9–16–99
Vol. 64 No. 179
Pages 50245–50416

federal register

Thursday
September 16, 1999

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $555, or $607 for a combined **Federal Register,** Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $220. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 64 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**512–1806**
General online information	**202–512–1530; 1–888–293–6498**
Single copies/back copies:	
Paper or fiche	**512–1800**
Assistance with public single copies	**512–1803**
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	**523–5243**
Assistance with Federal agency subscriptions	**523–5243**

Printed on recycled paper.

Contents

Federal Register

Vol. 64, No. 179

Thursday, September 16, 1999

Agriculture Department
See Animal and Plant Health Inspection Service
See Federal Crop Insurance Corporation
See Rural Utilities Service

Alcohol, Tobacco and Firearms Bureau
RULES
Alcoholic beverages:
Wine; labeling and advertising—
Additional ameliorating material in certain wines, 50252–50253
PROPOSED RULES
Alcoholic beverages:
Wine; labeling and advertising—
Additional ameliorating material in certain wines, 50265

Animal and Plant Health Inspection Service
PROPOSED RULES
User fees:
Agricultural quarantine and inspection services
Correction, 50331

Census Bureau
NOTICES
Meetings:
Professional Associations Census Advisory Committee, 50270–50271

Centers for Disease Control and Prevention
NOTICES
Agency information collection activities:
Proposed collection; comment request, 50287–50288

Coast Guard
RULES
Drawbridge operations:
Iowa and Illinois, 50253–50254
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 50316–50318

Commerce Department
See Census Bureau
See Export Administration Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration

Commodity Futures Trading Commission
RULES
Foreign futures and options transactions:
Singapore International Monetary Exchange and Eurex Deutschland, 50248–50252

Corporation for National and Community Service
NOTICES
Grants and cooperative agreements; availability, etc.:
President's Student Service Scholarship Program, 50274–50276

Defense Department
See Navy Department

Education Department
RULES
Grants and agreements with higher education institutions, hospitals, and other non-profit organizations, etc.; OMB circulars applicability, 50389–50392

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Los Alamos National Laboratory, NM—
Pit manufacturing facilities; stockpile stewardship and management, 50276–50277
Floodplain and wetlands protection; environmental review determinations; availability, etc.:
Oak Ridge National Laboratory, TN; fire protection systems upgrade, 50277
Grants and cooperative agreements; availability, etc.:
Plasma Physics Junior Faculty Development Program, 50278

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
District of Columbia, 50254–50256
NOTICES
Agency information collection activities:
Proposed collection; comment request, 50280
Pesticide, food, and feed additive petitions:
Zeneca Ag. Products, 50280–50283
Reports and guidance documents; availability, etc.:
North American Regional Action Plan on Mercury, 50284–50285

Equal Employment Opportunity Commission
NOTICES
Meetings; Sunshine Act, 50285

Export Administration Bureau
RULES
Export administration regulations:
Syrian civilian passenger aircraft safety of flight; export and reexport of aircraft parts and components; license review policy, 50247–50248

Federal Aviation Administration
RULES
Class E airspace, 50246–50247
VOR Federal airways; correction, 50331
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 50318
Exemption petitions; summary and disposition; correction, 50331
Meetings:
Aviation Rulemaking Advisory Committee, 50318
Passenger facility charges; applications, etc.:
Cincinnati/Northern Kentucky International Airport, KY, 50319

Federal Communications Commission
RULES
Radio services, special:
Private land mobile services—
Exclusivity and frequency assignments policies; examination, 50257–50259
Radio stations; table of assignments:
California, 50256–50257
Louisiana, 50256
PROPOSED RULES
Common carrier services, etc.:
Agency competitive bidding authority, 50265–50266
Radio stations; table of assignments:
Oregon, 50266

Federal Crop Insurance Corporation
RULES
Administrative regulations:
Statutory and regulatory provisions; interpretations, 50245–50246

Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
PacifiCorp, 50279
Summit Hydropower Co., 50279
Whitewater Engineering Corp., 50279
Applications, hearings, determinations, etc.:
Colorado Interstate Gas Co., 50278–50279

Federal Housing Enterprise Oversight Office
RULES
Federal claims collection, 50246

Federal Reserve System
NOTICES
Banks and bank holding companies:
Change in bank control; correction, 50286
Formations, acquisitions, and mergers, 50286
Permissible nonbanking activities, 50286–50287

Financial Management Service
See Fiscal Service

Fiscal Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 50323–50324

Fish and Wildlife Service
NOTICES
Endangered and threatened species:
Recovery plans—
Fat threeridge, etc. (mussels), 50301
Endangered and threatened species permit applications, 50299–50300

Health and Human Services Department
See Centers for Disease Control and Prevention
See Health Care Financing Administration
See National Institutes of Health
See Public Health Service
See Substance Abuse and Mental Health Services Administration

Health Care Financing Administration
NOTICES
Medicare:
Hospice wage index; correction, 50288

Housing and Urban Development Department
See Federal Housing Enterprise Oversight Office

Interior Department
See Fish and Wildlife Service
See Land Management Bureau

International Trade Administration
NOTICES
Antidumping:
Porcelain-on-steel cooking ware from—
China, 50271–50273
Stainless steel bar from—
Japan, 50273–50274

Justice Department
See National Institute of Corrections

Labor Department
See Pension and Welfare Benefits Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 50303
Meetings:
Trade Negotiations and Trade Policy Labor Advisory Committee, 50303–50304

Land Management Bureau
NOTICES
Committees; establishment, renewal, termination, etc.:
Wild Horse and Burro Advisory Board, 50301–50302
Environmental statements; availability, etc.:
Griffith Energy Project, AZ; natural gas pipeline and electric transmission line, 50302
Opening of public lands:
California, 50302
Survey plat filings:
Minnesota, 50302–50303

National Aeronautics and Space Administration
PROPOSED RULES
Grant and cooperative agreement recipients; administrative requirements reduction, 50333–50388
NOTICES
Patent licenses; non-exclusive, exclusive, or partially exclusive:
Wessex, Inc., 50305

National Institute of Corrections
NOTICES
Meetings:
Advisory Board, 50303

National Institutes of Health
NOTICES
Inventions, Government-owned; availability for licensing, 50288–50293
Meetings:
National Cancer Institute, 50293
National Heart, Lung, and Blood Institute, 50293–50294
National Institute of Dental and Craniofacial Research, 50295
National Institute of Environmental Health Sciences, 50295–50296
National Institute of Mental Health, 50294
National Institute on Aging, 50294–50295
National Institute on Drug Abuse, 50295–50296
National Library of Medicine, 50296
Scientific Review Center, 50296–50297

National Oceanic and Atmospheric Administration
RULES
Endangered and threatened species:
Marine and anadromous species—
West coast chinook salmon, 50393–50415
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Greenland turbot, 50264
West Coast States and Western Pacific fisheries—
Pacific Coast groundfish, 50263
PROPOSED RULES
Fishery conservation and management:
Northeastern United States fisheries—
Atlantic herring, 50266–50268
NOTICES
Meetings:
Mid-Atlantic Fishery Management Council, 50274

National Skill Standards Board
NOTICES
Meetings, 50305

Navy Department
NOTICES
Environmental statements; availability, etc.:
Marine Corps Air Station Yuma, AZ; improved ordnance storage, 50276

Nuclear Regulatory Commission
NOTICES
Agency information collection activities:
Proposed collection; comment request, 50305–50306
Environmental statements; availability, etc.:
BWX Technologies, 50306

Office of Federal Housing Enterprise Oversight
See Federal Housing Enterprise Oversight Office

Pension and Welfare Benefits Administration
NOTICES
Meetings:
Medical Child Support Working Group, 50304–50305

Personnel Management Office
NOTICES
Privacy Act:
Computer matching programs, 50306–50307

Public Debt Bureau
See Fiscal Service

Public Health Service
See Centers for Disease Control and Prevention
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration
NOTICES
Meetings:
National Toxicology Program—
Alternative Toxicological Methods Advisory Committee, 50297–50298

Railroad Retirement Board
NOTICES
Agency information collection activities:
Proposed collection; comment request, 50307–50308
Supplemental annuity program; determination of quarterly rate of excise tax, 50308

Research and Special Programs Administration
RULES
Hazardous materials:
Hazardous materials transportation—
Packages intended for transportation in international commerce; limited extension of requirements for labeling materials poisonous by inhalation, 50260–50263

Rural Utilities Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 50269–50270
Electric loans:
Quarterly municipal interest rates, 50270

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
Chicago Board Options Exchange, Inc., 50313–50315
Applications, hearings, determinations, etc.:
Travelers Insurance Co. et al., 50308–50311
Vision Group of Funds, Inc., et al., 50311–50313

Social Security Administration
NOTICES
Agency information collection activities:
Proposed collection and submission for OMB review; comment request, 50316

Substance Abuse and Mental Health Services Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 50298–50299

Surface Transportation Board
NOTICES
Motor carriers:
Finance applications—
Global Passenger Services, L.L.C., et al., 50319–50322
Railroad operation, acquisition, construction, etc.:
Jo-Davies/Carrol County Local Re-Development Authority, 50322
Nobles Rock Railroad, Inc., 50322–50323
Railroad services abandonment:
Burlington Northern & Santa Fe Railway Co., 50323

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Research and Special Programs Administration
See Surface Transportation Board

Treasury Department
See Alcohol, Tobacco and Firearms Bureau
See Fiscal Service

United States Information Agency
NOTICES
Grants and cooperative agreements; availability, etc.:
Georgia, Republic of; Secondary School Civic Education Curriculum Development and Teacher Training Program, 50324–50326
New Independent States College and University Partnerships Program, 50327–50330

Separate Parts In This Issue

Part II
National Aeronautics and Space Administration, 50333–50388

Part III
Department of Education, 50389–50392

Part IV
Department of Commerce, National Oceanic and Atmospheric Administration, 50393–50415

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
400 50245
Proposed Rules:
354 50331

12 CFR
1730 50246

14 CFR
71 (3 documents) 50246, 50247, 50331
Proposed Rules:
1260 50334
1274 50334

15 CFR
742 50247

17 CFR
30 50248

27 CFR
4 50252
24 50252
Proposed Rules:
4 50265
24 50265

33 CFR
117 50253

34 CFR
74 50390
75 50390
76 50390
77 50390
80 50390

40 CFR
52 50254

47 CFR
73 (4 documents) 50256, 50257
90 50257
Proposed Rules:
1 50265
22 50265
24 50265
26 50265
27 50265
73 (2 documents) 50265, 50266
74 50265
80 50265
87 50265
90 50265
95 50265
97 50265
101 50265

49 CFR
171 50260

50 CFR
223 50394
660 50263
679 50264
Proposed Rules:
648 50266

Rules and Regulations

Federal Register
Vol. 64, No. 179
Thursday, September 16, 1999

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

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 400

RIN 0563–AB74

General Administrative Regulations; Interpretations of Statutory and Regulatory Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) is amending the General Administrative Regulations to implement the statutory mandates of section 533 of the Agricultural Research, Extension, and Education Reform Act of 1998 (1998 Research Act). The intended effect of this final rule is to provide procedures for responding to requests for final agency interpretations regarding any provision of the Federal Crop Insurance Act (Act) or any regulation promulgated thereunder.

EFFECTIVE DATE: This rule is effective September 16, 1999.

FOR FURTHER INFORMATION CONTACT: Marian Jenkins, Assistant Deputy Administrator for Regional Service Offices, Federal Crop Insurance Corporation, United States Department of Agriculture, Stop Code 0805, 1400 Independence Avenue, SW, Washington, DC 20250–0805., telephone (202) 720–5290.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, it has not been reviewed by the Office of Management and Budget (OMB).

Paperwork Reduction Act of 1995

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and record keeping requirements included in this final rule have been submitted for approval to OMB. OMB has assigned control number 0563–0055 to the information collection and record keeping requirements.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 12612

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant economic impact on a substantial number of small entities. The regulation does not require any more action on the part of the small entities than is required on the part of large entities. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372 which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 and 7 CFR 400.169 must be exhausted before any action for judicial review of any determination made by FCIC may be brought.

Environmental Evaluation

This action is not expected to have a significant economic impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

This rule finalizes the procedures required by the 1998 Research Act, enacted June 23, 1998. On Monday, December 21, 1998, FCIC published an interim rule in the **Federal Register** at 63 FR 70312–70313 to establish procedures under which FCIC will provide a final agency determination in response to an inquiry regarding the interpretation of any provision of the Act or any regulation promulgated thereunder.

Following publication of the interim rule, the public was afforded 60 days to submit written comments. A total of four comments were received from one reinsured company. The comments received and FCIC's responses are as follows:

Comment: The reinsured company stated that the sentence in the Background section that read ''Since these procedures are required by statute, it is impractical and contrary to the public interest to publish this rule for notice and comment prior to making the rule effective'' is incorrect. The comment further states that section 533 of the 1998 Research Act does not require FCIC to establish procedures under which FCIC will provide a final agency determination.

Response: The 1998 Research Act specifically requires FCIC to establish procedures under which FCIC shall provide a final agency determination

not later than 180 days after enactment of the subsection.

Comment: The reinsured company stated that FCIC may not make its rule retroactive. Retroactive rule making requires specific statutory authority. By its retroactive rule making, the FCIC clouds every determination it made for the past four years.

Response: The fact that reinsured companies can seek interpretation of provisions that previously existed does not mean that the rule is retroactive. This rule is intended to provide the mechanism for FCIC to consider requests for interpretation and this mechanism was not given a retroactive effect. Since Congress has mandated FCIC to provide such interpretation, there can be no avoidance of the consequences of their issuance on previous decisions, regardless of when such decisions were made. To limit requests to the interpretation of only new statutory or regulatory provisions would essentially render Section 533 of the 1998 Research Act ineffective.

Comment: The reinsured company states that § 400.768(g) is confusing. The suggestion was made that the subsection should be divided into two subsections, with the first, subsection (g), applicable to reinsured companies and should state ''All final agency determinations that are not appealable to the National Appeals Division (NAD) are considered matters of general applicability.'' The second sentence of the current subsection (g) should be designated subsection (h) and identified as applicable to participants other than ''a private insurance company with a reinsurance agreement with FCIC or their agents, loss adjusters, employees or contractors.''

Response: There is nothing in this subsection that affects the jurisdiction of NAD and NAD has no authority to hear disputes between reinsured companies and FCIC. Therefore, by its very terms, the provision is limited to persons other than reinsured companies. Therefore, no change has been made.

Comment: The reinsured company states the word ''person'' in § 400.768(g) is not defined and it should be limited to policyholders and applicants for crop insurance.

Response: It is unnecessary since the NAD regulations are only applicable to participants as defined in 7 CFR part 11. Therefore, no change has been made. Section 400.765(b) has been revised by FCIC to clarify the applicable regulations for which a final agency determination will be provided.

List of Subjects in 7 CFR Part 400

Administrative practice and procedure.

Final Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation is adopting the interim rule amending 7 CFR part 400 which was published at 63 FR 70312 in the **Federal Register** of December 21, 1998 as final with the following changes:

PART 400—GENERAL ADMINISTRATIVE REGULATIONS

Subpart X—Interpretations of Statutory and Regulatory Provisions

1. The authority citation for 7 CFR part 400 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

2. Revise § 400.765(b) to read as follows:

§ 400.765 Basis and applicability.

* * * * *

(b) Requesters may seek interpretations of those provisions of the Act and the regulations promulgated thereunder that are in effect for the crop year in which the request under this subpart is being made and the three previous crop years.

* * * * *

§ 400.767 [Amended]

3. Amend § 400.767(a)(1), to remove the word ''faximile'' and to add the word ''facsimile'.

Signed in Washington, DC, on September 7, 1999.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 99–23796 Filed 9–15–99; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Federal Housing Enterprise Oversight

12 CFR Part 1730

RIN 2550–AA07

Debt Collection

AGENCY: Office of Federal Housing Enterprise Oversight, HUD.

ACTION: Final regulation.

SUMMARY: The Office of Federal Housing Enterprise Oversight is adopting the interim regulation that was published at 64 FR 34968 on June 30, 1999, as final without change. The final regulation sets forth procedures for use by OFHEO in collecting debts owed to the Federal Government. The Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982 and the Debt Collection Improvement Act of 1996, requires agencies to issue a regulation on their debt collection procedures. The final regulation includes procedures for collection of debts through salary offset, administrative offset, and tax refund offset.

DATES: This final regulation is effective October 18, 1999.

FOR FURTHER INFORMATION CONTACT: Isabella W. Sammons, Associate General Counsel, Office of General Counsel; or Gail Palestine, Financial Management Officer, Office of Finance and Administration, Office of Federal Housing Enterprise Oversight, 1700 G Street, NW., Fourth Floor, Washington, DC 20552, telephone (202) 414–3800 (not a toll-free number). The toll-free telephone number for the Telecommunications Device for the Deaf is (800) 877–8339.

SUPPLEMENTARY INFORMATION: The Office of Federal Housing Enterprise Oversight (OFHEO) published an interim regulation at 64 FR 34968 on June 30, 1999, that implemented the Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982 and the Debt Collection Improvement Act of 1996. OFHEO requested comments on the interim regulation, but did not receive any. Accordingly, the interim regulation, which amended Chapter XVII of title 12 of the Code of Federal Regulations by adding part 1730, is adopted as a final regulation without change.

Dated: September 9, 1999.

Mark A. Kinsey,

Acting Director, Office of Federal Housing Enterprise Oversight.

[FR Doc. 99–24116 Filed 9–15–99; 8:45 am]

BILLING CODE 4220–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ACE–33]

Amendment to Class E Airspace; North Platte, NE

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule which revises Class E airspace at North Platte, NE.

DATES: The direct final rule published at 64 FR 38824 is effective on 0901 UTC, November 4, 1999.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601, East 12th Street, Kansas City, Missouri 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on July 20, 1999 (64 FR 38824). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on November 4, 1999. No adverse comments were received, and thus this document confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on September 7, 1999.

Richard L. Day,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 99–24097 Filed 9–15–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ACE–35]

Amendment to Class E Airspace; Lawrence, KS

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule which revises Class E airspace at Lawrence, KS.

DATES: The direct final rule published at 64 FR 39008 is effective on 0901 UTC, November 4, 1999.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on July 21, 1999 (64 FR 39008). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent of submit such an adverse comment, were received within the comment period, the regulation would become effective on November 4, 1999. No adverse comments were received, and thus this document confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on September 3, 1999.

Richard L. Day,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 99–24098 Filed 9–15–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 742

[Docket No. 990902243–9243–01]

RIN 0694–AB92

Exports and Reexports for Syrian Civilian Passenger Aircraft Safety of Flight

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: The Bureau of Export Administration is amending the Export Administration Regulations (EAR) by revising the license review policy for the export and reexport of certain aircraft parts and components to ensure safety of flight for civil passenger aircraft. License applications for the export and reexport of aircraft parts and components for Syrian civil passenger aircraft will be reviewed on a case-by-case basis with a presumption of approval.

DATES: *Effective Date:* This rule is effective September 16, 1999.

Comment Dates: Comments on this rule must be received on or before November 1, 1999.

