side screw-on fittings for each refrigerant must differ from low-side screw-on fittings for all other refrigerants, including CFC–12;

(3) high-side screw-on fittings for a given refrigerant must differ from low-side screw-on fittings for that refrigerant, to protect against connecting a low-pressure system to a high-pressure one;

(4) high-side quick-connect fittings for each refrigerant must differ from high-side quick-connect fittings for all other refrigerants, including CFC–12 (if they exist);

(5) low-side quick-connect fittings for each refrigerant must differ from low-side quick-connect fittings for all other refrigerants, including CFC–12 (if they exist);

(6) high-side quick-connect fittings for a given refrigerant must differ from low-side quick-connect fittings for that refrigerant, to protect against connecting a low-pressure system to a high-pressure one;

(7) for each type of container, the fitting for each refrigerant must differ from the fitting for that type of container for all other refrigerants, including CFC–12.

(b) For screw-on fittings, ''differ'' means that either the diameter must differ by at least 1/16 inch or the thread direction must be reversed (i.e. right-handed vs. left-handed). Simply changing the thread pitch is not sufficient. For quick-connect fittings, ''differ'' means that a person using normal force and normal tools (including wrenches) must not be able to cross-connect fittings.

(c) The sole exception to the 1/16 inch difference requirement is the difference between the small can fittings for GHG–X4 and R–406A. The GHG–X4 small can fitting uses a metric measurement, and is slightly less than 1/16 inch larger than the small can fitting for R–406A. EPA has concluded that these fittings will not cross-connect, and therefore they may be used.

REFRIGERATION AND AIR CONDITIONING—UNACCEPTABLE SUBSTITUTES

| End-use | Substitute | Decision | Comments |
|---|---|---|---|
| All HCFC–22 end-uses, retrofit and new. | NARM–22 ..... | Unacceptable .... | This blend contains HCFC–22, and it is inappropriate to use such a blend as a substitute for HCFC–22. In addition, this blend contains HFC–23, which has an extremely high GWP and lifetime. Other substitutes for HCFC–22 exist that do not contain either HCFC–22 or HFC–23. |

SOLVENTS CLEANING—UNACCEPTABLE SUBSTITUTES

| End-use | Substitute | Decision | Comments |
|---|---|---|---|
| Metals, Electronic, and Precision cleaning with CFC–113, methyl chloroform, and HCFC–141b. | Chlorobromo-methane. | Unacceptable .... | Other alternatives exist with zero or much lower ODP. |

FIRE SUPPRESSION AND EXPLOSION PROTECTION—TOTAL FLOODING AGENTS—ACCEPTABLE SUBJECT TO USE CONDITIONS

| End-use | Substitute | Decision | Conditions | Comments |
|---|---|---|---|---|
| Halon 1301 replacement. | C3F8 | Acceptable for nonresidential uses where other alternatives are not technically feasible due to performance or safety requirements:<br>(a) because of their physical or chemical properties, or<br>(b) where human exposure to the extinguishing agents may result in failure to meet applicable use conditions | For occupied areas from which personnel cannot be evacuated in one minute, use is permitted only up to concentrations not exceeding the cardiotoxicity NOAEL of 30%; Although no LOAEL has been established for this product, standard OSHA requirements apply, i.e., for occupied areas from which personnel can be evacuated or egress can occur between 30 and 60 seconds, use is permitted up to a concentration not exceeding the LOAEL.<br>All personnel must be evacuated before concentration of C3F8 exceeds 30%.<br>Design concentration must result in oxygen levels of at least 16%.<br>See additional comment 5 | The comparative design concentration based on cup burner values is approximately 8.8%. Users should observe the limitations on PFC acceptability by taking the following measures:<br>(i) conduct an evaluation of foreseeable conditions of end-use;<br>(ii) determine that the physical or chemical properties or other technical constraints of the other available agents preclude their use; and<br>(iii) determine that human exposure to the other alternative extinguishing agents may result in failure to meet applicable use conditions.<br>Documentation of such measures should be available for review upon request.<br>The principal environmental characteristic of concern for PFCs is that they have high GWPs and long atmospheric lifetimes. Actual contributions to global warming depend upon the quantities of PFCs emitted.<br>For additional guidance regarding applications in which PFCs may be appropriate, users should consult the description of potential uses which is included in the March 18, 1994 final rule (59 FR 13044.)<br>See additional comments 1, 2, 3, 4. |