ADDRESSES: Written comments on this rule should be sent to Kirsten Mortimer, Regulatory Policy Division, Bureau of Export Administration, Department of Commerce, PO Box 273, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: James A. Lewis, Director, Office of Strategic and Foreign Policy Controls, Bureau of Export Administration, Telephone: (202) 482–4196.

SUPPLEMENTARY INFORMATION: All aircraft, helicopters, engines and related spare parts and components require a license for export or reexport to Syria. A license review policy of general denial applies to such exports. However, as part of the U.S. Government's commitment to safety of civil aviation, BXA, in consultation with other agencies, has licensed the export and reexport of certain aircraft parts and components to Syria for the safe operation of Syrian-owned civil passenger aircraft. BXA is revising § 742.9(b)(1)(iv) of the EAR to reflect the policy of approval for aircraft parts necessary to ensure the airworthiness of commercial passenger aircraft and the safety of civil aviation. BXA will review license applications for Syrian civil passenger aircraft in commercial service on a case-by-case basis, with a presumption of approval. BXA maintains the general policy of denial for the export or reexport of aircraft parts and components to Syria destined to non-civil end-uses and/or end-users.

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect, the Export Administration Regulations and, to the extent permitted by law, the provisions of the EAA in Executive Order 12924 of August 19, 1994, as extended by the President's notices of August 15, 1995 (60 FR 42767), August 14, 1996 (61 FR 42527), August 13, 1997 (62 FR 43629), August 13, 1998 (63 FR 44121), and August 10, 1999 (64 FR 44101, August 13, 1999).

Rulemaking Requirements

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

2. Notwithstanding any other provision of law, no person is required to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the Paperwork Reduction Act (PRA), unless that collection of information displays a currently valid OMB Control Number. This rule involves a collection of information approved by the Office of Management and Budget under control number 0694–0088, ''Multi-Purpose

Application,'' which carries a burden hour estimate of 40 minutes per electronic submission and 45 minutes for a manual submission. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burden, to OMB Desk Officer, New Executive Office Building, Washington, DC 20503; and to the Regulatory Policy Division, Bureau of Export Administration, Department of Commerce, PO Box 273, Washington, DC 20044.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States. *See* 5 U.S.C. 553(a)(1). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this interim rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 5 U.S.C. 553 or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

However, because of the importance of the issues raised by these regulations, this rule is being issued in interim form and BXA will consider comments in the development of the final regulations.

Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close November 1, 1999. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the persons submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form.

Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be available for public inspection. The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, Room 6883, Department of Commerce, 14th Street and Pennsylvania Avenue, NW, Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from the Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 482–0500.

List of Subjects in 15 CFR Part 742

Exports, Foreign trade.

Accordingly, part 742 of the Export Administration Regulations (15 CFR parts 730–799) is amended as follows:

PART 742—[AMENDED]

1. The authority citation for part 742 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; Notice of November 12, 1998, 63 FR 63589, 3 CFR, 1998 Comp., p. 305; Notice of August 10, 1999, 64 FR 44101 (August 13, 1999).

2. Section 742.9(b)(1)(iv) is revised to read as follows:

§ 742.9 Anti-Terrorism: Syria.

* * * * *

(b) * * *

(1) * * *

(iv) All aircraft (powered and unpowered), helicopters, engines, and related spare parts and components, except that parts and components intended to ensure the safety of civil aviation and the safe operation of commercial passenger aircraft will be reviewed on a case-by-case basis, with a presumption of approval. These are items controlled to any destination for national security and missile technology reasons and items controlled to Syria for anti-terrorism purposes. Such items contain an NS Column 1, NS Column 2, MT Column 1, or AT Column 1 in the Country Chart column of the ''License Requirements'' section of an ECCN on the CCL. Note that, consistent with the general rule that applies to computing U.S. parts and components content incorporated into foreign made products, all aircraft-related items that require a license to Syria will be included as controlled U.S. content, except for ECCNs 6A998, 7A994, and 9A991.d, for purposes of such licensing requirements.

* * * * *

R. Roger Majak,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 99–24203 Filed 9–15–99; 8:45 am]

BILLING CODE 3510–33–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 30

Foreign Futures and Options Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Supplemental order.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is issuing a Supplemental Order authorizing members of the Singapore International Monetary Exchange (''SIMEX'' or ''Exchange'') who receive confirmation of relief under Commission Rule 30.10 (''Exchange Member'' or ''Member'') to solicit and accept orders from U.S. customers for otherwise permitted transactions [1] on

[1] Relief under this Supplemental Order extends only to those products falling within the jurisdiction of the Commodity Exchange Act (''CEA'' or ''Act'') and remains subject to existing product restrictions under the CEA and Commission regulations and procedures thereunder related to stock indices and foreign government debt (*see* CEA section 2(a)(1)(B)(v) and Securities and Exchange Commission rule 3as12–8, 17 CFR 240.3a12–8).

Eurex Deutschland (''Eurex'').[2] This Supplemental Order is issued pursuant to Commission Rule 30.10, which permits the Commission to grant an exemption from certain provisions of the Commission's regulations, and the Commission's Order dated December 30, 1988,[3] granting relief under Rule 30.10 to designated members of SIMEX.

EFFECTIVE DATE: September 16, 1999.

FOR FURTHER INFORMATION CONTACT: Laurie Plessala Duperier, Special Counsel, or Andrew Chapin, Staff Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Telephone: (202) 418–5430.

SUPPLEMENTARY INFORMATION: The Commission has issued the following Supplemental Order.

Supplemental Order Permitting Members of the Singapore International Monetary Exchange Designated for Relief Under Commission Rule 30.10 To Solicit and To Accept Orders From U.S. Customers for Otherwise Permitted Transactions on Eurex

On December 30, 1988, the Commission issued an Order granting relief under Rule 30.10 to designated members of SIMEX (''Original Order''). The Original Order limited the scope of permissible brokerage activities undertaken by designated SIMEX Members on behalf of U.S. customers to transactions ''on or subject to the rules of SIMEX.''[4] By letter dated February 4, 1998, SIMEX petitioned the Commission to revise the Original Order to permit designated members of SIMEX to solicit and accept orders from U.S. foreign futures and options customers for ''otherwise permitted transactions'' on all non-U.S. exchanges[5] where Exchange Members ''are authorized'' by Singapore law to conduct futures and options business for customers, subject to SIMEX's and SIMEX Members' continued compliance with the terms of the Original Order and with certain specified conditions.[6] Subsequently, SIMEX amended its request to limit the expanded relief to the solicitation and acceptance of orders from U.S. customers for ''otherwise permitted transactions'' on Eurex, a German and Swiss futures and options exchange.[7]

In response to a prior Commission inquiry, the Monetary Authority of Singapore (''MAS'') represented that ''the provision of information by (any) MAS official to the [Commission] or any other regulatory body for purposes of making due diligence checks, investigation or market surveillance would not be prohibited by law.''[8] By letter dated March 19, 1998, the Commission's Division of Trading and Markets (''Division'') requested that MAS confirm that the information sharing arrangement between the Commission and MAS extended to those transactions that would be the subject of the requested supplemental relief issued to SIMEX.[9] On July 25, 1998, MAS represented that it ''would not be precluded by law from authorizing SIMEX to furnish any such information, for the purpose of making due diligence checks, investigation or market surveillance.''[10] The Division sought additional clarification of the Commission's ability under Singapore law to use, without restriction, information obtained from MAS in enforcement proceedings brought by the Commission.[11] MAS confirmed that information provided by MAS for the purpose of making due diligence checks, investigations or market surveillance may be used without restriction in any public court proceeding, including any enforcement proceeding brought by the Commission.[12] The Division also requested additional clarification as to whether MAS or SIMEX would be required to obtain the consent of any account holders or other persons prior to authorizing SIMEX to release information to the Commission.[13] On April 23, 1999, MAS confirmed that the consent of an account holder or other persons prior to the release of information by MAS or SIMEX to the Commission was not required.[14]

In issuing orders under Rule 30.10, the Commission evaluates whether the particular foreign regulatory program provides a basis for permitting substituted compliance for purposes of exemptive relief pursuant to Rule 30.10. This requirement is designed to ensure that U.S. customers receive comparable protection for trades entered into on or subject to the rules of a foreign exchange regardless of whether the intermediating party is registered with the Commission or has received confirmation of Rule 30.10 relief. In this regard, U.S. FCMs must comply with, for example, regulations dealing with trade practice and auditing standards, minimum financial requirements and the segregation of customer funds while trading on behalf of U.S. customers on foreign exchanges. Similarly, regulatees or members of a Rule 30.10 order recipient trading on behalf of U.S. customers must comply with analogous requirements that have been deemed generally comparable by the Commission in the Rule 30.10 order. The relief under a typical Rule 30.10 Order only extends to transactions entered into on an exchange within the jurisdiction of the Rule 30.10 recipient.

On occasion, the Commission has issued Rule 30.10 orders and/or supplemental orders that permitted members of an exchange with confirmation of Rule 30.10 relief to trade on behalf of U.S. customers on

[2] Prior to June 18, 1998, Eurex Deutschland was known as the Deutsche Terminborse (''DTB''). This order will refer to Eurex Deutschland.

[3] 54 FR 806 (January 10, 1989).

[4] *Id.* at 808 (condition 2(c)).

[5] The term ''non-U.S. exchange'' refers to a foreign board of trade which is defined in Commission Rule 1.3(ss), 17 CFR 1.3(ss) as: Any board of trade, exchange or market located outside the United States, its territories or possessions, whether incorporated or unincorporated, where foreign futures or foreign options transactions are entered into. Thus, contracts that are traded on a market that has been designated as a contract market pursuant to section 5 of the Commodity Exchange Act (''CEA'' or ''Act'') are not within the scope of this Order.

[6] Letter dated February 4, 1998, from Philip McBride Johnson, counsel for SIMEX, to I. Michael Greenberger, Director, CFTC Division of Trading and Markets (''February 4, 1998 Request'').

[7] Letter dated April 20, 1998, from Philip McBride Johnson, counsel for SIMEX, to I. Michael Greenberger, Director, CFTC Division of Trading and Markets.

In this context, the Commission notes that the German Bundesaufsichtsamt fur den Wertpapierhandel, the German government authority responsible for, among other things, cooperation with foreign authorities in matters relating to the supervision of securities and futures exchanges, is a signatory, along with the Commission, of the 1996 Declaration of Cooperation and Supervision of International Futures Markets and Clearing Organizations and the 1998 amendment to the Declaration. The Bundesaufsichtsamt fur den Wertpapierhandel has also signed an October 17, 1997 Memorandum of Understanding with the Commission concerning consultation and cooperation in the administration and enforcement of futures laws.

[8] Letter dated January 22, 1994, from Koh Beng Seng, MAS Deputy Managing Director, to Andrea Corcoran, Director, Division of Trading and Markets.

[9] Letter dated March 19, 1998, from Andrew S. Baer, Staff Attorney, CFTC Division of Trading and Markets, Philip C. McBride Johnson, counsel for SIMEX.

[10] Letter dated Julu 25, 1998, from Tharmon Shanmugaratnam, MAS Deputy Managing Director, to Andrea Corcoran, Director, CFTC Office of International Affairs.

[11] Letter dated December 1, 1998, from Laurie Plessala Duperier, Special Counsel, CFTC Division of Trading and Markets, to Tharman Shanmugaratnam, MAS Deputy Managing Director.

[12] Letter dated March 5, 1999, from Thanmugaratnam, MAS Deputy Managing Director, to Laurie Plessala Duperier, Special Counsel, CFTC Division of Trading and Markets.

[13] Letter dated March 22, 1999, from Laurie Plessala Duperier, Special Counsel, CFTC Division of Trading and Markets, to Tharman Shanmugaratnam, MAS Deputy Managing Director.

[14] Letter dated April 23, 1999, from Tharman Shanmugaratnam, MAS Deputy Managing Director, to Laurie Plessala Duperier, Special Counsel, CFTC Division of Trading and Markets.

other authorized or designated exchanges outside the jurisdiction of the Rule 30.10 recipient.[15] To ensure that U.S. customers receive adequate protection for transactions intermediated by non-U.S. persons on or subject to the rules of a foreign exchange located outside the jurisdiction of a Rule 30.10 recipient, the Commission requires the jurisdiction to which the Rule 30.10 order is directed to demonstrate that such transactions will be regulated as if they were executed on an exchange located within the recipient's jurisdiction.

Upon due consideration, and for the reasons stated in the Original Order and above, the Commission has determined to issue this Supplemental Order permitting SIMEX Members to which Rule 30.10 relief has been confirmed by the Commission or by the National Futures Association to solicit and to accept orders from U.S. customers for otherwise permitted transactions in futures and option (including options on futures) on or subject to the rules of Eurex.[16]

The expanded Rule 30.10 relief provided under this Supplemental Order, however, is contingent upon SIMEX's and SIMEX Members' compliance with certain conditions outlined below. In its April 20, 1998 Request, SIMEX represented on its own behalf and on behalf of SIMEX Members to undertake the following conditions:

(1) SIMEX will carry out its compliance, surveillance and rule enforcement activities with respect to solicitations and acceptance of orders by designated Exchange Members of U.S. customers for futures and options business on Eurex to the same extent that it conducts such activities in regard to SIMEX business;

(2) SIMEX will cooperate with the Commission with respect to any inquiries concerning any activity which is the subject of this Supplemental Order, including sharing the information specified in appendix A to the part 30 rules, 17 CFR part 30, on an ''as needed basis,'' on the same basis as set forth in the Original Order;

(3) Each SIMEX Member firm seeking to engage in activities which are the subject of this Supplemental Order must agree to provide to the Commission the books and records related to such activities required to be maintained under the applicable SIMEX rules and laws in effect in Singapore on the same basis as set forth in the Original Order.[17]

Furthermore, the Commission seeks to ensure that the funds of U.S. customers will be subject to consistent protection irrespective of whether the SIMEX Member effects trades directly on SIMEX, on Eurex or through the intermediation of a foreign exchange member. Accordingly, the expanded relief permitting SIMEX Member firms to engage in foreign futures and options transactions for U.S. customers on Eurex under this Supplemental Order will be contingent upon compliance by the SIMEX Member firm with the following additional conditions:

(4) The SIMEX Member firm will continue to comply with the terms of the Original Order with respect to transactions effected for U.S. customers on the SIMEX;[18]

(5) With respect to transactions effected on Eurex on behalf of U.S. customers, whether by the SIMEX Member directly as a clearing member of Eurex or through the intermediation of one or more intermediaries, the SIMEX Member complies with paragraphs 1, 2 or 3 below:

1. a. Must maintain in a separate account or accounts money, securities and property in an amount at least sufficient to cover or satisfy all of its current obligations to U.S. customers denominated as the foreign futures or foreign options secured amount;

b. May not commingle such money, securities and property with the money, securities or property of the Member, with any proprietary account of such Member and may not use such money, securities and property to secure or guarantee the obligations of, or extend credit to, the member or any proprietary account of the Member;

c. May deposit together with the secured amount required to be on deposit in the separate account or accounts referred to in paragraph (5)1.a. above, money, securities or property held for or on behalf of non-U.S. customers of the Member for the purpose of entering into foreign futures and options transactions. In such a case, the amount that must be deposited in such separate account or accounts must be no less than the greater of (1) the foreign futures and foreign options secured amount required by paragraph (5)1.a. above, plus the amount that would be required to be on deposit if all such customers (including non-U.S. customers) were subject to such requirement, or (2) the foreign futures and foreign options secured amount required by paragraph (5)1.a. above, plus the amount required to be held in a separate account or accounts for or on behalf of such non-U.S. customers pursuant to any applicable law, rule, regulation or order, or any rule of any self-regulatory organization;

d. The separate account or accounts referred to in paragraph (5)1.a. above must be maintained under an account name that clearly identifies them as such, with any of the following depositories:

(1) Another person registered with the Commission as a futures commission merchant (''FCM'') or a firm exempted from FCM registration pursuant to CFTC Rule 30.10;

(2) The clearing organization of any foreign board of trade;

(3) Any member and/or clearing member of such foreign board of trade; or

[15] In 1989, the Commission issued a series of Rule 30.10 orders authorizing firms designated by the U.K. Securities and Investments Board (''SIB'') and certain U.K. ''Self-Regulating Organisations'' (''SROs'') to conduct brokerage activities for U.S. customers on any non-U.S. exchange under designated U.K. law. *See* 54 FR 21599, 21600 (May 19, 1989) (SIB), 54 FR 21604, 21605 (May 19, 1989) (Association of Futures Brokers and Dealers (''AFBD'')), 54 FR 21609, 21610 (May 19, 1989) (The Securities Association (''TSA'')), and 54 FR 21614, 21615 (May 19, 1989) (Investment Management Regulatory Organisation (''IMRO'')). The AFBD and TSA subsequently merged to form the Securities and Futures Association, which became the successor organization for Rule 30.10 purposes. *See* 56 FR 14017 (April 5, 1991). The SIB recently became the Financial Services Authority (''FSA'').

In 1996, the Commission issued an order under Rule 30.10 to the New Zealand Futures and Options Exchange (''NZFOE'') permitting NZFOE Dealers to solicit and accept orders from U.S. customers for otherwise permitted transactions on the NZFOE and on any non-U.S. exchange where such Dealers are permitted under New Zealand law to conduct futures business for customers. The Commission also has issued similar orders granting supplemental relief to the Sydney Futures Exchange (''SFE''), 58 FR 19209 (April 13, 1993), and the Montreal Exchange, 62 FR 8875 (February 27, 1997).

[16] The Commission notes that the Division of Trading and Markets originally issued a no-action letter permitting Eurex electronic terminals providing access to Eurex to be placed in the United States without Eurex having to acquire contract market designation pursuant to Section 5 of the CEA and allowing Eurex members to execute transactions involving Eurex futures and options products from U.S.-based Eurex terminals. *See* CFTC Staff Letter No. 96–28, (1996–1998 Transfer Binder) Comm. Fut. L. Rep. (CCH) ¶ 26,669 (February 29, 1996), *as modified by*, CFTC Staff Letter No. 98–42 (1996–1998 Transfer Binder) Comm. Fut. L. Rep. (CCH) ¶ 27,365 (Eurex members who were not already operating U.S.-based Eurex terminals were prevented from placing Eurex terminals in the United States absent written authorization). On August 10, 1999, the Division of Trading and Markets issued another no-action letter expanding the relief set forth in CFTC Staff Letter 96–28 to permit current and future Eurex members to install additional U.S.-based Eurex terminals and authorizing Eurex members to accept orders through U.S. automated order routing systems (''AORSs'') from U.S. customers for transmission to Eurex. *See* Letter from I. Michael Greenberger, Director, Division of Trading and Markets, to Edward J. Rosen, Esq., counsel for Eurex, dated August 10, 1999. Although the relief provided for within this Supplemental Order will permit SIMEX Members to intermediate trades for U.S. customers on Eurex, nothing herein permits SIMEX electronic terminals providing access to SIMEX and Eurex to be placed in the United States, or otherwise authorizes SIMEX Members to accept orders through U.S. AORSs from U.S. customers for transmission to either SIMEX or Eurex, without SIMEX having to acquire contract market designation pursuant to section 5 of the CEA or receive comparable no-action relief.

[17] SIMEX Member firms which currently operate under the Original Order will be deemed to have consented to condition (3) by effecting transactions pursuant to this Supplemental Order. SIMEX Members which apply for confirmation of Rule 30.10 relief subsequent to the issuance of this Supplementary Order must submit representations to the Commission consistent with condition (3) of this Order.

[18] *See* CFTC Advisory 87–4, Foreign Futures and Options: Compliance and Operational Questions and Answers, November 18, 1987, *reprinted in* Comm. Fut. L. Rep. (CCH) ¶ 23,975.

(4) A bank or trust company which any of the depositories identified in (1)–(3) above may use consistent with the applicable laws and rules of the jurisdiction in which the depository is located; and

e. The separate account or accounts referred to in paragraph (5)1.a. above may be deemed a good secured amount depository only if the Member obtains and retains in its files for the period required by applicable law and SIMEX rules a written acknowledgment from such separate account depository that it:

(1) Was informed that such money, securities or property are held for or on behalf of customers of the Member; and

(2) Will ensure that such money, securities or property will be held and treated at all times effectively in accordance with the provisions of this paragraph; and, provided further, that the Member assures itself that such separate account depository will not pass on such money, securities or property to any other depository unless the Member has assured itself that all such other separate account depositories will treat such funds in a manner consistent with the procedures described in paragraph (5)1 herein; [19] or,

2. Must set aside funds constituting the entire secured amount requirement in a separate account as set forth in Commission Rule 30.7, 17 CFR 30.7, and treat those funds in a manner described by that rule; or

3. Complies with the terms and procedures of paragraph 1 or 2, except that the amount required to be segregated under SIMEX rules and Singapore law may be substituted for the secured amount requirement as set forth in such paragraphs.

Any Singapore laws or regulations or SIMEX rules that would permit a SIMEX Member to obtain from its customers a waiver, acknowledgment, or similar document in which such customer effectively waives the right to segregation would be inconsistent with compliance with paragraphs 1, 2 or 3.

The expanded Rule 30.10 relief provided by this Supplemental Order is contingent upon SIMEX's and SIMEX Members' continued compliance with the Original Order and enumerated conditions therein. The expanded Rule 30.10 relief provided under this Supplemental Order is also contingent upon MAS's compliance with the terms and conditions of the information sharing arrangement with the Commission described herein.

This Supplemental Order is issued based on the information provided to the Commission as set forth herein, including the letter dated February 4, 1998 from SIMEX and the letter dated April 23, 1999 from MAS. Any changes or material omissions may require the Commission to reconsider the authorization granted in this Supplemental Order.

Further, if experience demonstrates that the continued effectiveness of this Order in general, or with respect to a particular Member, would be contrary to public policy or the public interest, or that the systems in place for the exchange of information or other circumstances do not warrant continuation of the exemptive relief granted herein, the Commission may condition, modify, suspend, terminate, withhold as to a specific Member, or otherwise restrict the exemptive relief granted in this Order, as appropriate, on its own motion. If necessary, provisions will be made for servicing existing client positions.

Should SIMEX seek to extend its Rule 30.10 relief to allow its members to solicit and accept orders form U.S. customers for otherwise permitted transactions on any non-U.S. exchange authorized by Singapore law, it must: (1) Prohibit its members from intermediating otherwise permitted transactions for U.S. customers on unapproved foreign exchanges as set forth under local law, and must specify which exchanges are authorized by local law; [20] (2) represent that member firms with U.S. customers will comply with all the terms and conditions of the original Rule 30.10 Order with respect to transactions entered into on or subject to the rules of a foreign exchange located outside its jurisdiction; and (3) confirm that it has the authority and the ability to enforce its laws, rules and/or regulations with respect to those transactions to the same extent that it conducts such activities on an exchange located within its jurisdiction. Other Rule 30.10 order recipients requesting expanded relief must make the above representations and showings.

List of Subjects in 17 CFR Part 30

Commodity futures, Commodity options, Foreign futures and options.

Accordingly, 17 CFR part 30 is amended as set forth below:

PART 30—FOREIGN FUTURES AND FOREIGN OPTIONS TRANSACTIONS

1. The authority citation for part 30 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 4, 6, 6c and 12a, unless otherwise noted.

2. Appendix C to Part 30 is amended by adding the following citation to the existing entry for the Singapore International Monetary Exchange to read as follows:

Appendix C to Part 30—Foreign Petitioners Granted Relief From the Application of Certain of the Part 30 Rules Pursuant to § 30.10

* * * * *

FR date and citation: _____, 1999, _____ FR _____.

[19] This proviso is intended to ensure that the originating Member makes reasonable inquiries and understands prior to the initiation of a trade the conditions under which its customers' funds will be held at all subsequent depositories, so that it may determine whether it may count a particular intermediary or clearing house as a good separate account depository for purposes of this Order or must alternatively set aside funds in the manner set forth in paragraph (5)2. The Member initially would discuss with its immediate intermediary broker whether funds will be transferred to any subsequent depositories and determine the conditions under which such funds would be treated. Compliance with this condition would be satisfied by the Member obtaining relevant information or assurances from appropriate sources such as, for example, the immediate intermediary broker, exchanges or clearinghouses, exchange regulators, banks, attorneys or regulatory references.

This requirement is intended to ensure that funds provided by U.S. customers for foreign futures and options transactions, whether held at U.S. FCM under Commission rule 30.7(c) or a firm exempted from registration as an FCM under CFTC Rule 30.10, will receive equivalent protections at all intermediaries and exchange clearing organizations. Thus, for example, an exchange that does not segregate customer from firm obligations and firms which trade on such exchanges and which do not arrange to comply otherwise with any of the procedures described in paragraph (5) above would not be deemed an acceptable separate account. Specifically, such exchange or firms could not provide a valid and binding acknowledgement to a Rule 30.10 exempted firm.

This provision is not intended to create a duty on a Rule 30.10 firm that it audit any intermediaries for continued compliance with the undertakings it has obtained based on discussions with those relevant intermediaries. It is intended to make clear that firms must engage in a due diligence inquiry before customer funds are sent to another intermediary and take appropriate action (i.e., set aside funds) in the event it becomes aware of facts leading it to conclude that customer funds are not being handled consistent with the requirements of Commission rules or relevant Rule 30.10 order by any subsequent intermediary or clearing house.

[20] For example, in the United Kingdom, IMRO and SFA have received Supplemental Rule 30.10 Orders from the Commission that authorize their member firms to handle transactions on behalf of U.S. customers on non-U.K. exchanges determined by the FSA to meet adequate standards of investor protection, *See* 62 FR 10447 (March 7, 1997)(SFA); 62 FR 10449 (March 7, 1997)(IMRO). Pursuant to the United Kingdom Financial Services Act, these exchanges are classified as Designated Investment Exchanges (''DIEs'') *See, e.g.*, 62 FR 10447, n.3. To determine whether a non-U.K. exchange qualifies as a DIE, the SIB evaluates the foreign exchange's regulatory program according to standards set forth in its own rules and regulations. *See, e.g., id.* (citing the SFA Financial Services (Glossary and Interpretation) Rules and Regulations 1990). The Commission has also authorized designated members of the SFE to solicit and accept orders from U.S. customers for otherwise permitted transactions on any non-U.S. exchange ''recognized'' by Australian law. *See* 58 FR 19209 (April 13, 1993). Section 9(b) of the Australian Corporations Law requires the Australian Attorney-General to confirm a foreign exchange as ''recognized'' before an Australian futures broker may enter into futures or options transactions on that exchange on behalf of another person. *Id.* at 19210. If the Rule 30.10 jurisdiction does not have a specific statute regarding authorized or recognized exchanges, then the jurisdiction must specify that in its application.

Issued in Washington, DC on September 9, 1999.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–24017 Filed 9–15–99; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 4 and 24

[T.D. ATF–403]

RIN 1512–AB78

Implementation of Public Law 105–34, Section 1417, Related to the Use of Additional Ameliorating Material in Certain Wines

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Temporary rule (Treasury decision).

SUMMARY: This temporary rule implements one of the provisions of the Taxpayer Relief Act of l997. In accordance with the new law, the wine regulations are amended to extend the amelioration and sweetening limitations so that wines made exclusively from any fruit (excluding grapes) or berry with a fixed acid content of 20 or more parts per thousand are entitled to a volume of up to 60 percent ameliorating material. In the Proposed Rules section of this **Federal Register**, ATF is also issuing a notice of proposed rulemaking inviting comments on this temporary rule for a 90-day period following the publication of this temporary rule.

DATES: The temporary regulations are retroactive to April 1, 1998.

ADDRESSES: Send written comments to: Chief, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091–0221.

FOR FURTHER INFORMATION CONTACT: Thomas B. Busey, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202) 927–8204.

SUPPLEMENTARY INFORMATION:

Background

This temporary rule implements one of the provisions of the Taxpayer Relief Act of 1997, Public Law 105–34 (''the Act''). Section 1417 of the Act amended Section 5384(b)(2)(D) of the Internal Revenue Code of 1986 by striking ''loganberries, currants, or gooseberries,'' and inserting ''any fruit or berry with a natural fixed acid of 20 parts per thousand or more (before any correction to such fruit or berry).''

Current Regulation for Amelioration of Fruit and Berries

Before enactment of the Act, the amelioration and sweetening limitations of 26 U.S.C. 5384(b)(2)(D) could only be used for wines produced exclusively from loganberries, currants, or gooseberries. For wine produced exclusively from loganberries, currants, or gooseberries, the volume of ameliorating material added to juice or wine may not have exceeded 60 percent of the total volume of ameliorated juice or wine (calculated exclusive of pulp). If the starting fixed acid level was or exceeded 12.5 grams per liter, a maximum of 1,500 gallons of ameliorating material may have been added to each 1,000 gallons of wine or juice.

Section 1417 of Public Law 105–34 now extends the amelioration and sweetening limitations so that wines made from any fruit or berry with a natural fixed acid of 20 parts per thousand or more (before any correction of such fruit or berry) is entitled to a volume of up to 60 percent ameliorating material. These provisions do not apply to grape wine, only to fruit or berry wine.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this temporary rule, the provisions of the Regulatory Flexibility Act (5 USC 601) do not apply. Pursuant to 26 U.S.C. 7805(f), this temporary regulation will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Executive Order 12866

It has been determined that this temporary rule is not a significant regulatory action as defined by Executive Order 12866.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and its implementing regulations, 5 CFR part 1320, do not apply to this temporary rule because no new collection of information is contained in this regulation.

Administrative Procedure Act

It has been determined that 5 USC 553 (b)(A) applies to this temporary rule. Moreover, because this document merely implements a section of the law which was effective April 1, 1998, and because immediate guidance is necessary to implement the provisions of the law, it is found to be impracticable to issue this Treasury decision with notice and public procedure under 5 U.S.C. 553(b), or subject to the effective date limitation in section 553(d).

Drafting Information

The principal author of this document is Thomas B. Busey, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 4

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Packaging and containers, Wine.

27 CFR Part 24

Administrative practice and procedure, Authority delegations, Claims, Electronic fund transfers, Excise taxes, Exports, Food additives, Fruit juices, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Research, Scientific equipment, Spices and flavoring, Surety bonds, Taxpaid wine bottling house, Transportation, Vinegar, Warehouses, Wine.

Authority and Issuance:

Accordingly, Chapter I of title 27, Code of Federal Regulations is amended as follows:

PART 4—LABELING AND ADVERTISING OF WINE

Par. 1. The authority citation for 27 CFR part 4 continues to read as follows:

Authority: 27 U.S.C. 205, unless otherwise noted.

Par. 2. Section 4.21 is amended by revising the proviso in paragraph (e)(1)(i) to read as follows:

§ 4.21 The standards of identity.

* * * * *

(e) * * *

(1)(i) * * * *Provided*, That a domestic product may be ameliorated or sweetened in accordance with the provisions of 26 U.S.C. 5384 and any product other than domestic may be ameliorated before, during, or after fermentation by adding, separately or in combination, dry sugar, or such an amount of dry sugar and water solution as will increase the volume of resulting product, in the case of wines produced from any fruit or berry other than grapes, having a normal acidity of 20 parts or more per thousand, not more than 60 percent, but in no event shall

any product so ameliorated have an alcoholic content, derived by fermentation, of more than 13 percent by volume, or a natural acid content, if water has been added, of less than 5 parts per thousand, or a total solids content of more than 22 grams per 100 cubic centimeters.

* * * * *

Par. 3. Section 4.22 is amended by revising the proviso in paragraph (b)(5) to read as follows:

§ 4.22 Blends, cellar treatment, alteration of class or type.

* * * * *

(b) * * *

(5) * * * *Provided*, That the class or type thereof shall not be deemed to be altered:

(i) Where such wine (other than grape wine) is derived from fruit, or other agricultural products, having a high normal acidity, if the total solids content is not more than 22 grams per 100 cubic centimeters, and the content of natural acid is not less than 7.5 parts per thousand and

(ii) Where such wine is derived exclusively from fruit, or other agricultural products, the normal acidity of which is 20 parts or more per thousand, if the volume of the resulting product has been increased not more than 60 percent by the addition of sugar and water solution, for the sole purpose of correcting natural deficiencies due to such acidity, and (except in the case of such wine when produced from fruit or berries other than grapes) there is stated as part of the class and type designation the phrase ''Made with over 35 percent sugar solution''.

* * * * *

PART 24—WINE

Par. 1. The authority citation for 27 CFR part 24 continues to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5001, 5008, 5041, 5042, 5044, 5061, 5062, 5081, 5111–5113, 5121, 5122, 5142, 5143, 5173, 5206, 5214, 5215, 5351, 5353, 5354, 5356, 5357, 5361, 5362, 5364–5373, 5381–5388, 5391, 5392, 5511, 5551, 5552, 5661, 5662, 5684, 6065, 6091, 6109, 6301, 6302, 6311, 6651, 6676, 7011, 7302, 7342, 7502, 7503, 7606, 7805, 7851; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 2. Section 24.178 is amended by revising paragraph (b) (3) and (b) (4) to read as follows:

§ 24.178 Amelioration.

* * * * *

(b) * * *

(3) For all wine, except for wine described in (b) (4), the volume of ameliorating material added to juice or wine may not exceed 35 percent of the total volume of ameliorated juice or wine (calculated exclusive of pulp). Where the starting fixed acid level is or exceeds 7.69 grams per liter, a maximum of 538.4 gallons of ameliorating material may be added to each 1,000 gallons of wine or juice.

(4) For wine produced from any fruit (excluding grapes) or berry with a natural fixed acid of 20 parts per thousand or more (before any correction of such fruit or berry), the volume of ameliorating material added to juice or wine may not exceed 60 percent of the total volume of ameliorated juice (calculated exclusive of pulp). If the starting fixed acid level is or exceeds 12.5 grams per liter, a maximum of 1,500 gallons of ameliorating material may be added to each 1,000 gallons of wine or juice. (26 U.S.C. 5383, 5384).

* * * * *

Signed: July 22, 1999.

John W. Magaw,

Director.

Approved: August 13, 1999.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 99–24158 Filed 9–15–99; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–99–056]

RIN 2115–AE47

Drawbridge Operating Regulation; Upper Mississippi River, Iowa and Illinois

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Commander, Eighth Coast Guard District is temporarily changing the regulation governing the Rock Island Railroad and Highway Drawbridge, Mile 482.9, Upper Mississippi River. The drawbridge need not open for vessel traffic and may remain in the closed-to-navigation position from 4:00 p.m. to 6:30 p.m. and 9:00 p.m. to 10:30 p.m. on September 19, 1999. This temporary rule is issued to allow the public to cross the bridge to attend the scheduled Dog Days of Summer Army Concert, a community event.

DATES: This temporary rule is effective from 4:00 p.m. to 10:30 p.m. on September 19, 1999.

ADDRESSES: The public docket and all documents referred to in this notice will be available for inspection and copying at room 2.107f in the Robert A. Young Federal Building at Commander (obr), Eighth Coast Guard District, 1222 Spruce Street, St. Louis, Missouri 63103–2832, between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Roger K. Wiebusch, Bridge Administrator; Eight Coast Guard District, Bridge Branch, 1222 Spruce Street, St., Louis, Missouri 63103–2832, telephone 314–539–3900 extension 378.

SUPPLEMENTARY INFORMATION:

Background

On September 1, 1999, the Department of Army Rock Island Arsenal requested a temporary change to the operation of the Rock Island Railroad and Highway Drawbridge across the Upper Mississippi River, Mile 482.9 at Davenport, Iowa. The Rock Island Arsenal requested the drawbridge be permitted to remain closed to navigation from 4:00 p.m. to 6:30 p.m. and 9:00 p.m. to 10:30 p.m. on September 19, 1999. During this time the public will be crossing the bridge to attend the scheduled Dog Days of Summer Army Concert.

This rule is being promulgated without a Notice of Proposed Rulemaking and should be made effective in less than 30 days due to the short time frame provided between the submission of the request by the Rock Island Arsenal and the date of the scheduled event. For this reason, the Coast Guard determined good cause exists, according to 5 U.S.C. 553, to eliminate public comment period. The rule should be made effective in less than 30 days after publication.

Discussion of Temporary Rule

The Rock Island Drawbridge navigation span provides vertical clearance of 23.8 feet above normal pool in the closed-to-navigation position. Navigation on the waterway consists primarily of commercial tows and recreational watercraft. Presently, the draw is required to open on signal for passage of river traffic. This temporary drawbridge operation amendment has been coordinated with the commercial waterway operators. No objections to the proposed rule were raised.

Regulatory Evaluation

This temporary rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under

section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not a significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this temporary rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This is because river traffic is not likely to be delayed more than four hours.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. Sec. 601 *et seq.*), the Coast Guard must consider whether this temporary rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' may include small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and government jurisdictions with populations of less than 50,000.

Because it expects the impact of this action to be minimal, the Coast Guard certifies under 5 U.S.C. Sec. 605(b), that this action will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This temporary rule does not provide for a collection-of-information requirement under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this temporary rule under the principles and criteria contained in Executive Order 12612, and has determined that this temporary rule does not raise sufficient implications of federalism to warrant the preparation of a Federalism Assessment. The authority to regulate the permits of bridges over the navigable waters of the U.S. belong to the Coast Guard by Federal statutes.

Environmental

The Coast Guard considered the environmental impact of this temporary rule and concluded that under Figure 1–1, paragraph 32(3) of Commandant Instruction M16475.1C, this temporary rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, the Coast Guard is amending Part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 177 continues to read as follows:

Authority: 33 U.S.C. Sec. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.225 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. From 4:00 p.m. to 10:30 p.m., September 19, 1999, a new § 117.T408 is temporarily added to read as follows:

§ 117.T408 Upper Mississippi River

The draw of the Rock Island Railroad & Highway Drawbridge, Upper Mississippi River, mile 482.9, at Davenport, Iowa need not open from 4:00 p.m. to 6:30 p.m. and 9:00 p.m. to 10:30 p.m. on September 19, 1999. During this time it may remain closed to navigation.

Dated: September 9, 1999.