FIRE SUPPRESSION AND EXPLOSION PROTECTION—TOTAL FLOODING AGENTS—ACCEPTABLE SUBJECT TO USE CONDITIONS—Continued

| End-use | Substitute | Decision | Conditions | Comments |
|---|---|---|---|---|
| Halon 1301 replacement. | C4F10 | Acceptable for nonresidential uses where other alternatives are not technically feasible due to performance or safety requirements:<br>(a) because of their physical or chemical properties, or<br>(b) where human exposure to the extinguishing agents may result in failure to meet applicable use conditions | For occupied areas from which personnel cannot be evacuated in one minute, use is permitted only up to concentrations not exceeding the cardiotoxicity NOAEL of 40%;<br>Although no LOAEL has been established for this product, standard OSHA requirements apply, i.e., for occupied areas from which personnel can be evacuated or egress can occur between 30 and 60 seconds, use is permitted up to a concentration not exceeding the LOAEL.<br>All personnel must be evacuated before concentration of C4F10 exceeds 40%.<br>Design concentration must result in oxygen levels of at least 16%.<br>See additional comment 5 | The comparative design concentration based on cup burner values is approximately 6.6%. Users should observe the limitations on PFC acceptability by taking the following measures:<br>(i) conduct an evaluation of foreseeable conditions of end-use;<br>(ii) determine that the physical or chemical properties or other technical constraints of the other available agents preclude their use; and<br>(iii) determine that human exposure to the other alternative extinguishing agents may result in failure to meet applicable use conditions.<br>Documentation of such measures should be available for review upon request.<br>The principal environmental characteristic of concern for PFCs is that they have high GWPs and long atmospheric lifetimes. Actual contributions to global warming depend upon the quantities of PFCs emitted.<br>For additional guidance regarding applications in which PFCs may be appropriate, users should consult the description of potential uses which is included in the March 18, 1994 final rule (59 FR 13044.)<br>See additional comments 1, 2, 3, 4. |
| Halon 1301 replacement. | HFC–236fa | Acceptable when manufactured using any process that does not convert perfluoroiso-butylene (PFIB) directly to HFC–236fa in a single step:<br>—for use in explosion suppression and explosion inertion applications, and<br>—for use in fire suppression applications where other non-PFC agents or alternatives are not technically feasible due to performance or safety requirements:<br>(a) because of their physical or chemical properties, or<br>(b) where human exposure to the extinguishing agents may result in failure to meet applicable use conditions | For occupied areas from which personnel cannot be evacuated in one minute, use is permitted only up to concentrations not exceeding the cardiotoxicity NOAEL of 10%;<br>For occupied areas from which personnel can be evacuated or egress can occur between 30 and 60 seconds, use is permitted up to a concentration not exceeding the LOAEL of 15%;<br>All personnel must be evacuated before concentration of HFC–236fa exceeds 15%.<br>Design concentration must result in oxygen levels of at least 16%.<br>See additional comment 5 | The comparative design concentration based on cup burner values is approximately 6.4%. Users should observe the limitations on HFC–236fa acceptability by taking the following measures:<br>(i) conduct an evaluation of foreseeable conditions of end-use;<br>(ii) determine that the physical or chemical properties or other technical constraints of the other available agents preclude their use; and<br>(iii) determine that human exposure to the other alternative extinguishing agents may result in failure to meet applicable use conditions.<br>Documentation of such measures should be available for review upon request.<br>Feasible for use in a normally occupied area.<br>See additional comments 1, 2, 3, 4. |
| Additional comments | | | | |

1—Should conform with OSHA requirements, 29 CFR 1910, Subpart L, Section 1910.160.
2—Per OSHA requirements, protective gear (SCBA) should be available in the event personnel should reenter the area.
3—Discharge testing should be strictly limited to that which is essential to meet safety or performance requirements.
4—The agent should be recovered from the fire protection system in conjunction with testing or servicing, and recycled for later use or destroyed.

FIRE SUPPRESSION AND EXPLOSION PROTECTION—TOTAL FLOODING AGENTS—ACCEPTABLE SUBJECT TO USE CONDITIONS—Continued

| End-use | Substitute | Decision | Conditions | Comments |
|---|---|---|---|---|
| 5—EPA has no intention of duplicating or displacing OSHA coverage related to the use of personal protective equipment (e.g., respiratory protection), fire protection, hazard communication, worker training or any other occupational safety and health standard with respect to EPA's regulation of halon substitutes. | | | | |

FIRE SUPPRESSION AND EXPLOSION PROTECTION—TOTAL FLOODING AGENTS—ACCEPTABLE SUBJECT TO NARROWED USE LIMITS—

| End-use | Substitute | Decision | Conditions | Comments |
|---|---|---|---|---|
| Halon 1301 replacement. | C3F8 | Acceptable for non-residential uses where other alternatives are not technically feasible due to performance or safety requirements: (a) because of their physical or chemical properties, or (b) where human exposure to the extinguishing agents may result in failure to meet applicable use conditions | For occupied areas from which personnel cannot be evacuated in one minute, use is permitted only up to concentrations not exceeding the cardiotoxicity NOAEL of 30%; Although no LOAEL has been established for this product, standard OSHA requirements apply, i.e., for occupied areas from which personnel can be evacuated or egress can occur between 30 and 60 seconds, use is permitted up to a concentration not exceeding the LOAEL. All personnel must be evacuated before concentration of C3F8 exceeds 30%. Design concentration must result in oxygen levels of at least 16%. See additional comment 5 | The comparative design concentration based on cup burner values is approximately 8.8%. Users should observe the limitations on PFC acceptability by taking the following measures: (i) conduct an evaluation of foreseeable conditions of end-use; (ii) determine that the physical or chemical properties or other technical constraints of the other available agents preclude their use; and (iii) determine that human exposure to the other alternative extinguishing agents may result in failure to meet applicable use conditions. Documentation of such measures should be available for review upon request. The principal environmental characteristic of concern for PFCs is that they have high GWPs and long atmospheric lifetimes. Actual contributions to global warming depend upon the quantities of PFCs emitted. For additional guidance regarding applications in which PFCs may be appropriate, users should consult the description of potential uses which is included in the March 18, 1994 final rule (59 FR 13044.) See additional comments 1, 2, 3, 4. |
| Halon 1301 replacement. | C4F10 | Acceptable for non-residential uses where other alternatives are not technically feasible due to performance or safety requirements: (a) because of their physical or chemical properties, or (b) where human exposure to the extinguishing agents may result in failure to meet applicable use conditions | For occupied areas from which personnel cannot be evacuated in one minute, use is permitted only up to concentrations not exceeding the cardiotoxicity NOAEL of 40%; Although no LOAEL has been established for this product, standard OSHA requirements apply, i.e., for occupied areas from which personnel can be evacuated or egress can occur between 30 and 60 seconds, use is permitted up to a concentration not exceeding the LOAEL. All personnel must be evacuated before concentration of C4F10 exceeds 40%. Design concentration must result in oxygen levels of at least 16%. See additional comment 5 | The comparative design concentration based on cup burner values is approximately 6.6%. Users should observe the limitations on PFC acceptability by taking the following measures: (i) conduct an evaluation of foreseeable conditions of end-use; (ii) determine that the physical or chemical properties or other technical constraints of the other available agents preclude their use; and (iii) determine that human exposure to the other alternative extinguishing agents may result in failure to meet applicable use conditions. Documentation of such measures should be available for review upon request. The principal environmental characteristic of concern for PFCs is that they have high GWPs and long atmospheric lifetimes. Actual contributions to global warming depend upon the quantities of PFCs emitted. For additional guidance regarding applications in which PFCs may be appropriate, users should consult the description of potential uses which is included in the March 18, 1994 Final Rule (59 FR 13044.) See additional comments 1, 2, 3, 4. |