Paul J. Plute,

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

[FR Doc. 99–24193 Filed 9–15–99; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–6437–2]

Final Determination To Extend Deadline for Promulgation of Action on Section 126 Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final determination.

SUMMARY: The EPA is extending by six months the deadline for taking final action on the petition that the District of Columbia has submitted to require EPA to make findings that sources upwind of the District of Columbia contribute significantly to its ozone nonattainment problems. Under the Clean Air Act (CAA or Act), EPA is authorized to grant this time extension if EPA determines that the extension is necessary, among other things, to meet the purposes of the Act's rulemaking requirements. By this document, EPA is making that determination.

EFFECTIVE DATE: This action is effective as of September 7, 1999.

FOR FURTHER INFORMATION CONTACT: Howard J. Hoffman, Office of General Counsel, Mail Code 2344, 401 M Street SW, Washington, DC 20460, (202) 564–5582, hoffman.howard@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Today's action is procedural, and is set in the context of a series of actions EPA is taking to address the problem of the transport of tropospheric ozone and its precursors—especially oxides of nitrogen (NOx)—across the eastern region of the United States.

By a notice dated May 25, 1999, 64 FR 28250, EPA promulgated a final rulemaking concerning petitions submitted by eight northeastern States under section 126(b) of the CAA, which authorizes States or political subdivisions to petition EPA for a finding that major stationary sources in upwind States emit in violation of the prohibition of section 110(a)(2)(D), by contributing significantly to nonattainment problems in downwind States. The eight States submitting the petitions were Connecticut, Maine, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, and Vermont.

On July 9, 1999, EPA received a petition under section 126 from the District of Columbia. This petition seeks findings, similar to those for which EPA granted affirmative technical determinations, for specified sources in specified upwind States.

Under section 126(b), for each petition, EPA must make the requested finding, or deny the petition, within 60 days of receipt of the petition. This period would expire for the District of Columbia on September 7, 1999.

Under section 126(c), with respect to any existing sources for which EPA makes the requested finding, those sources must cease operations within three months of the finding, except that those sources may continue to operate if they comply with emissions limitations and compliance schedules that EPA may provide to bring about compliance with the applicable requirements.

Section 126(b) provides that EPA must allow a public hearing for submitted petitions. In addition, EPA's action under section 126 is subject to the procedural requirements of CAA section 307(d). See section 307(d)(1)(N). One of these requirements is notice-and-comment rulemaking, under section 307(d)(3).

In addition, section 307(d)(10) provides for a time extension, under certain circumstances, for rulemaking

subject to section 307(d). Specifically, section 307(d)(10) provides:

> Each statutory deadline for promulgation of rules to which this subsection applies which requires promulgation less than six months after date of proposal may be extended to not more than six months after date of proposal by the Administrator upon a determination that such extension is necessary to afford the public, and the agency, adequate opportunity to carry out the purposes of this subsection.

Section 307(d)(10) applies, by its terms, to section 126 rulemakings because the 60-day time limit under section 126(b) necessarily limits the period after proposal to less than six months. In previous rulemaking concerning the earlier section 126 petitions, EPA granted itself several time extensions for acting on those petitions. See, *e.g.*, 62 FR 54769 (Oct. 22, 1997).

On June 22, 1999 (64 FR 33200), EPA made a final determination to extend the deadline for taking final action on petitions that were received from three additional States (Delaware, Maryland and New Jersey). These three petitions were received in the Spring of 1999, and EPA's action extended the time frame for acting on these petions for six months.

In accordance with section 307(d)(10), EPA is today determining that the 60-day period afforded by section 126(b) is not adequate to allow the public and the agency adequate opportunity to carry out the purposes of the section 307(d) procedures for developing an adequate proposal on whether the sources identified in the section 126 petition contribute significantly to nonattainment problems downwind, and, further, to allow public input into the promulgation of any controls to mitigate or eliminate those contributions. The determination of whether upwind emissions contribute significantly to downwind nonattainment areas is highly complex, although much technical work has already been accomplished in the course of other rulemakings.

The EPA is in the process of determining what would be an appropriate schedule for action on the District of Columbia section 126 petition, in light of the complexity of the required determinations and the other issues. The schedule must afford EPA adequate time to prepare a notice that clearly elucidates the issues so as to facilitate public comment, as well as afford the public adequate time to comment.

Accordingly, extending the date for action on the District of Columbia section 126 petition for six months is necessary to determine the appropriate overall schedule for action, as well as to continue to develop the technical analysis needed to develop a proposal.

II. Final Determination

A. Rule

Today, EPA is determining, under CAA section 307(d)(10), that a six-month period is necessary to assure the development of an appropriate schedule for rulemaking on the District of Columbia section 126 petition, which schedule would allow EPA adequate time to prepare a notice for proposal that will best facilitate public comment, as well as allow the public sufficient time to comment. Accordingly, EPA is granting a six-month extension to the time for rulemaking on this section 126 petition. Under this extension, the date for action on the section 126 petition from the District of Columbia is March 7, 2000.

B. Notice-and-Comment Under the Administrative Procedures Act (APA)

This document is a final agency action, but may not be subject to the notice-and-comment requirements of the APA, 5 U.S.C. 553(b). The EPA believes that because of the limited time provided to make a determination that the deadline for action on the section 126 petition should be extended, Congress may not have intended such a determination to be subject to notice-and-comment rulemaking. However, to the extent that this determination is subject to notice-and-comment rulemaking, EPA invokes the good cause exception pursuant to the APA, 5 U.S.C. 553(b)(3)(B). Providing notice and comment would be impracticable because of the limited time provided for making this determination, and would be contrary to the public interest because it would divert agency resources from the critical substantive review of the section 126 petition.

C. Effective Date Under the APA

Today's action will be effective on September 7, 1999. Under the APA, 5 U.S.C. 553(d)(3), agency rulemaking may take effect before 30 days after the date of publication in the **Federal Register** if the agency has good cause to mandate an earlier effective date. Today's action—a deadline extension—must take effect immediately because its purpose is to move back by six months the upcoming deadline for the District of Columbia section 126 petition. Moreover, EPA intends to use immediately the six-month extension period to continue to develop an appropriate schedule for ultimate action on this section 126 petition, and to continue to develop the technical analysis needed to develop the notice of proposed rulemaking. These reasons support an effective date prior to 30 days after the date of publication.

D. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

E. Unfunded Mandates

Under the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector or to State, local, or tribal governments in the aggregate. In addition, before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, EPA must have developed a small government agency plan. EPA has determined that these requirements do not apply to today's action because this rulemaking (i) is not a Federal mandate—rather, it simply extends the date for EPA action on a rulemaking; and (ii) contains no regulatory requirements that might significantly or uniquely affect small governments.

F. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 600 *et seq.*, EPA must propose a regulatory flexibility analysis assessing the impact on small entities of any rule subject to the notice-and-comment rulemaking requirements. Because this action is exempt from such requirements, as described above, it is not subject to RFA.

G. Submission to Congress and the General Accounting Office

Under 5 U.S.C. of the APA, 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), EPA submitted, by the date of publication of this rule, a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2), as amended.

H. Paperwork Reduction Act

This rule does not contain any information collection requirements which require OMB approval under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)

I. Judicial Review

Under CAA section 307(b)(1), a petition to review today's action may be filed in the Court of Appeals for the District of Columbia within 60 days of September 16, 1999.

Dated: September 7, 1999.

Carol M. Browner,

Administrator.

[FR Doc. 99–24044 Filed 9–15–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1790; MM Docket No. 99–189; RM–9592]

Radio Broadcasting Services; Golden Meadow, LA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 289C2 to Golden Meadow, Louisiana, as that community's first local FM transmission service in response to a petition for rule making filed by Mountain West Broadcasting. *See* 64 FR 30292, June 7, 1999. Coordinates used for Channel 289C2 at Golden Meadow are 29–14–00 NL and 90–15–00 WL. With this action, the proceeding is terminated.

DATES: Effective October 18, 1999. A filing window for Channel 289C2 at Golden Meadow, Louisiana, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent Order.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–189, adopted August 25, 1999, and released September 3, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 reads as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Louisiana, is amended by adding Golden Meadow, Channel 289C2.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch,

Policy and Rules Division,

Mass Media Bureau.

[FR Doc. 99–24152 Filed 9–15–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1790; MM Docket No. 99–185; RM–9588]

Radio Broadcasting Services; Maricopa, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 235A to Maricopa, California, as that community's first local aural transmission service in response to a petition for rule making filed by Mountain West Broadcasting. *See* 64 FR 30295, June 7, 1999. Coordinates used for Channel 235A at Maricopa are 35–05–01 NL and 119–26–00 WL. With this action, the proceeding is terminated.

DATES: Effective October 18, 1999. A filing window for Channel 235A at Maricopa, California, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent Order.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–185, adopted August 25, 1999, and released September 3, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

Part 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Maricopa, Channel 235A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch,

Policy and Rules Division,

Mass Media Bureau.

[FR Doc. 99–24153 Filed 9–15–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1790; MM Docket No. 99–184; RM–9587]

Radio Broadcasting Services; Lost Hills, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 289A to Lost Hills, California, as that community's first local aural transmission service in response to a petition for rule making filed by Mountain West Broadcasting. *See* 64 FR 30295, June 7, 1999. Coordinates used for Channel 289A at Lost Hills are 35–38–19 NL and 119–48–26 WL. With this action, the proceeding is terminated.

DATES: Effective October 18, 1999. A filing window for Channel 289A at Lost Hills, California, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent Order.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report

and Order, MM Docket No. 99–184, adopted August 25, 1999, and released September 3, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Lost Hills, Channel 289A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–24154 Filed 9–15–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1790; MM Docket No. 99–182; RM–9585]

Radio Broadcasting Services; Hamilton City, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 269A to Hamilton City, California, as that community's first local aural transmission service in response to a petition for rule making filed by Mountain West Broadcasting. *See* 64 FR 30296, June 7, 1999. Coordinates used for Channel 269A at Hamilton City are 39–49–52 NL and 122–02–31 WL. With this action, the proceeding is terminated.

DATES: Effective October 18, 1999. A filing window for Channel 269A at Hamilton City, California, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent Order.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–182, adopted August 25, 1999, and released September 3, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Hamilton City, Channel 269A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–24155 Filed 9–15–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[FCC 99–138—PR Docket No. 92–235]

Private Land Mobile Radio Services. Examination of Exclusivity and Frequency Assignments Policies of the Private Land Mobile Radio Services.

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the land mobile radio service rules to more readily facilitate trunked operations on shared spectrum. The action was taken in response to petitions for reconsideration of the rule concerning centralized trunking below 512 MHz adopted in the final rule in this proceeding.[1] This will allow private land mobile radio licensees to construct more efficient radio systems.

DATES: Effective November 15, 1999 except for §§ 90.187(b)(2)(b) and 90.187(e) which contain information collection requirements that have not been approved by OMB. The Commission will publish a document in the **Federal Register** announcing the effective date. Written comment by the public on the information collection are due November 15, 1999. Written comment must be submitted to the Office of Management and Budget on the information collection on or before November 15, 1999.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, S.W., Room 4–C207, Washington, DC 20554. A copy of any comments on the information collection contained herein should be submitted to Judy Boley, Federal Communications Commission, 445 Twelfth Street, S.W. Room 1–C804, Washington, DC 20554 or via the Internet to jboley@fcc.gov; and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 Seventeenth Street, N. W., Washington, DC 20503 or via the Internet to fain__t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Michael J. Wilhelm, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554 or by telephone at (202) 418–0680 or by e-mail to mwilhelm@fcc.gov. For further information concerning the information collection contained in the *Third Memorandum Opinion and Order*, contact Judy Boley at 202–418–0215 or via the Internet to jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Third Memorandum Opinion and Order* in PR Docket No. 92–235, FCC 99–138, adopted June 10, 1999, and released July 1, 1999. The *Third Memorandum Opinion and Order* permits the use of a system of protected contours as an alternative to the mileage separation standards used to determine the licensees from which consent must be sought when an applicant seeks authorization for centralized trunking below 512 MHz. It also provides for a 60 day ''hold'' period during which

[1] Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio services and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignments Policies of the Private Land Mobile Radio Services, *Second Report and Order*, 62 FR 18834 April 17, 1997, 12 FCC Rcd 14307 (1997) (Second R&O).

conflicting applications may not be filed while an applicant is seeking consents from other licensees for centralized trunking. It maintains the requirement that consent to centralized trunking must be obtained from all affected licensees [*i.e.* 100%], not some lesser percentage as suggested by some petitioners. The Commission declines to eliminate the requirement that consent be obtained from licensees of channels adjacent to the channel or channels proposed by an applicant proposing centralized trunking. The following additional actions are taken: A ten channel limit is placed on the number of channels that may be requested in an initial application for centralized trunking with exceptions made for applicants proposing frequencies in the Public Safety Pool, provided a showing of need is made. Applicants proposing centralized trunking are required to certify that they have obtained the consent of affected licensees and must maintain a copy of consent agreements for inspection by the Commission on request. Centralized trunking is not permitted below 150 MHz. The Commission rejects a proposal to make special interference showing provisions for applicants who propose to use equipment alleged to be superior in spectrum efficiency. A proposal to limit trunked operation to incumbent licensees is also rejected. The rulemaking portion of the *First Report and Order and Further Notice of Proposed Rule Making*[2] in this proceeding is terminated to the extent rendered moot by the *Third Memorandum Opinion and Order*, and, as to other matters therein relevant to the *Notice of Proposed Rule Making* in WT Docket No. 99–87,[3] will be incorporated into the record in that proceeding. Finally, the Commission declines to address that portion of a petition for reconsideration requesting changes in the Commission's Safe Harbor rules because said rules are outside the scope of the *Second R&O*. The complete text of the *Third Memorandum Opinion & Order* may be purchased from the Commission's copy contractor, International Transcription Services, 1231 20th Street, N.W., Washington, D.C. 20036, telephone (202) 857–3800, facsimile (202) 857–3805. Alternative formats (computer diskette, large print, audio cassette, and Braille) are available to persons with disabilities by contacting Martha Contee at (202) 418–0260, TTY (202) 418–2555, or at mcontee@fcc.gov. The full text of the *Third Memorandum Opinion and Order* is available for inspection and copying during normal business hours in the FCC Reference Center, 445 Twelfth St., S.W., Room CY–A257. The full text of the *Third Memorandum Opinion and Order* can also be downloaded at:[3]

http://www.fcc.gov/Bureaus/Wireless/Orders/1999/fcc99138.txt or

http://www.fcc.gov/Bureaus/Wireless/Orders/1999/fcc99138.wp.

Paperwork Reduction Act Analysis

This *Third Memorandum Opinion and Order* contains either a new or modified information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collections contained in this *Third Memorandum Opinion and Order* as required by the Paperwork Reduction Act of 1995, Pub. L. No. 104–13. Public and agency comments are due 60 days from date of publication of this *Third Memorandum Opinion and Order* in the **Federal Register**. Comments should address: (a) Whether the new or modified collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 3060–XXXX.

Title: Application for Construction Permit for Commercial Broadcast Station.

Form No.: FCC 600.

Type of Review: Revision of a currently approved collection.

Respondents: Government and businesses.

Number of Respondents: 1000.

Estimated time per response: 5 hours (This time varies depending on the complexity of the users' projected needs.).

Total annual burden: 5,000.

Total annual cost: none.

Needs and Uses: FCC Form 600 is used to apply for authority to construct private land mobile radio stations or to make changes in the existing facilities of such stations. This *Third Memorandum Opinion and Order* requires applicants for trunked facilities to accompany Form 600 with a certification that consent to trunked operation has been obtained from affected licensees. Further, applicants for Public Safety Pool channels are required to accompany Form 600 with a supplementary showing when such applicants request more than 10 trunked channels. The supplementary showing must demonstrate why more than 10 trunked channels are required by, *e.g.*, furnishing a loading study.

List of Subjects in 47 CFR Part 90

Radio, Communications equipment.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 90 as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. The authority citation for Part 90 continues to read as follows:

Authority: Secs. 4, 251–2, 303, 309 and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 251–2, 303, 309 and 332, unless otherwise noted.

2. § 90.187 is amended by revising paragraph b(2), b(2)(ii) and (b)(2)(iii) and adding paragraphs (b)(2)(iv), (b)(2)(v), (d), (e) and (f) to read as follows:

§ 90.187 Trunking in the bands between 150 and 512 MHz.

* * * * *

(b) * * *

(2) Trunking will be permitted on frequencies where an applicant or licensee does not have an exclusive service area provided that all frequency coordination requirements are complied with and written consent is obtained from affected licensees using either the procedure set forth in (b)(2)(i), and b(2)(ii) of this section (mileage separation) or the procedure set forth in (b)(2)(iii)(A), (b)(2)(iii)(B) and (b)(2)(iii)(C) of this section (protected contours).

(i) * * *

(ii) Stations with service areas (37 dBu contour for stations in the 150–174

[2] Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignments Policies of the Private Land Mobile Services, PR Docket No. 92–235, 60 FR 37152 July 19, 1995, *First Report and Order and Further Notice of Proposed Rule Making,* 10 FCC Red. 10076 (1996).

[3] Implementation of Sections 309(j) and 337 of the Communications Act of 1934, as amended, Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies, Establishment of a Public Service Radio Pool in the Private Mobile Frequencies Below 800 MHz, WT Docket No. 99–87, RM–9332, *Notice of Proposed Rulemaking,* 64 FR 23571 May 3, 1999, FCC 99–52 (rel. March 25, 1999).

MHz band and 39 dBu contour for stations in the 421–512 MHz bands; see § 90.205) that overlap a circle with radius 113 km (70 mi.) from the proposed base station.

(iii) In lieu of the mileage separation procedure set forth in (b)(2)(i) and (b)(2)(ii) of this section, applicants for trunked facilities may obtain consent only from stations that would be subjected to objectionable interference from the trunked facilities. Objectionable interference will be considered to exist when the interference contour (19 dBu for VHF stations, 21 dBu for UHF stations) of a proposed trunked station would intersect the service contour (37 dBu for VHF stations, 39 dBu for UHF stations) of an existing station. The existing stations that must be considered in a contour overlap analysis are a function of the channel bandwidth of the proposed trunked station, as follows:

(A) For trunked stations proposing 25 kHz channel bandwidth: Existing co-channel stations and existing stations that have an operating frequency 15 kHz or less from the proposed trunked station.

(B) For trunked stations proposing 12.5 kHz channel bandwidth: Existing co-channel stations and existing stations that have an operating frequency 7.5 kHz or less from the proposed trunked station.

(C) For trunked stations proposing 6.25 kHz channel bandwidth: Existing co-channel stations and existing stations that have an operating frequency 3.75 kHz or less from the proposed trunked station.

(iv) The calculation of service and interference contours referenced in paragraph (iii) of this section shall be done using generally accepted engineering practices and standards which, for purposes of this rule section, shall presumptively be the practices and standards agreed to by a consensus of all certified frequency coordinators.

(v) The written consent from the licensees specified in paragraphs (b)(2)(i) and (b)(2)(ii) or (b)(2)(iii)(A), (b)(2)(iii)(B) and (b)(2)(iii)C of this section shall specifically state all terms agreed to by the parties and shall be signed by the parties. The written consent shall be maintained by the operator of the trunked station and be made available to the Commission upon request. The submission of a coordinated trunked application to the Commission shall include a certification from the applicant that written consent has been obtained from all licensees specified in paragraphs (b)(2)(i) and (b)(2)(ii) or (b)(2)(iii)(A), (b)(2)(iii)(B) and (b)(2)(iii)(C) of this section that the written consent documents encompass the complete understandings and agreements of the parties as to such consent; and that the terms and conditions thereof are consistent with the Commission's rules. Should a potential applicant disagree with a certified frequency coordinator's determination that objectionable interference exists with respect to a given channel or channels, that potential applicant may request the Commission to overturn the certified frequency coordinator's determination. In that event, the burden of proving by clear and convincing evidence that the certified frequency coordinator's determination is incorrect shall rest with the potential applicant. If a licensee has consented to the use of trunking, but later decides against the use of trunking, that licensee may request that the licensee(s) of the trunked system(s) cease the use of trunking. Should the trunked station(s) decline the licensee's request, the licensee may request a replacement channel from the Commission. A new applicant whose interference contour overlaps the service contour of a trunked licensee will be assigned the same channel as the trunked licensee only if the trunked licensee consents in writing and a copy of the written consent is submitted to the certified frequency coordinator responsible for coordination of the application.

* * * * *

(d) Potential applicants proposing trunked operation may file written notice with any certified frequency coordinator for the pool (Public Safety or Industrial/Business) in which the applicant proposes to operate. The notice shall specify the channels on which the potential trunked applicant proposes to operate and the proposed effective radiated power, antenna pattern, height above ground, height above average terrain and proposed channel bandwidth. On receipt of such a notice, the certified frequency coordinator shall notify all other certified frequency coordinators in the relevant pool within one business day. For a period of sixty days thereafter, no application will be accepted for coordination which specifies parameters that would result in objectionable interference to the channels specified in the notice. Potential applicants shall not file another notice for the same channels within 10 km (6.2 miles) of the same location unless six months shall have elapsed since the filing of the last such notice. Certified frequency coordinators shall return without action, any coordination request which violates the terms of paragraph (d) of this section.

(e) No more than 10 channels for trunked operation in the Industrial/Business Pool may be applied for in a single application. Subsequent applications, limited to an additional 10 channels or fewer, must be accompanied by a certification, submitted to the certified frequency coordinator coordinating the application, that all of the applicant's existing channels authorized for trunked operation have been constructed and placed in operation. Certified frequency coordinators are authorized to require documentation in support of the applicant's certification that existing channels have been constructed and placed in operation. Applicants in the Public Safety Pool may request more than 10 channels at a single location provided that any application for more than 10 Public Safety Pool channels must be accompanied by a showing of sufficient need. The requirement for such a showing may be satisfied by submission of loading studies demonstrating that requested channels in excess of 10 will be loaded with 50 mobiles per channel within a five year period commencing with grant of the application.

(f) If a licensee authorized for trunked operation discontinues trunked operation for a period of 30 consecutive days, the licensee, within 7 days of the expiration of said 30 day period, shall file a conforming application for modification of license with the Commission. Upon grant of that application, new applicants may file for the same channel or channels notwithstanding the interference contour of the new applicant's proposed channel or channels overlaps the service contour of the station that was previously engaged in trunked operation.

[FR Doc. 99–24157 Filed 9–15–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 171

[RSPA–99–6195 (Docket No. HM–206D)]

RIN 2137–AD37

Hazardous Materials: Limited Extension of Requirements for Labeling Materials Poisonous by Inhalation (PIH)

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Interim final rule.

SUMMARY: RSPA is providing a limited exception, until October 1, 2001, from requirements to place the new POISON INHALATION HAZARD or POISON GAS labels on packages that are intended for transportation in international commerce. The exception applies only to Division 2.3 materials and Division 6.1 liquids in Hazard Zone A or B that are loaded into a freight container or closed transport vehicle that is placarded and marked with the identification number, as currently required for those materials. This interim final rule is intended to prevent delays and frustrated shipments for these hazardous materials when transported by vessel under the provisions of the International Maritime Dangerous Goods Code (IMDG Code), or by motor vehicle or rail car to or from Canada.

DATES: *Effective dates:* This final rule is effective on October 1, 1999.

Comment date: Comments must be received November 15, 1999.

ADDRESSES: *Written comments:* Address written comments to the Dockets Management System, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590–0001. Comments should identify the docket number RSPA–99–6195 (HM–206D) and should be submitted in two copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard.

Dockets Management System is located on the Plaza Level of the Nassif Building at the Department of Transportation at the above address. Public dockets may be reviewed between the hours of 10 a.m. and 5 p.m., Monday through Friday, excluding Federal holidays. In addition, the public can review comments by accessing the Docket Management System through the DOT home page at *http://dms.dot.gov*. Comments may also be submitted to the docket electronically by logging onto the Dockets Management System website at http://dms.dot.gov. Click on ''Help & Information'' to obtain instructions for filing the document electronically. In every case, the comment should refer to the Docket number ''RSPA–99–6195''. Comments may also be submitted by fax by calling (202) 366–3012.

FOR FURTHER INFORMATION CONTACT: Helen L. Engrum, Office of Hazardous Materials Standards, (202) 366–8553, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

In the final rules adopted under Docket No. HM–206, RSPA specified requirements for display of: (1) Identification number marking on a transport vehicle or freight container that is loaded at one loading facility with more than 1,000 kg (2,205 pounds) of materials poisonous by inhalation (PIH), on and after October 1, 1998; (2) new labels to be affixed to non-bulk packagings containing PIH materials, on and after October 1, 1999; and (3) new placards to be displayed on transport vehicles and freight containers containing PIH materials, on and after October 1, 2001. RSPA also provided that, if the words ''INHALATION HAZARD'' appear on the new PIH label or placard, those words need not also be marked on the package (See 49 CFR172.313). (Final rules, 62 FR 1217 (January 8, 1997), 62 FR 39398 (July 22, 1997), 63 FR 16070 (April 1, 1998).) These requirements were adopted in response to a mandate in section 25 of the Hazardous Materials Transportation Uniform Safety Act of 1990 (Pub. L. 101–615) that methods of improving placarding be considered including, inter alia, identification of appropriate emergency response procedures through symbols on placards and methods to make placards more visible.

In adopting the PIH marking, label, and placard requirements, RSPA discussed the extremely hazardous nature of these materials and its belief that ''the existing POISON and POISON GAS label and placard are not adequate in communicating the inhalation hazard of these materials.'' 63 FR at 1218. RSPA also referred to its efforts since 1985 ''toward enhancing safety in the transportation of PIH materials by establishing a complete system of transportation controls for these materials, including an improved communication of their presence.'' 62 FR at 39400. As noted in the final rule, a majority of the persons submitting comments on this issue ''supported adoption of the distinctive PIH labels and placards,'' although a number of commenters urged RSPA to delay implementation until the United Nations Committee of Experts on the Transport of Dangerous Goods (UN Committee) had also adopted the new PIH label and placard. This matter is pending before the UN Committee.

II. Petition for Rulemaking

On June 17, 1999, the Hazardous Materials Advisory Council (HMAC) filed a petition for rulemaking (P–1385) to delay implementation of the new PIH labels adopted under Docket HM–206 until the UN Committee recommends adoption of these requirements. HMAC suggested an implementation date of no sooner than October 1, 2001 to coincide with the effective date for PIH placards and to allow the UN Committee more time to discuss this issue. HMAC stated:

> By introducing PIH labels that have not been accepted by the UN Committee, the unintended consequence may well be to cause confusion with international shipments of these materials, thereby undermining their safe transport. Packages of PIH material being imported into the US and labeled in accordance with the IMDG Code by sea mode will not be in compliance with the new US labeling requirement. Shippers will be forced to re-label these packages at port areas where provision to accomplish this is scarce and the possibility for errors and mishandling increase.

HMAC also stated there are major questions regarding the acceptability of the new labels in other countries. HMAC said that re-labeling may be required to make the packages comply with other regional or national regulations, and that such a situation will not enhance safety, which is the intent of introducing the new label. According to HMAC, a Canadian member indicated that lack of international coordination may cause serious problems with compliance and that members outside of the U.S. have questioned the U.S. commitment to worldwide harmonization of dangerous goods transport regulation. HMAC also raised the issue of inconsistency with the intent of Title IV of the Trade Agreements Act of 1979.

III. RSPA Response to Petition for Rulemaking

The HMR provide for a nationwide system of communication of the presence of hazardous materials which includes shipping papers, marking, labeling, placarding, and emergency response information. These requirements are designed to provide

fire and emergency response personnel, the public, and transport workers with information in the event of transportation incidents involving hazardous materials. In responding to incidents involving hazardous materials, emergency response personnel must first identify the specific chemical hazards facing them before approaching the incident site and attempting remedial action. An inappropriate response to an incident involving inadequately identified hazardous materials can significantly endanger individuals, the surrounding community, and the environment.

The unique design of the PIH labels and placards substantially improves the identification of PIH materials during transportation. It is important that there be distinctive warnings that will lead to appropriate response actions for these high risk materials. The risk posed by PIH materials such as acrolein (inhibited), allyl alcohol, methyl isocyanate, or acetone cyanohydrin (stabilized), is substantially greater than the risk posed by other poisonous materials such as benzonitrile, chloroform, ethyl bromide, or tetrachloroethane. Yet prior to implementation of the Docket HM–206 requirements, all of these materials were identified by display of the same labels and placards.

RSPA understands that PIH labels and placards are not yet formally recognized outside the jurisdiction of the U.S., and that the UN Committee has yet to act upon the merits of our proposal on this subject. We also recognize that we should strive for harmonious hazard communication requirements, when appropriate. However, differences have been recognized as necessary and appropriate in a number of instances. For example, there are domestic exceptions from placarding for Class 9 materials, and for less than 1,001 pounds of certain materials. In addition, the HMR provide a domestic exception which permits use of DANGEROUS placards in place of placards for certain classes of hazardous materials loaded in transport vehicles or freight containers. As these exceptions are recognized and accepted as being appropriate, RSPA is certain that the improved communication of hazard for high risk PIH materials also is necessary and appropriate.

Much of the information and issues raised in HMAC's petition have already been considered and addressed during the rulemaking proceeding in Docket HM–206. RSPA believes HMAC has not presented justification for either its request to postpone implementation of the requirement for PIH labels until the UN Committee has had the opportunity to judge the merits of the proposal, or for its recommendations that implementation of the requirements be deferred until October 1, 2001 for both domestic and international transportation. Further, RSPA does not agree that the requirements are inconsistent with the language and intent of Title IV of the Trade Agreements Act of 1979. However, RSPA agrees with HMAC that there is the possibility for errors and mishandling at port areas for shipments made in accordance with the IMDG Code, and there may be instances where the new labels are not recognized in other countries, such as shipments to or from Canada. RSPA believes there is a potential for delayed or frustrated shipments for these PIH materials when transported by vessel under the provisions of the IMDG Code as authorized by 49 CFR 171.12, or to or from Canada under the provisions of 49 CFR 171.12a. Also, the potential for exposure would be increased for transportation workers if they must further handle and re-label these extremely toxic and highly volatile materials. For these reasons, RSPA is granting the HMAC petition in part, and denies other parts of the petition.

In order to facilitate international transportation in commerce of PIH materials, RSPA is providing a limited exception, until October 1, 2001, from the requirement to display PIH labels on packages. The exception applies only to PIH materials in non-bulk packages in a closed transport vehicle or freight container that displays placards and identification numbers for the PIH materials in other than domestic transportation. Since the closed vehicles containing PIH materials in non-bulk packages in containerized loads moving in international commerce will, while in the United States, be identified as containing such materials by the display of identification numbers, RSPA does not believe that safety within the United States will be significantly reduced by adoption of this rule. Therefore, in this interim final rule, the provisions in §§ 171.12 and 171.12a are revised to provide a limited exception, until October 1, 2001, from the requirement to display the PIH labels on packages, provided the PIH materials are in non-bulk packages in closed transport vehicles or freight containers placarded and marked with an identification number.

Because use of the new PIH labels would otherwise be required on October 1, 1999, it is impossible for RSPA to publish an NPRM and receive comments before issuing this interim final rule or to provide at least 30 days before the effective date of this interim final rule. Delay in issuing the interim final rule would create an undue hardship on the international regulated community and have the potential to disrupt and frustrate the shipment of these high hazard materials by vessel, or by motor vehicle or rail car to or from Canada.

Although an opportunity for public comment on this particular approach has not been provided prior to issuing this interim final rule, RSPA encourages interested persons to participate in this rulemaking by submitting comments containing information or views concerning this interim final rule. Commenters opposing adoption of this rule should provide a reason for their opposition. RSPA will consider all public comments.

IV. Editorial Correction

An editorial correction is being made to remove paragraph (e) in 49 CFR 171.14, which contains a provision postponing the compliance date for use of the new PIH labels an additional year, from October 1, 1998 to October 1, 1999. Except as provided for in this rule for shipments by vessel in accordance with 49 CFR 171.12, or to or from Canada in accordance with 49 CFR 171.12a, on and after October 1, 1999, packages containing PIH materials must be labeled as required by the HMR. Therefore, paragraph (e) is obsolete and it is removed.

V. Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This interim final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget. A regulatory evaluation prepared for the January 8, 1997 final rule is available in the Docket (HM–206). Implementation of this labeling exception for PIH materials provided by this rulemaking should not result in any additional costs. Any savings associated with avoiding delay or frustration of shipments is considered so minimal as to not warrant revision of the regulatory evaluation.

B. Executive Order 12612

The final rule has been analyzed in accordance with the principles and criteria in Executive Order 12612 (''Federalism''). Federal hazardous materials transportation law, 49 U.S.C. 5101–5127 contains express preemption provisions at 49 U.S.C. 5125 and

expressly preempts State, local, and Indian tribe requirements applicable to the transportation of hazardous materials that cover certain subjects and are not substantively the same as Federal requirements. These subjects are:

(A) The designation, description, and classification of hazardous material.

(B) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials.

(C) The preparation, execution, and use of shipping documents related to hazardous material and requirements respecting the number, content, and placement of those documents.

(D) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material.

(E) The design, manufacturing, fabricating, marking, maintenance, reconditioning, repairing, or testing of a package or container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

This final rule preempts State, local, or Indian tribe requirements concerning these subjects unless the non-Federal requirements are ''substantively the same'' (see 49 CFR 107.202(d)) as the Federal requirements. RSPA lacks discretion in this area, and preparation of a federalism assessment is not warranted.

Federal law 49 U.S.C. 5125(b)(2) provides that if DOT issues a regulation concerning any of the covered subjects, DOT must determine and publish in the **Federal Register** the effective date of Federal preemption. The effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. RSPA has determined that the effective date of Federal preemption for these requirements will be December 15, 1999.

C. Executive Order 13084

RSPA believes this change will not significantly or uniquely affect the communities of Indian tribal governments under the principles and criteria contained in Executive Order 13084 (''Consultation and Coordination with Indian Tribal Governments''). Therefore, the funding and consultation requirements of this Executive Order would not apply.

D. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), RSPA must consider whether this interim final rule would have a significant economic impact on a substantial number of small entities. This rule provides limited relief to certain shippers and carriers of materials poisonous by inhalation and will have no significant economic impacts. I certify that this final rule will not have a significant economic impact on a substantial number of small entities.

E. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid OMB control number. This rule does not contain any new information collection requirements.

F. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading of this document to cross-reference this action with the Unified Agenda.

G. Unfunded Mandates Reform Act

This final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objectives of the rule.

H. Impact on Business Processes and Computer Systems

Many computers that use two digits to keep track of dates will, on January 1, 2000, recognize ''double zero'' not as 2000 but as 1900. This glitch, Year 2000 problem, could cause computers to stop running or to start generating erroneous data. The year 2000 problem poses a threat to the global economy in which Americans live and work. With the help of the President's Council on Year 2000 Conversion, Federal agencies are reaching out to increase awareness of the problem and to offer support. RSPA does not want to impose new requirements that would mandate business process changes when the resources necessary to implement those requirements would otherwise be applied to the Year 2000 problem.

This final rule does not contain business process changes and does not require modifications to computer systems for computer generated labels. The rule does not affect organizations' ability to respond to the Year 2000 problem and provides some relief to the international regulated community, until October 1, 2001, when mandatory compliance with the new PIH labeling is required.

List of Subjects in 49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR part 171 is amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. The authority citation for part 171 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR part 1.

2. Section 171.12 is amended by adding paragraph (b)(8)(iv), and by revising paragraphs (b)(8)(ii) and (iii) to read as follows:

§ 171.12 Import and export shipments.

* * * * *

(b) * * *

(8) * * *

(ii) The material must be packaged in accordance with the requirements of this subchapter;

(iii) Except as provided in paragraph (b)(8)(iv) of this section, the package must be marked in accordance with § 172.313 of this subchapter and labeled and placarded with ''POISON INHALATION HAZARD'' or ''POISON GAS'', as appropriate, in accordance with subparts E and F, respectively, of part 172 of this subchapter;

(iv) Until October 1, 2001, the package may be labeled in accordance with the IMDG Code if transported in a closed transport vehicle or freight container marked with identification numbers for the materials in any quantity in the manner specified in paragraphs (c) and (c)(3) of § 172.313 of this subchapter and placarded as required by subpart F of part 172 of this subchapter.

* * * * *

3. Section 171.12a is amended by adding paragraph (b)(5)(iv), and by revising paragraphs (b)(5)(ii) and (iii) to read as follows:

§ 171.12a Canadian shipments and packagings.

* * * * *

(b) * * *

(5) * * *

(ii) The material must be packaged in accordance with the requirements of this subchapter;

(iii) Except as provided in paragraph (b)(5)(iv) of this section and for a

package containing anhydrous ammonia, the package must be marked in accordance with § 172.313 of this subchapter and labeled and placarded with ''POISON INHALATION HAZARD'' or ''POISON GAS'', as appropriate, in accordance with subparts E and F, respectively, of part 172 of this subchapter. For shipments of anhydrous ammonia, the shipping paper must contain an indication that the markings, labels and placards have been applied in conformance with the TDG Regulations and this paragraph (b)(5);

(iv) Until October 1, 2001, the package may be labeled in accordance with the TDG Regulations if transported in a closed transport vehicle or freight container marked with identification numbers for the materials in any quantity in the manner specified in paragraphs (c) and (c)(3) of § 172.313 of this subchapter and placarded as required by subpart F of part 172 of this subchapter.

* * * * *

§ 171.14 [Amended]

4. In § 171.14, paragraph (e) is removed.

Issued in Washington, DC, on September 13, 1999, under the authority delegated in 49 CFR part 1.

Stephen D. Van Beek,

Deputy Administrator.

[FR Doc. 99–24176 Filed 9–15–99; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 98123133–9127–03; I.D. 091399B]

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; End of the Primary Season and Resumption of Trip Limits for the Shoreside Whiting Sector

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

ACTION: Fishing restrictions; request for comments.