FIRE SUPPRESSION AND EXPLOSION PROTECTION—TOTAL FLOODING AGENTS—ACCEPTABLE SUBJECT TO NARROWED USE LIMITS——Continued

| End-use | Substitute | Decision | Conditions | Comments |
|---|---|---|---|---|
| Halon 1301 replacement. | HFC–236fa | Acceptable when manufactured using any process that does not convert perfluoroiso-butylene (PFIB) directly to HFC-236fa in a single step: -for use in explosion suppression and explosion inertion applications, and -for use in fire suppression applications where other non-PFC agents or alternatives are not technically feasible due to performance or safety requirements: (a) because of their physical or chemical properties, or (b) where human exposure to the extinguishing agents may result in failure to meet applicable use conditions | For occupied areas from which personnel cannot be evacuated in one minute, use is permitted only up to concentrations not exceeding the cardiotoxicity NOAEL of 10%; For occupied areas from which personnel can be evacuated or egress can occur between 30 and 60 seconds, use is permitted up to a concentration not exceeding the LOAEL of 15%; All personnel must be evacuated before concentration of HFC–236fa exceeds 15%. Design concentration must result in oxygen levels of at least 16%. See additional comment 5 | The comparative design concentration based on cup burner values is approximately 6.4%. Users should observe the limitations on HFC–236fa acceptability by taking the following measures: (i) conduct an evaluation of foreseeable conditions of end-use; (ii) determine that the physical or chemical properties or other technical constraints of the other available agents preclude their use; and (iii) determine that human exposure to the other alternative extinguishing agents may result in failure to meet applicable use conditions. Documentation of such measures should be available for review upon request. Feasible for use in a normally occupied area. See additional comments 1, 2, 3, 4. |

Additional comments:

[1] Should conform with OSHA requirements, 29 CFR 1910, Subpart L, Section 1910.160.

[2] Per OSHA requirements, protective gear (SCBA) should be available in the event personnel should reenter the area.

[3] Discharge testing should be strictly limited to that which is essential to meet safety or performance requirements.

[4] The agent should be recovered from the fire protection system in conjunction with testing or servicing, and recycled for later use or destroyed.

[5] EPA has no intention of duplicating or displacing OSHA coverage related to the use of personal protective equipment (e.g., respiratory protection), fire protection, hazard communication, worker training or any other occupational safety and health standard with respect to EPA's regulation of halon substitutes.

FIRE SUPPRESSION AND EXPLOSION PROTECTION—STREAMING AGENTS—ACCEPTABLE SUBJECT TO NARROWED USE LIMITS

| End-use | Substitute | Decision | Conditions | Comments |
|---|---|---|---|---|
| Halon 1211 ..... replacement ..... | C6F14 | Acceptable for nonresidential uses where other alternatives are not technically feasible due to performance or safety requirements: (a) because of their physical or chemical properties, or (b) where human exposure to the extinguishing agents may result in failure to meet applicable use conditions. | | Users should observe the limitations on PFC acceptability by taking the following measures: (i) conduct an evaluation of foreseeable conditions of end-use; (ii) determine that the physical or chemical properties or other technical constraints of the other available agents preclude their use; and (iii) determine that human exposure to the other alternative extinguishing agents may result in failure to meet applicable use conditions Documentation of such measures should be available for review upon request. The principal environmental characteristic of concern for PFCs is that they have high GWPs and long atmospheric lifetimes. Actual contributions to global warming depend upon the quantities of PFCs emitted. For additional guidance regarding applications in which PFCs may be appropriate, users should consult the description of potential uses which is included in the March 18, 1994 Final Rule (59 FR 13044.) See comments 1, 2. |
| Halon 1211 replacement. | HFC–236fa | Acceptable in nonresidential uses when manufactured using any process that does not convert perfluoroisobutylene (PFIB) directly to HFC–236fa in a single step | | See comments 1, 2, 3. |
| Halon 1211 replacement. Additional comments: | HFC–227ea | Acceptable in nonresidential uses only | | See comments 1, 2. |

1—Discharge testing and training should be strictly limited only to that which is essential to meet safety or performance requirements.
2—The agent should be recovered from the fire protection system in conjunction with testing or servicing, and recycled for later use or destroyed.
3—Acceptable for local application systems inside textile process machinery.