SUMMARY: NMFS announces the end of the 1999 primary season for the shoreside fishery for Pacific whiting (whiting), and resumption of a 10,000-lb (4,536-kg) trip limit, at l2:00 noon local time (l.t.) September 13, 1999, because the allocation for the shoreside sector will be reached by that time. This action is intended to keep the harvest of whiting within the 1999 allocation levels.

DATES: Effective from 12:00 noon l.t. September 13, 1999, until the effective date of the 2000 annual specifications and management measures for the Pacific Coast groundfish fishery, which will be published in the **Federal Register**, unless modified, superseded, or rescinded. Comments will be accepted through October 1, 1999.

ADDRESSES: Submit comments to William Stelle, Jr., Administrator, Northwest Region (Regional Administrator), NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070; or Rodney McInnis, Acting Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213.

FOR FURTHER INFORMATION CONTACT: Katherine King at 206–526–6145 or Becky Renko at 206-526-6110.

SUPPLEMENTARY INFORMATION: This action is authorized by regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP), which governs the groundfish fishery off Washington, Oregon, and California. On January 8, 1999 (64 FR 1316), the 1999 fishing seasons for Pacific whiting were published in the **Federal Register**. A new whiting stock assessment was completed in early 1999, and an allowable biological catch (ABC) and optimum yield (OY) of 232,000 metric tons (mt) were recommended for all U.S. harvests. On May 24, 1999, (64 FR 27928), NMFS announced the 1999 whiting ABC and OY of 232,000 mt, the tribal whiting allocation of 32,500 mt, and the commercial OY of 199,500 mt.

Regulations at 50 CFR 660.323(a)(4) divide the commercial allocation into separate allocations for the catcher/processor, mothership, and shoreside sectors of the whiting fishery. When each sector's allocation is reached, the primary season for that sector is ended. The catcher/processor sector is composed of vessels that harvest and process whiting. The mothership sector is composed of motherships and catcher vessels that harvest whiting for delivery to motherships. Motherships are vessels that process, but do not harvest, whiting. The shoreside sector is composed of vessels that harvest whiting for delivery to shoreside processors. The allocations, which are based on the 1999 commercial harvest guideline for whiting of 199,500 mt, are 67,800 mt (34 percent) for the catcher/processor sector, 47,900 mt (24 percent) for the mothership sector, and 83,800 mt (42 percent) for the shoreside sector.

Regulations at 50 CFR 660.323(a)(3)(i) describe the primary season for the shoreside sector as the period(s) when the large-scale target fishery is conducted (when trip limits under § 660.323(b) are not in effect). The 10,000 lb (4,536-kg) trip limit, which also had been in effect before the primary season, is intended to accommodate small bait and fresh-fish markets, as well as bycatch in other fisheries.

The best available information on September 10, 1999, indicated that the 83,800 mt shoreside allocation would be reached by 12:00 noon l.t. September 13, 1999.

NMFS Action

For the reasons stated above, and in accordance with the regulations at 50 CFR 660.323(a)(4)(iii)(C), NMFS herein announces:

Effective 12:00 noon l.t. September 13, 1999—No more than 10,000 lb (4,536 kg) of whiting may be taken and retained, possessed, or landed by a catcher vessel participating in the shoreside sector.

Classification

This action is authorized by the regulations implementing the FMP. The determination to take this action is based on the most recent data available. The aggregate data upon which the determination is based are available for public inspection at the Office of the Regional Administrator (see **ADDRESSES**) during business hours. This action is taken under the authority of 50 CFR 660.323(a)(4)(iii)(C) and is exempt from review under E.O. 12866.

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

Dated: September 13, 1999.

Rebecca Lent,

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

[FR Doc. 99–24182 Filed 9–13–99; 2:44 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304063–9063–01; I.D. 091399A]

Fisheries of the Exclusive Economic Zone Off Alaska; Greenland Turbot in the Bering Sea Subarea of the Bering Sea and Aleutian Islands

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Greenland turbot in the Bering Sea subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 1999 total allowable catch (TAC) of Greenland turbot in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 15, 1999, until 2400 hrs, A.l.t., December 31, 1999.

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

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

The Final 1999 Harvest Specifications of Groundfish for the BSAI (64 FR 12103, March 11, 1999) established the 1999 initial TAC of Greenland turbot in the Bering Sea subarea as 5,126 metric tons (mt). See § 679.20(c)(3)(iii).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the TAC for Greenland turbot in the Bering Sea subarea will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 3,926 mt, and is setting aside the remaining 1,200 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Greenland turbot in the Bering Sea subarea.

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 to prevent overharvesting the 1999 TAC of Greenland turbot for the Bering Sea subarea of the BSAI. A delay in the effective date is impracticable and contrary to the public interest. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should 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 § 679.20 and is exempt from review under E.O. 12866.

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

Dated: September 13, 1999.

Richard W. Surdi,

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

[FR Doc. 99–24183 Filed 9–13–99; 2:44 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 179
Thursday, September 16, 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 THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 4 and 24

[Notice No. 868]

RIN 1512–AB78

Implementation of Public Law 105–34, Section 1417, Related to the Use of Additional Ameliorating Material in Certain Wines (98R–89P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Notice of proposed rulemaking cross-referenced to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this **Federal Register**, the Bureau of Alcohol, Tobacco and Firearms (ATF) is issuing temporary regulations to implement section 1417 of the Taxpayer Relief Act of 1997. The new law made changes in the use of additional ameliorating material in certain wines. The wine regulations are amended to extend the amelioration and sweetening limitations so that wines made exclusively from any fruit (excluding grapes) or berry with a fixed acid content of 20 or more parts per thousand is entitled to a volume of up to 60 percent ameliorating material.

DATES: Written comments must be received on or before December 15, 1999.

ADDRESSES: Send written comments to: Chief, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091–0221, Attention: Notice Number 868.

FOR FURTHER INFORMATION CONTACT: Thomas B. Busey, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226; (202) 927–8204.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

It has been determined that this proposed rule is not a significant regulatory action as defined by Executive Order 12866. Therefore, a regulatory assessment is not required.

Regulatory Flexibility Act

Because this proposed rule does not impose a collection of information requirement on small entities, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601) do not apply. Moreover, the revenue effects of this rulemaking on small businesses flow directly from the underlying statute. Likewise, any secondary or incidental effects, or other compliance burdens flow directly from the statute. Pursuant to 26 U.S.C. 7805(f), this proposed regulation will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and its implementing regulations, 5 CFR part 1320, do not apply to this notice of proposed rulemaking because no new requirement to collect information is proposed.

Public Participation

ATF requests comments on the temporary regulations from all interested persons. Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practicable to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date.

Comments may be submitted by facsimile transmission (FAX) to (202) 927–8602, provided the comments: (1) are legible, (2) are 8 ½″ x 11″ in size, (3) contain a written signature, and (4) are three pages or less in length. This limitation is necessary to assure reasonable access to the equipment. Comments sent by FAX in excess of three pages will not be accepted. Receipt of FAX transmittals will not be acknowledged. Facsimile transmitted comments will be treated as originals.

ATF will not recognize any material in comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting the comment is not exempt from disclosure. During the comment period, any person may request an opportunity to present oral testimony at a public hearing. However, the Director reserves the right, in light of all circumstances, to determine if a public hearing is necessary.

The temporary regulations in this issue of the **Federal Register** amend the regulations in 27 CFR parts 4 and 24. For the text of the temporary regulations see T.D. ATF–403, published in the Rules and Regulations section of this issue of the **Federal Register**.

Drafting Information

The principal author of this document is Thomas B. Busey, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

Signed: July 22, 1999.

John W. Magaw,

Director.

Approved: August 13, 1999.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 99–24159 Filed 9–15–99; 8:45 am]

BILLING CODE 4810–31–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 22, 24, 26, 27, 73, 74, 80, 87, 90, 95, 97, and 101

[WT Docket No. 99–87, RM–9332, RM–9405; DA 99–1861]

Revised Competitive Bidding Authority

AGENCY: Federal Communications Commission.

ACTION: Notice; extension of reply comment period.

SUMMARY: This document extends the time to file reply comments on the *Notice of Proposed Rule Making* released on March 25, 1999. Reply comments were due on or before September 16, 1999. On September 10, 1999, the Commission released an order (DA 99–1861) that grants the Land Mobile Communications Council's ''Request for Extension of Time to File Reply Comments.'' The new deadline will be September 30, 1999.

DATES: Reply comments must be filed on or before September 30, 1999.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Room TW–A325, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Gary D. Michaels, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, at (202) 418–0660, or Scot Stone, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, at (202) 418–0680.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order* in WT Docket No. 99–87, DA 99–1861, adopted and released on September 10, 1999. The full text of the *Order* is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY–A257, 445 Twelfth Street, SW., Washington, DC 20554, and may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 445 Twelfth Street, SW., Room CY–B400, Washington, DC 20554, (202) 314–3070. The Order is also available on the Internet at the Commission's web site: http://www.fcc.gov/wtb/documents.html.

1. On March 25, 1999, the Commission released a *Notice of Proposed Rule Making* (''*NPRM*''), WT Docket No. 99–87, RM–9332, RM–9405, FCC 99–52, 63 FR 23571, May 3, 1999. The *NPRM* initially stated that comments and reply comments would be due on or before July 2, 1999 and August 2, 1999, respectively. On May 19, 1999 the Commission released an Order, WT Docket No. 99–87, RM–9332, RM–9405, FCC 99–950, 64 FR 30288, June 7, 1999, extending the deadline for comments to August 2, 1999 and reply comments to September 16, 1999.

2. On September 8, 1999, the Land Mobile Communications Council (''LMCC'') filed a ''Request for Extension of Time to File Reply Comments'' to extend the deadline for filing reply comments to September 30, 1999. LMCC contends that an extension is warranted due to the voluminous initial responses to the *NPRM*, the multiple questions raised therein as well as coinciding comment deadlines in other Commission proceedings that significantly impact the private wireless industry.

3. Although the Commission does not routinely grant extensions of time in rule making proceedings, we agree that an extension will afford parties the necessary time to coordinate and file reply comments that will facilitate the compilation of a more complete record in this proceeding, without causing undue delay of the Commission's consideration of the issues. Accordingly, *it is ordered* that the ''Request for Extension of Time to File Reply Comments'' filed by the Land Mobile Communications Council is granted. Interested parties may file reply comments on or before September 30, 1999.

4. This action is taken pursuant to the authority provided in 47 CFR 1.46 and under delegated authority pursuant to 47 CFR 0.131, 0.331.

Federal Communications Commission.

Mark R. Bollinger,

Deputy Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau.

[FR Doc. 99–24232 Filed 9–15–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1803, MM Docket No. 99–276, RM–9702]

Radio Broadcasting Services; Scappoose and Tillamook, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Thunderegg Wireless, L.L.C., licensee of Station KJUN, requesting the reallotment of Channel 281C3 from Tillamook to Scappoose, OR, as the community's first local aural service, and the modification of Station KJUN's license to specify Scappoose as its community of license. Channel 281C3 can be allotted to Scappoose in compliance with the Commission's minimum distance separation requirements with a site restriction of 6.5 kilometers (4.1 miles) northwest, at coordinates 45–46–58 NL; 122–57–13 WL, to accommodate petitioner's desired transmitter site. Canadian concurrence in the allotment is required since Scappoose is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

DATES: Comments must be filed on or before October 25, 1999, and reply comments on or before November 9, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: John E. Fiorini III, H. Anthony Lehv, Gardner, Carton & Douglas, 1301 K Street, NW., Suite 900, East Tower, Washington, DC 20005 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–276, adopted August 25, 1999, and released September 3, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing *permissible ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–24156 Filed 9–15–99; 8:45 am]

BILLING CODE 6712–01–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 990907245–9245–01; I.D. 082499B]

RIN 0648–AM86

Fisheries of the Northeastern United States; Atlantic Herring Fishery; Atlantic Herring Fishery Management Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Advance notice of proposed rulemaking; notice of a control date for the Atlantic herring fishery.

SUMMARY: NMFS announces that it is considering, and is seeking public comment on, proposed rulemaking under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to control future access to the Atlantic herring (*Clupea harengus*) fishery. This notification is intended, in part, to promote awareness of potential eligibility criteria for future access to the herring fishery so as to discourage speculative entry into the herring fishery while the New England Fishery Management Council (Council) and NMFS consider whether and how access and effort in all or part of the herring fishery should be controlled. The date of publication of this notification, September 16, 1999 shall be known as the ''control date'', and may be used for establishing eligibility criteria for future access to the herring fishery subject to Federal authority.

DATES: Comments must be received by October 18, 1999.

ADDRESSES: Comments should be directed to Patricia Kurkul, Regional Administrator, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930–2298.

FOR FURTHER INFORMATION CONTACT: David Gouveia, Fishery Management Specialist, 978–281–9280.

SUPPLEMENTARY INFORMATION: Atlantic herring is a migratory pelagic species that supports important commercial fisheries along the Atlantic coast of the United States and Canada. In addition, Atlantic herring is a key forage species for seabirds, marine mammals, and other species of fish. The Fishery Management Plan for Atlantic Herring (FMP) is under Secretarial review for approval/disapproval by October 27, 1999. The FMP was developed by the Council to manage the fishery and prevent overfishing. The FMP proposes measures to manage Atlantic herring as an open access fishery that primarily controls fishing mortality through total allowable catch (TAC) levels allocated among four different management areas. These proposed management areas are identified as Area 1A (inshore Gulf of Maine), Area 1B (offshore Gulf of Maine), Area 2 (south coastal area), and Area 3 (Georges Bank).

Based on the most recent assessment, the overall stock biomass is estimated to be at record high levels (27th Northeast Regional Stock Assessment Workshop). However, while overall fishing mortality is very low, the resource is fully exploited in the Gulf of Maine. Despite current overall stock size, there appears to be sufficient harvesting capacity to warrant not only concern about excess harvesting capacity entering this fishery in all proposed management areas, but concern over the impact of increased fishing effort in proposed Management Area 1A, where most herring catches have been taken for the last 20 years. The FMP proposes a TAC of 45,000 metric tons (mt) for Management Area 1A for fishing year 1999 and the Council has proposed no change in this level for fishing year 2000. Landings in 1996 and 1997 from this area exceeded 70,000 mt. Catches in 1998 did not exceed the proposed TAC, but clearly the capacity to exceed the TAC exists. Subsequently, a limitation on entry into the herring fishery in the inshore Gulf of Maine (proposed Management Area 1A) may be implemented prior to a controlled access system being implemented for other herring management areas.

The Council is considering development of a controlled access system in the Atlantic herring fishery to address the principle of matching capacity to sustainable harvest level. The Council recognizes there may be room for an increase in fishing effort in some of the proposed management areas but is concerned over the impact of increasing fishing effort in the inshore Gulf of Maine proposed Management Area 1A. Therefore, the Council may consider a system that will control increases in fishing effort in proposed Management Area 1A while potentially allowing some additional fishing effort in proposed Management Areas 1B, 2 and 3, or in other management areas that may be developed. The limitation on entry into the fishery in proposed Management Area 1A, or any other proposed management area that may be developed, may be based on levels of participation or other criteria such as domestic harvest capacity. These limitations on entry may also be implemented prior to implementation of a controlled access system for the entire herring fishery. If a controlled access system is implemented, fishery participants may need to preserve records that substantiate and verify their participation in the Atlantic herring fishery in Federal waters. This announcement, therefore, gives the public notification that interested participants should locate and preserve records that substantiate and verify their participation in the Atlantic herring fishery in Federal waters.

The control date is intended to discourage speculative entry into the Atlantic herring fishery, particularly in the inshore Gulf of Maine, while controlled access schemes are developed by the Council. Any scheme for controlling access may treat participants differently based on conditions in, and criteria to be established for, different herring management areas. Existing domestic harvesting capacity within fisheries of the Northeast Region of the NMFS prior to the control date may also be treated differently from new capacity. The control date will help to distinguish established participants from speculative entrants to the fishery. Although participants are notified that entering the fishery after the control date will not assure them of future access to the Atlantic herring resource on the grounds of previous participation, additional and/or other qualifying criteria may also be applied. The Council and NMFS may choose different and variably weighted methods to qualify participants, based on the type and length of participation in the fishery.

This notification establishes September 16, 1999 as the control date for potential use in determining historical or traditional participation in the Atlantic herring fishery. Consideration of a control date does not commit the Council or NMFS to any particular management scheme or criteria for entry into the Atlantic herring fishery. This notification does not prevent any other control date for eligibility in the fishery, or any other method of controlling access and/or fishing effort, from being proposed and implemented. The Council and NMFS may choose a different control date or may choose a management scheme that does not make use of such a date. Participants who enter the herring fishery on or after the control date may be treated differently than those with a history in the herring fishery prior to the control date. Fishermen are not guaranteed future participation in the fishery, regardless of their entry date or intensity of participation in the fishery before or after the control date. The Council and NMFS may choose to give variably weighted consideration to fishermen active in the fishery before and after the control date. The Council and NMFS may also choose to take no further action to control entry or access to the fishery, in which case the control date may be rescinded. Any action by the Council and NMFS will be taken pursuant to the requirements for FMP

development established under the Magnuson-Stevens Act.

This control date notification has been determined to be not significant under E.O. 12866.

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

Dated: September 10, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 99–24198 Filed 9–15–99; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 64, No. 179
Thursday, September 16, 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

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), the Rural Utilities Service (RUS) invites comments on the following information collections for which RUS intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by November 15, 1999.

FOR FURTHER INFORMATION CONTACT: F. Lamont Heppe, Jr., Program Development & Regulatory Analysis, Rural Utilities Service, USDA, 1400 Independence Ave., SW., STOP 1522, Room 4034 South Building, Washington, D.C. 20250–1522. Telephone: (202) 720–0736. FAX: (202) 720–4120.

SUPPLEMENTARY INFORMATION:

The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies information collections that RUS plans to submit to OMB for reinstatement.

Comments are invited on (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumption used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques on other forms of information technology. Comments may be sent to F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., Stop 1522, Room 4034 South Building, Washington, D.C. 20250–1522.

• *Title:* Prospective Large Power Service.

OMB Control Number: 0572–0001.

Type of Request: Reinstatement without change of a previously approved information collection.

Abstract: The Rural Utilities Service (RUS) makes mortgage loans and loan guarantees to electric systems to provide and improve electric service in rural areas pursuant to the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*) (RE Act). RUS electric borrowers often enter into special contracts with commercial and industrial consumers for the retail sale of electricity. These contracts typically require extensions to the borrower's electric system which may be financed with RUS loan funds, debt financing from another source, the borrower's own funds, sometimes called general funds, and/or funds provided by the consumer.

RUS review of these contracts is intended to protect the interests of the government as a secured lender and to foster the purposes of the RE Act. RUS Form 170, Prospective Large Power Service, provides RUS with information needed for this review. RUS published a final rule December 29, 1995, at 60 FR 67395, that significantly reduces the number of retail contracts that require RUS approval.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 4 hours per response.

Respondents: Small cooperatives or similar organizations.

Estimated Number of Respondents: 5.

Estimated Number of Responses per Respondent: 1.

Estimate Total Annual Burden on Respondents: 5.

• *Title:* Lien Accommodations and Subordinations.

OMB Control Number: 0572–0100.

Type of Request: Reinstatement without change of a previously approved information collection.

Abstract: The Rural Electrification Act of 1936, as amended (7 U.S.C., *et seq.*,) (RE Act) authorized and empowers the Administrator of the Rural Utilities Service to make loans in the several States and Territories of the United States for rural electrification and the furnishing of electric energy to persons in rural areas who are not receiving central station service. The RE Act also authorizes and empowers the Administrator of RUS to provide financial assistance to borrowers for purposes provided in the RE Act by accommodating or subordinating loans made by the National Rural Utilities Cooperative Finance Corporation, the Federal Financing Bank, and other lending agencies.

Title 7 Part 1717, subparts R and S, sets forth policy and procedure to facilitate and support borrowers' efforts to obtain private sector financing of their capital needs, to allow borrowers greater flexibility in the management of their business affairs without compromising RUS loan security, and to reduce the cost to borrowers, in terms of time, expense and paperwork, of obtaining lien accommodations and subordinations.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1.60 hours per response.

Respondents: Small cooperatives or similar organizations.

Estimated Number of Respondents: 20.

Estimated Number of Responses per Respondent: 2.90.

Estimated Total Annual Burden on Respondents: 93 hours.

• *Title:* Request for Approval to Sell Capital Assets.

OMB Control Number: 0572–0020.

Type of Request: Reinstatement without change of a previously approved information collection.

Abstract: A borrower's assets provide the security for a Government loan. The selling of assets reduces the security and increases the risk to the Government. RUS Form 369 allows the borrower to seek agency permission to sell some of its assets. The form collects detailed information regarding the proposed sale of a portion of the borrower's systems.

RUS electric utility borrowers complete this form to request RUS approval in order to sell capital assets when the fair market value exceeds 10 percent of the borrower's net utility plant.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 3 hours per response.

Respondents: Small cooperatives or similar organizations.

Estimated Number of Respondents: 5.

Estimated Number of Responses per Respondent: 1.

Estimate Total Annual Burden on Respondents: 15.

Copies of these information collections, and related forms and instructions, can be obtained from Bob Turner, Program Development and Regulatory Analysis, at (202) 720–0696.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: September 10, 1999.

Wally Beyer,

Administrator, Rural Utilities Service.

[FR Doc. 99–24186 Filed 9–15–99; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Municipal Interest Rates for the Fourth Quarter of 1999

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of municipal interest rates on advances from insured electric loans for the fourth quarter of 1999.

SUMMARY: The Rural Utilities Service hereby announces the interest rates for advances on municipal rate loans with interest rate terms beginning during the fourth calendar quarter of 1999.

DATES: These interest rates are effective for interest rate terms that commence during the period beginning October 1, 1999, and ending December 31, 1999.

FOR FURTHER INFORMATION CONTACT: Carolyn Dotson, Loan Funds Control Assistant, U.S. Department of Agriculture, Rural Utilities Service, Room 0227–S, Stop 1524, 1400 Independence Avenue, SW, Washington, DC 20250–1500. Telephone: 202–720–1928. FAX: 202–690–2268. E-mail: CDotson@rus.usda.gov.

SUPPLEMENTARY INFORMATION: The Rural Utilities Service (RUS) hereby announces the interest rates on advances made during the fourth calendar quarter of 1999 for municipal rate electric loans. RUS regulations at § 1714.4 state that each advance of funds on a municipal rate loan shall bear interest at a single rate for each interest rate term. Pursuant to § 1714.5, the interest rates on these advances are based on indexes published in the ''Bond Buyer'' for the four weeks prior to the fourth Friday of the last month before the beginning of the quarter. The rate for interest rate terms of 20 years or longer is the average of the 20 year rates published in the Bond Buyer in the four weeks specified in § 1714.5(d). The rate for terms of less than 20 years is the average of the rates published in the Bond Buyer for the same four weeks in the table of ''Municipal Market Data—General Obligation Yields'' or the successor to this table. No interest rate may exceed the interest rate for Water and Waste Disposal loans.

The table of Municipal Market Data includes only rates for securities maturing in 1999 and at 5 year intervals thereafter. The rates published by RUS reflect the average rates for the years shown in the Municipal Market Data table. Rates for interest rate terms ending in intervening years are a linear interpolation based the average of the rates published in the Bond Buyer. All rates are adjusted to the nearest one eighth of one percent (0.125 percent) as required under § 1714.5(a). The market interest rate on Water and Waste Disposal loans for this quarter is 5.500 percent.

In accordance with § 1714.5, the interest rates are established as shown in the following table for all interest rate terms that begin at any time during the fourth calendar quarter of 1999.

Interest rate term ends in (year)	RUS rate (0.000 percent)
2020 or later	5.500
2019	5.500
2018	5.500
2017	5.500
2016	5.500
2015	5.500
2014	5.375
2013	5.375
2012	5.250
2011	5.250
2010	5.125
2009	5.000
2008	4.875
2007	4.875
2006	4.750
2005	4.625
2004	4.500
2003	4.250
2002	4.125
2001	3.875
2000	3.625

Dated: September 31, 1999.

Christopher A. McLean,

Acting Administrator, Rural Utilities Service.

[FR Doc. 99–24187 Filed 9–15–99; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee of Professional Associations

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463 as amended by Pub. L. 94–409), we are giving notice of a meeting of the Census Advisory Committee of Professional Associations.

The Committee is composed of 36 members appointed by the Presidents of the American Economic Association, the American Statistical Association, the Population Association of America, and the Chairperson of the Board of the American Marketing Association. The Committee advises the Director, Bureau of the Census, on the full range of Census Bureau programs and activities in relation to their areas of expertise.

DATES: The meeting will convene on October 21–22, 1999. On October 21, the meeting will begin at 9 a.m. and adjourn at 4:15 p.m. On October 22, the meeting will begin at 9 a.m. and adjourn at 12:30 p.m.

ADDRESSES: The meeting will take place at the Sheraton Crystal City Hotel, 1800 Jefferson Davis Highway, Arlington, VA, 22202.

FOR FURTHER INFORMATION CONTACT: Census Bureau Committee Liaison Officer, Ms. Maxine Anderson-Brown, Room 1647, Federal Building 3, Washington, DC 20233. Her phone number is 301–457–2308, TDD 301–457–2540.

SUPPLEMENTARY INFORMATION: The agenda for the meeting on October 21, which will begin at 9 a.m. and adjourn at 4:15 p.m., is the following:

- Introductory Remarks by the Director, Bureau of the Census.
- Census Bureau Responses to Committee Recommendations.
- Census 2000 Developments and Evaluation Plans.
- Redesigning the Service Sector Statistics Program.
- Research Priorities Regarding Estimation in the American Community Survey.
- Medical Expenditures Panel Survey.

• Marketing the American Community Survey.
• Status of Standard Statistical Establishment List versus Business Establishment List (Comparison).
• Census 2000 Advertising Developments and Evaluation Plans.
• E–Business: Definitions, Concepts, Measurement Issues, and Collection Plans.
• Census 2000 Master Address File Development and Evaluation Plans.
• Racial Data in the Public Law 94–171 Program Files.

The agenda for the meeting on October 22, which will begin at 9 a.m. and adjourn at 12:30 p.m., is the following:

• Chief Economist Update.
• How Can We Best Get Across Our Recruiting Message?
• Expansion of Administrative Records Uses at the Census Bureau: A Long Range Research Plan.
• Develop Recommendations and Special Interest Activities.
• Closing Session.

The meeting is open to the public, and a brief period is set aside, during the closing session, for public comment and questions. Those persons with extensive questions or statements must submit them in writing to the Census Bureau Committee Liaison Officer. Individuals wishing additional information or minutes regarding this meeting may contact the Liaison Officer as well. Her address and phone number are identified above.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should also be directed to the Census Bureau Committee Liaison Officer.

Dated: September 9, 1999.

Kenneth Prewitt,

Director, Bureau of the Census.

[FR Doc. 99–24101 Filed 9–15–99; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–506]

Final Results of Expedited Sunset Review: Porcelain-on-Steel Cooking Ware From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of final results of expedited sunset review: porcelain-on-steel cooking ware from the People's Republic of China.

SUMMARY: On February 1, 1999, the Department of Commerce (''the Department'') initiated a sunset review of the antidumping order on porcelain-on-steel (''POS'') cooking ware from the People's Republic of China (''China'') pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of a notice of intent to participate and adequate substantive response filed on behalf of a domestic interested party, and inadequate response (in this case, no response) from respondent interested parties, the Department is conducting an expedited review. As a result of this review, the Department finds that revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping at the level indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th St. and Constitution Ave., NW, Washington, DC 20230; telephone (202) 482–5050 or (202) 482–1560, respectively.

EFFECTIVE DATE: September 16, 1999.

Statute and Regulations

This review is conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) (''*Sunset Regulations*''). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*.'')

Scope

Imports covered by this order are shipments of POS cooking ware from China, including tea kettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses. The merchandise is currently classifiable under the Harmonized Tariff Schedule (HTS) item 7323.94.00. The HTS subheading is provided for convenience and U.S. Customs purposes. The written description remains dispositive.

In response to a request from CGS International, on January 30, 1991, the Department, clarified that high quality, hand finished cookware, including the small basin, medium basin, large basin, small colander, large colander, 8″ bowl, 6″ bowl, mugs, ash tray, napkin rings, utensil holder and utensils, ladle, cream & sugar, and mixing bowls are properly considered kitchen ware and are therefore, outside the scope of the order. Further, the Department clarified that CGS International's casserole, 12-cup coffee pot, 6-cup coffee pot, roasting pan, oval roaster, and butter warmer are within the scope of the order (*see Notice of Scope Rulings*, 56 FR 19833 (April 30, 1991)).

In response to a request from Texsport, on August 8, 1990, the Department determined that camping sets, with the exception of the cups and plates included in those sets, are within the scope of the order (*see Notice of Scope Rulings*, 55 FR 43020 (October 25, 1990)).

History of the Order

On October 10, 1986, the Department issued a final determination of sales at less-than-fair value on imports of POS cooking ware from China.[1] The antidumping duty order on POS cooking ware from China was issued by the Department on December 2, 1986.[2] In the Department's investigation of the subject merchandise a dumping margin of 66.65 percent was assigned to China National Light Industrial Products Imports and Export Corporation. In addition an ''all others'' rate of 66.65 percent was assigned. The Department has conducted several administrative reviews since the issuance of this order.[3]

[1] *See Porcelain-on-Steel Cooking Ware from the People's Republic of China; Final Determination of Sales at Less-Than-Fair Value*, 51 FR 36419 (October 10, 1986).

[2] *See Porcelain-on-Steel Cooking Ware from the People's Republic of China; Antidumping Duty Order*; 51 FR 43414 (December 2, 1986).

[3] *See Porcelain-on-Steel Cooking Ware from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 55 FR 46850 (November 7, 1990); *Porcelain-on-Steel Cooking Ware from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 55 FR 11632 (March 29, 1990); *Porcelain-on-Steel Cooking Ware from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 56 FR 55891 (October 30, 1991); *Porcelain-on-Steel Cooking Ware from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 57 FR 30717 (July 10, 1992); *Porcelain-on-Steel Cooking Ware from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 62 FR 32757 (June 17, 1997); *Porcelain-on-Steel Cooking Ware from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 62 FR 54825 (October 22,

Continued

The antidumping duty order remains in effect for all producers and exporters of the subject merchandise.

Background

On February 1, 1999, the Department initiated a sunset review of the antidumping duty order on POS cooking ware from China pursuant to section 751(c) of the Act. On February 16, 1999 we received a Notice of Intent to Participate on behalf of a domestic interested party, Columbian Home Products, LLC (''CHP''), within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations.* On March 3, 1999, the Department received a complete substantive response from CHP within the deadline specified in section 351.218(d)(3)(i) of the *Sunset Regulations.* CHP claimed interested party status under section 771(9)(C) of the Act, as a U.S. producer of POS cooking ware. CHP asserts that it is the sole domestic producer of POS cooking ware.

We did not receive any response from respondent interested parties to this proceeding. As a result, and in accordance with our regulations (19 CFR 351.218(e)(1)(ii)(C)(*2*)) we are conducting an expedited review.

On June 7, 1999. the Department determined that the sunset review of the antidumping duty order on POS cooking ware from China is extraordinarily complicated. In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.* an order in effect on January 1, 1995). (*See* section 751)(c)(6)(C) of the Act). In accordance with section 751(c)(5)(B) of the Act, the Department extended the time limit for completion of final results of this review until no later than August 30, 1999.[4]

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping. Section 752(c)(1) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping order. Pursuant to section 752(c)(3) of the Act, the Department shall provide to the International Trade Commission (''the Commission'') the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and magnitude of the margin are discussed below. In addition, CHP's comments with respect to the continuation or recurrence of dumping and the magnitude of the margin are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the basis for likelihood determinations. The Department clarified that determinations of likelihood will be made on an order-wide basis (*see* section II.A.2 of the *Sunset Policy Bulletin*). Additionally, the Department normally will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (*see* section II.A.3 of the *Sunset Policy Bulletin*).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In the instant review, the Department did not receive a response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the *Sunset Regulations,* this constitutes a waiver of participation.

In its substantive response, CHP argues that dumping would be likely to continue or recur if the antidumping duty order on POS cooking ware from China were revoked. CHP argues that the relationship between dumping margins and import volumes strongly suggests that dumping will continue at significant margins if the order were revoked.

CHP asserts that in the seven administrative reviews completed by the Department, dumping margins have consistently been above *de minimis.* Further, CHP argues that with few exceptions, the margins determined for Chinese exporters in the administrative reviews have remained at 66.65 percent—the rate determined in the original investigation.

With respect to imports of the subject merchandise from China, CHP asserts that imports decreased immediately after the issuance of the order, from 1.8 million units in 1985 to 0.4 million units in 1987. CHP states that imports have been increasing in recent years but argues that only in 1993 and 1996 did imports exceed the 1985 pre-order level of imports. Finally, CHP argues that imports decreased significantly in 1997 and 1998.

In conclusion, CHP argues that a decrease in import volume after the issuance of the order, coupled with the continuation of dumping margins above *de minimis* levels, is probative that producers and exporters of POS cooking ware from China will continue to dump if the order were revoked. Therefore, CHP argues that the Department should determine that there is a likelihood of the continuation of dumping of POS cooking ware from China if the order were to be revoked.

As discussed in section II.A.3 of the *Sunset Policy Bulletin,* the SAA at 890, and the House Report at 63–64, existence of dumping margins after the order is highly probative of the likelihood of continuation or recurrence of dumping. If companies continue to dump with the discipline of an order in place, the Department may reasonably infer that dumping would continue if the discipline of the order were revoked. A dumping margin above de minimis continues to exist for shipments of the subject merchandise from China National Light Industrial Products Imports and Export Corporation. Therefore, given that dumping above *de minimis* has continued over the life of the order, that respondent interested parties waived their right to participate in the instant review, and absent argument and evidence to the contrary, the Department determines that dumping would likely continue if the

1997); and *Porcelain-on-Steel Cooking Ware from the People's Republic of China; Final Results of Antidumping Duty Administrative Review,* 63 FR 27262 (May 18, 1998).

[4] *See Notice of Extension of Time Limit for Final Results of Five-Year (''Sunset'') Reviews,* 64 FR 30305 (June 7, 1999).

order were revoked for POS cooking ware from China.

Magnitude of the Margin

In the *Sunset Policy Bulletin*, the Department stated that, consistent with the SAA and House Report, the Department will provide to the Commission the company-specific margin from the investigation because that is the only calculated rate that reflects the behavior of exporters without the discipline of an order. Further, for companies not specifically investigated, or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the all others rate from the investigation. (*See* section II.B.1 of the *Sunset Policy Bulletin*.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (*See* sections II.B.2 and 3 of the *Sunset Policy Bulletin*.) We note that, to date, we have not issued any duty absorption finding in this case.

In its substantive response, CHP urges the Department to follow the guidance of the SAA and its stated policy and provide the Commission margins from the original investigation of 66.65 percent for China National Light Industrial Products Import and Export Corporation and the PRC-wide rate of 66.65 percent.

We agree with CHP's assertion that we should report to the Commission the rate from the original investigation. As noted in the Department's *Sunset Policy Bulletin*, margins from the original investigation are the only calculated rates that reflect the behavior of exporters without the discipline of the order in place. The Department, in this case, finds this rate is the most probative of the behavior of this company if the finding were revoked absent information and argument to the contrary. Therefore, we will report to the Commission the margins contained in the *Final Results of Review* of this notice.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping at the levels indicated below.

Manufacturer/exporter	Margin (percent)
China National Light Industrial Products/Import and Export Corporation	66.65
Country-wide rate	66.65

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: August 27, 1999.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–24195 Filed 9–15–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–833]

Stainless Steel Bar From Japan: Final Results of Changed-Circumstances Review, and Revocation of Order In Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of changed-circumstances review and revocation of order in part.

SUMMARY: On August 6, 1999, the Department of Commerce published a notice of initiation and preliminary results of a changed-circumstances review and intent to revoke order in part of the antidumping duty order on stainless steel bar from Japan.

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. We are now revoking this order in part based on the fact that domestic parties support the request of Tohoku Steel Co., Ltd. for a changed-circumstances review and revocation in part of the order with regard to K–M35FL steel bar.

EFFECTIVE DATE: September 16, 1999.

FOR FURTHER INFORMATION CONTACT: Minoo Hatten or Robin Gray, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–1690 or (202) 482–4023, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 17, 1999, Tohoku Steel Co., Ltd. (Tohoku) requested that the Department of Commerce (the Department) conduct a changed-circumstances review to determine whether to revoke the antidumping duty order in part with regard to K–M35FL steel bar, which is currently covered by the scope of the order. Tohoku stated that the leaded steel product in question is not produced in commercial quantities in the United States. With its June 17, 1999, submission, Tohoku included a letter from the petitioners (Al Tech Specialty Steel Corp., Dunkirk, NY, Carpenter Technology Corp., Reading, PA, Republic Engineered Steels, Inc., Massillon, OH, Slater Steels Corp., Fort Wayne, IN, Talley Metals Technology, Inc., Hartsville, SC, and the United Steel Workers of America, AFL–CIO/CLC) agreeing to Tohoku's request to have K–M35FL steel bar excluded from the scope of the antidumping duty order on stainless steel bar from Japan.

We preliminarily determined that the statement of support from the domestic interested party constituted changed circumstances sufficient to warrant revocation in part of this order. Consequently, on August 6, 1999, we published a notice of initiation and preliminary results of a changed-circumstances review and intent to revoke order in part (64 FR 42920).

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (1998).

Scope of Review

The products covered by this changed-circumstances review are imports of K–M35FL steel bar manufactured by Tohoku and exported from Japan.