FIRE SUPPRESSION AND EXPLOSION PROTECTION—TOTAL FLOODING AGENTS—UNACCEPTABLE SUBSTITUTES

| End-use | Substitute | Decision | Comments |
|---|---|---|---|
| Halon 1301 replacement ..... | Chlorobromomethane. | Unacceptable .... | Other alternatives exist with zero or lower ODP; OSHA regulations prohibit its use as extinguishing agent in fixed extinguishing systems where employees may be exposed. See 29 CFR 1910.160(b)(11). |

AEROSOLS—UNACCEPTABLE SUBSTITUTES

| End-use | Substitute | Decision | Comments |
|---|---|---|---|
| Solvent in aerosols with CFC–113, MCF, or HCFC–141b. | Chlorobromomethane. | Unacceptable .... | Other alternatives exist with zero or much lower ODP. |

ADHESIVES, COATINGS, AND INKS—UNACCEPTABLE SUBSTITUTES

| End-use | Substitute | Decision | Comments |
|---|---|---|---|
| Solvent in adhesives, coatings, and inks with CFC–113. | Chlorobromomethane. | Unacceptable .... | Other alternatives exist with zero or much lower ODP. |
| Solvent in adhesives, coatings, and inks with MCF. | Chlorobromomethane. | Unacceptable .... | Other alternatives exist with zero or much lower ODP. |
| Solvent in adhesives, coatings and inks with HCFC–141b. | Chlorobromomethane. | Unacceptable .... | Other alternatives exist with zero or much lower ODP. |

[FR Doc. 99–10630 Filed 4–27–99; 8:45 am]

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federal register

Wednesday
April 28, 1999

# Part VII

# The President

## Proclamation 7188—National Science and Technology Week, 1999

Federal Register
Vol. 64, No. 81
Wednesday, April 28, 1999

# Presidential Documents

**Title 3—**

**The President**

**Proclamation 7188 of April 23, 1999**

## National Science And Technology Week, 1999

**By the President of the United States of America**

**A Proclamation**

The American experience is deeply rooted in the desire to expand our frontiers and increase our knowledge about ourselves and our world. We stand at the end of a century marked by wondrous advances in science and technology—advances that have immeasurably improved the lives of our citizens. As recently as 100 years ago, space travel, genetic engineering, and telecommunications existed only in the realms of imagination and science fiction. Today, the nascent International Space Station, the nearly complete Human Genome Project, and the flourishing Internet attest to the great strides our civilization and our Nation have made. The scope and speed of our discoveries are truly breathtaking, and each day new applications of science and technology enrich our lives in fields as diverse as medicine, communications, engineering, and the arts.

Recognizing the importance of maintaining America's scientific and technological leadership, my Administration is seeking increased funding in areas like biomedical research and in earth and space sciences. My fiscal year 2000 budget also proposes a 28 percent increase in information technology research to finance a new initiative—Information Technology for the Twenty-First Century ($IT^2$). This initiative will support long-term information technology research that will lead to fundamental advances in communications and improvements in computing.

During National Science and Technology Week, in communities large and small, engineers, scientists, educators, business people, and community leaders will lead observances to help their fellow citizens appreciate the world's scientific and technological wonders. I encourage all Americans—and especially our young people—to participate in the many educational activities taking place across our Nation. The more we understand and appreciate the extraordinary tools that science and technology place at our fingertips, the more we can accomplish in our efforts to create a cleaner environment, healthier families, better schools, and a brighter future. The only limit on our achievements is our imagination.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 25 to May 1, 1999, as National Science and Technology Week. I call upon educators and students, the business community, and all the people of the United States to work this week and throughout the year to learn more about the contributions science and technology make to our lives and our future.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of April, in the year of our Lord nineteen hundred and ninety-nine, and of the Independence of the United States of America the two hundred and twenty-third.

William J. Clinton

[FR Doc. 99–10802
Filed 4–27–99; 8:45 am]
Billing code 3195–01–P

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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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Atlantic sea scallop; published 3-29-99

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## LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

**H.R. 1376/P.L. 106–21**

To extend the tax benefits available with respect to services performed in a combat zone to services performed in the Federal Republic of Yugoslavia (Serbia/Montenegro) and certain other areas, and for other purposes. (Apr. 19, 1999; 113 Stat. 34)

**Last List April 15, 1999**

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