The scope of the order covers stainless steel bar (SSB). For purposes of this order, the term SSB means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals,

rectangles (including squares), triangles, hexagons, octagons or other convex polygons. SSB includes cold-finished SSBs that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut-length flat-rolled products (*i.e.,* cut-length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.,* cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The SSB subject to this order is currently classifiable under subheadings 7222.10.0005, 7222.10.0050, 7222.20.0005, 7222.20.0045, 7222.20.0075, and 7222.30.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

Final Results of Changed Circumstances Review and Revocation of Order in Part

Pursuant to section 751(d)(1) of the Act, the Department may partially revoke an antidumping duty order based on a review under section 751(b) of the Act (*i.e.,* a changed-circumstances review). Section 751(b)(1) of the Act requires a changed-circumstances review to be conducted upon receipt of a request containing information concerning changed circumstances sufficient to warrant a review.

The Department's regulations at 19 CFR 351.216 provide that the Department will conduct a changed-circumstances review based upon ''changed circumstances sufficient to warrant a review''. Section 782(h) of the Act and 19 CFR 351.222(g)(1)(i) provide further that the Department may revoke an order, or revoke an order in part, if it determines that the order (or part of the order) under review is no longer of interest to domestic interested parties.

Based on the fact that no other domestic interested parties have objected to the position taken by the petitioners that they have no further interest in the application of the order to imports of K–M35FL steel bar from Japan, we have determined that there are changed circumstances sufficient to warrant revocation of the order in part. Therefore, the Department is revoking in part the antidumping duty order on stainless steel bar from Japan, in accordance with sections 751(b) and 782(h) of the Act and 19 CFR 351.222(g)(1)(i). This partial revocation will apply to all entries of K–M35FL from Japan entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this changed circumstances review.

The Department will instruct the Customs Service to cease suspension of liquidation and collection of cash deposits on entries of K–M35FL from Japan entered, or withdrawn from the warehouse, for consumption on or after the publication date of the final results of this changed circumstances review. Additionally, the Department will instruct the Customs Service to proceed with liquidation, without regard to antidumping duties, and to refund with interest any estimated duties collected with respect to unliquidated entries of K–M35FL from Japan or withdrawn from warehouse for consumption on or after the publication date of the final results of this changed-circumstances review, in accordance with section 778 of the Act.

We are issuing and publishing this determination and notice in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.216 and 351.222.

Dated: September 10, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–24194 Filed 9–15–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 090799F]

Mid-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 Mid-Atlantic Fishery Management Council's Committee Chairpersons will hold a public meeting.

DATES: The meeting will be held on Thursday, September 30, 1999, from 8:30 a.m. until 5:00 p.m.

ADDRESSES: This meeting will be held at the Sheraton International Hotel at BWI Airport, 7032 Elm Road, Baltimore, MD; telephone: 410–859–3300.

Council address: Mid-Atlantic Fishery Management Council, Room 2115, 300 S. New Street, Dover, DE 19904.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302–674–2331, ext. 19.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to develop the annual work plan for year 2000 and to address the enhanced and expanded use of Industry Advisory Panels.

Although other issues not contained in this agenda may come before the Committee for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, such 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

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at the Council Office (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: September 10, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–24197 Filed 9–15–99; 8:45 am]

BILLING CODE 3510–22–F

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Availability of Funds for Technical and Administrative Support for the President's Service Scholarship Program

AGENCY: Corporation for National and Community Service.

ACTION: Notice of availability of funds.

SUMMARY: The Corporation for National Service (hereinafter the ''Corporation'') announces the availability of up to $400,000 annually over a three year period to provide technical and administrative support for the President's Student Service Scholarship Program. The program provides recognition and a scholarship to high school juniors and seniors engaged in outstanding community service. Students selected for recognition receive a locally funded scholarship, matched

or supplemented with federal funds provided by the Corporation. All U.S. high schools are eligible to nominate Scholarship recipients.

The Scholarship Program is entering its fourth year and, to date, over 8,000 scholarships have been awarded. In addition to the scholarship winners nominated by high schools, a new agreement has been entered into with a major national non-profit membership organization to provide a substantial number of scholarships to eligible and deserving youth nominated through that organization. The Corporation's goal in the President's Student Service Scholarships is to highlight the outstanding community service performed by high school students across the country, to recognize the particularly noteworthy service accomplishments of outstanding young individuals, and to assist those individuals in pursuing higher education.

As part of this effort, the Corporation is interested in selecting an organization to provide administrative and technical support related to the continuation of this program. The successful applicant will implement current program design, conduct outreach and promote the program, solicit input from interested nonprofit organizations with relevant expertise, work with local schools and other organizations to carry out the program, and provide the administrative and technical support necessary to accomplish the objectives described above. Applicants may use subgrants or other means to fulfill these obligations, provided plans for interactions with subgrantees/subcontractors are described in the application.

DATES: The deadline for submission of applications is October 25, 1999. Applications must be received by the Corporation no later than 3:00 p.m. Eastern Standard Time on that date.

ADDRESSES: Applications must be addressed to: Corporation for National Service, 1201 New York Avenue NW, Eighth Floor, Washington, D.C. 20525. Attention: Katharine Delo. Applications may not be submitted by facsimile.

FOR FURTHER INFORMATION CONTACT: For further information, contact Bruce Cline at (202) 606–5000, ext. 440. This notice may be requested in an alternative format for the visually impaired by calling (202) 606–5000, ext. 260. The Corporation's T.D.D. number is (202) 565–2799.

SUPPLEMENTARY INFORMATION:

Background

The Corporation is a federal government corporation that encourages Americans of all ages and backgrounds to engage in community-based service. This service addresses the nation's educational, public safety, environmental and other human needs to achieve direct and demonstrable results. In doing so, the Corporation fosters civic responsibility, strengthens the ties that bind us together as a people, and provides educational opportunity for those who make a substantial commitment to service.

Pursuant to the National and Community Service Act of 1990, as amended, 42 U.S.C. sec. 12501, *et seq.* (the Act), the Corporation may ''support innovative and model programs.'' Under this authority, the Corporation conducts a President's Student Service Scholarship Program recognizing high school juniors and seniors for outstanding service in their communities and providing modest scholarship support in recognition of such service.

Through this notice, the Corporation invites proposals from interested applicants to continue the implementation of the program. An outline of the program and the expectations of performance are provided below.

Purpose and Design of the President's Student Service Scholarship Program

The purpose of this program is to highlight the outstanding community service performed by high school students across the country, to recognize the particularly noteworthy service accomplishments of outstanding young individuals, and to assist those individuals in pursuing higher education.

The President's Student Service Scholarship program is implemented by local schools, communities, and community-based organizations across the country according to the following guidelines and procedures:

(1) Each high school or national youth-serving organization should designate one junior and one senior whose volunteer activities demonstrate sustained effort over a period of no less than one year, an effort of at least 100 hours in one year, and significant impact in meeting the needs of the local community.

(2) The awarding of the scholarship should be made by a local organization in recognition of the individuals' community service in accordance with procedures that are equitable and provide the opportunity for consideration of all eligible candidates.

(3) This program may be connected with service-learning programs of the school district.

(4) The selection process should be strictly non-partisan and non-political.

(5) The scholarship recipient should be acknowledged by the community and school in an appropriate fashion, such as at a high school graduation awards ceremony.

(6) The local portion of the scholarship should be provided by private funding sources, and shall be a minimum of $500.

While payment of the scholarship may be made separately by the Corporation and the private organization(s), the President's Student Service Scholarship exists for the sole purpose of contributing to paying the cost of a student's higher education. The matching amount provided by the Corporation will be paid directly to an institution of higher education, in the name of the student.

Eligible Applicants

To be eligible, applicants must be a non-profit organization or educational institution. Pursuant to the Lobbying Disclosure Act of 1995, an organization described in section 501(c)(4) of the Internal Revenue Code of 1986, 26 U.S.C. 501(c)(4), which engages in lobbying activities, is not eligible.

Required Activities of the Successful Applicant

The organization selected will:

(1) Follow and fulfill the program design approved by the Corporation;

(2) Publicize the program through media and events to local school districts, state agencies, and other affected parties through their own efforts or through partnerships with appropriate agencies with the goal of increasing the utilization of available funds;

(3) Submit a thorough annual report;

(4) Provide monthly updates on activities including status of awards and number of awards made, outreach, etc.;

(5) In high-activity periods, provide weekly updates;

(6) Create and maintain a database of all applicants that is sortable, searchable and accessible (must be accessible by the Corporation);

(7) Develop and maintain a separate website specifically for the President's Student Service Scholarships, the website should contain detailed information necessary to answer most questions about the program—the website should also serve as a marketing and outreach tool and should be developed accordingly;

(8) Set up and staff a toll free number for inquiries related to the program;

(9) Work closely with Corporation liaison;

(10) Work closely with all streams of national service;

(11) Provide administrative and technical support to the Corporation at all phases of the program;

(12) Send representatives to Corporation-sponsored training events;

(13) Respond to inquiries from all parties in timely fashion.

Corporation Involvement

Substantial involvement is expected between the Corporation and the successful applicant when carrying out the program. Corporation staff may make substantial changes to the requirements or operation of the program, as needed. The cooperative agreement party is expected to work with other Corporation departments, contractors, and others to market the program and ensure that the program maintains alignment with Corporation goals. The Corporation provides sufficient staff to support this effort and to oversee the provision of Corporation funds. The applicant must keep relevant Corporation staff informed of its activities; work with Corporation staff during development, delivery and assessment of services provided; and attend meetings/conferences at the Corporation's request.

Project Duration

The Corporation anticipates entering into a cooperative agreement covering a project period of approximately three years, with annual renewal based on performance, need, and the availability of funds at the discretion of the Corporation.

Overview of Application Requirements

The application should include a narrative section describing the organization's background and capacity to provide the technical and administrative support for this program, a narrative project plan, an implementation timeline, a staffing plan, and a certification that it will comply with all conditions attendant on the receipt of federal funding. The application may be no longer than 20 single-sided pages double-spaced in 12 point font.

Initially all applications will be reviewed to confirm that the applicant is an eligible recipient and to ensure that the application contains the information required. The Corporation will assess applications based on the criteria listed below (in descending order of importance):

(1) Quality

(2) Organizational Capacity

(3) Proposed Costs

The Corporation reserves the right to request additional written information from applicants subsequent to the submission of initial applications.

Dated: September 10, 1999.

Thomas L. Bryant,

Associate General Counsel.

[FR Doc. 99–24160 Filed 9–15–99; 8:45 am]

BILLING CODE 6050–28–U

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Environmental Impact Statement for Improved Ordnance Storage for Marine Corps Air Station Yuma, Arizona

AGENCY: Department of the Navy, DOD.

ACTION: Notice of correction.

SUMMARY: Due to an incorrect zip code, an extension of the comment period has been given for the Environmental Impact Statement for Improved Ordnance Storage for Marine Corps Air Station Yuma, Arizona.

DATES: Comment period extended to September 30, 1999.

ADDRESSES: Building #888, Box 99140, Marine Corps Air Station Yuma, Arizona.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Samrah, Planning Supervisor, Bldg #888, Box 99140, Marine Corps Air Station Yuma, Arizona 85369–9140.

Dated: September 13, 1999.

J.L. Roth,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 99–24180 Filed 9–15–99; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Final Supplement Analysis: Pit Manufacturing Facilities at Los Alamos National Laboratory, Stockpile Stewardship and Management Programmatic Environmental Impact Statement

AGENCY: Department of Energy.

ACTION: Notice of availability.

SUMMARY: The Department of Energy (DOE) announces the availability of the ''Final Supplement Analysis: Pit Manufacturing Facilities at Los Alamos National Laboratory, Stockpile Stewardship and Management Programmatic Environmental Impact Statement (SSM PEIS),'' DOE/EIS–0236/SA–6. The Final Supplement Analysis includes a determination that no further National Environmental Policy Act (NEPA) analysis is needed.

ADDRESSES: To obtain a copy of the Final Supplement Analysis, contact: Corey Cruz, Division Director, U.S. DOE, Albuquerque Operations Office, Nuclear Programs Division (NPD), PO Box 5400, Albuquerque, NM 87185–5400.

The Final Supplement Analysis will be available under the NEPA Analyses Module of the DOE NEPA Web Site at http://tis.eh.doe.gov/nepa/.

FOR FURTHER INFORMATION CONTACT: For general information on the DOE NEPA process, please contact: Ms. Carol M. Borgstrom, EH–42, Director, Office of NEPA Policy and Assistance, Department of Energy, 1000 Independence Ave., SW, Washington, DC 20585.

Ms. Borgstrom may be contacted by calling (202) 586–4600 or by leaving a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION: The Final Supplement Analysis was prepared pursuant to the National Environmental Policy Act of 1969 (NEPA) [42 U.S.C. 4321 *et seq.*], the Council on Environmental Quality NEPA regulations [40 CFR Parts 1500–1508], and the DOE NEPA regulations [10 CFR Part 1021]. DOE prepared the Supplement Analysis in compliance with the Memorandum Opinion and Order issued by the United States District Court for the District of Columbia in *Natural Resources Defense Council* v. *Richardson*, (CA 97–0936(SS)). The Supplement Analysis examines issues related to the plausibility of seismic activity, fire, and sabotage at facilities at Los Alamos National Laboratory.

The Final Supplement Analysis is available for public review and copying at the following three locations:

University of New Mexico, Zimmerman Library, Government Information Department, Reading Room, Albuquerque, NM, (505) 277–8960.

Los Alamos National Laboratory Community Relations Office, 1619 Central Avenue, Los Alamos, New Mexico, (505) 615–0816.

U.S. Department of Energy, Freedom of Information Reading Room, Room 1E–190, 1000 Independence Ave, SW, Washington, DC, (202) 586–3142.

The Department prepared a Draft Supplement Analysis and issued it for public review and comment on July 1, 1999 (64 FR 35635). The comment period closed on August 2, 1999. The Department considered and responded to the comments received, revised the Draft Supplement Analysis, and is

issuing a Final Supplement Analysis. The Department considered the information and analyses in the Final Supplement Analysis and made a determination that the SSM PEIS need not be supplemented nor a new SSM PEIS be prepared.

Signed in Washington, DC, this 3rd day of September 1999, for the United States Department of Energy.

Thomas F. Gioconda,

Brigadier General, USAF, Acting Assistant Secretary for Defense Programs.

[FR Doc. 99–24163 Filed 9–15–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice of Floodplain and Wetlands Involvement for the Oak Ridge National Laboratory Fire Protection Systems Upgrade, Oak Ridge, Tennessee

AGENCY: Office of Science, DOE.

ACTION: Notice of Floodplain and Wetlands Involvement.

SUMMARY: The U.S. Department of Energy (DOE) is proposing to upgrade the fire suppression and life safety systems in selected facilities at the Oak Ridge National Laboratory (ORNL). Fire suppression and life safety systems in these facilities are over 30 years old, obsolete, and do not provide adequate fire protection for personnel, equipment, and research activities. The installation of belowground waterlines would include disturbances of two small wetland areas and the 100-year floodplain of White Oak Creek (WOC). In accordance with 10 CFR Part 1022, DOE will prepare a floodplain and wetlands assessment which will assess impacts to these resources and consider practicable alternatives to locating the action in the floodplain and wetlands. This proposed action will be performed in a manner so as to avoid or minimize potential harm to or within the affected floodplain and wetlands.

DATES: Comments are due to the address below no later than October 1, 1999.

ADDRESSES: Comments should be addressed to Mr. Stanley Frey, Capital Asset Program Manager, U.S. Department of Energy, Post Office Box 2008, Oak Ridge, Tennessee 37831–6269. Comments may be faxed to (423) 574–9275.

FOR FURTHER INFORMATION ON THIS PROPOSED ACTION, CONTACT: Stanley D. Frey, U.S. Department of Energy, Post Office Box 2008, Oak Ridge, TN 37831–6269, (423) 576–0136.

FOR FURTHER INFORMATION ON GENERAL DOE FLOODPLAIN/WETLAND ENVIRONMENTAL REVIEW REQUIREMENTS, CONTACT: Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, EH–42, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: The DOE is conducting response actions at its ORNL Oak Ridge Site under the direction of the DOE Office of Science. ORNL is located on the DOE Oak Ridge Reservation in Roane and Anderson Counties, Tennessee. As part of a comprehensive upgrade of the existing fire alarm and suppression systems, DOE is proposing to replace deteriorated and obsolete systems, and to extend coverage of automatic fire alarm and sprinkler systems to areas not previously served. The upgrades would reduce maintenance costs and the new systems would bring affected facilities into compliance with current fire safety codes and standards.

The proposed action would involve removing old fire alarm and suppression systems and installing new ones, including: (1) Replacing antiquated fire alarm systems in seven major research buildings (Buildings 4500N, 4500S, 4501, etc.); (2) installing a sprinkler system in offices and corridors of Wings 1–4 of Building 4500N; (3) replacing and adding redundancy in the fire alarm and circuit monitoring systems where needed; and (4) replacing an existing 16-inch-diameter water pipeline in the 6000 area with approximately 7,200 ft of new (16-in-diameter) water piping. Installation of new water mains would include pressure reducing valves, isolation valves, fittings, hydrants, valve pits, and other associated equipment and materials.

Installation of the belowground waterlines would include disturbances of two small wetland areas and the floodplains of WOC in the 6000 area of ORNL. WOC and its tributaries would be disturbed at four locations by the following activities: (1) Constructing a coffer dam or similar structure; (2) routing the stream water around the site by constructing a bypass using a culvert or similar device; (3) removing stream bed rock in preparation for the under-creek, reinforced-concrete pipe trench; (4) pouring the concrete; (5) embedding the pipeline in the concrete structure; (6) covering the structure to the level of the original stream bed; and (7) routing the stream water back into the stream bed. Construction activities would also involve removing asphalt paving for the installation of the 16-in-diameter pipe (ductile iron, mechanical joint), digging a trench approximately 4 ft deep in the access roadway and parking lot areas, and filling and repaving these areas after installation of the pipeline.

Water quality within WOC and its tributaries would be protected during excavation to the extent practicable by several measures. Administrative controls would be used to stop work during major storm events. When excavations would remain exposed overnight, erosion controls would be installed to prevent the transport of silt downstream by stormwater flows. Additionally, silt dams will be constructed within the drainage in areas where the existing right-of-way route deviates significantly from the defined channel. Restoration of excavated areas within the drainage would include grading to avoid steep or vertical slopes, and to minimize ponding and backfilling. Areas of exposed soil outside the stream channels would be mulched and reseeded with an annual grass to minimize erosion and allow the natural seedbank to reestablish vegetative cover.

Wetland 1 is a 5-to-8 ft wide and approximately 50 ft long emergent wetland, while Wetland 2 is an approximately 30-ft diameter irregular shaped scrub-shrub wetland. An approximately 5-ft-wide by 4-ft-deep trench would be excavated through the southern portion of the two wetlands for the installation of belowground piping. Equipment and personnel in the wetland area will be limited in accordance with an approved Best Management Practices (BMP) plan, and excavated hydric soils would be placed next to the site and reused as fill material. In addition, silt fences would be installed to minimize runoff into the wetlands in accordance with the BMP. No seeding or the planting of vegetation will take place, and the wetlands will be allowed to return to their natural states after completion of excavation activities.

In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 CFR Part 1022), DOE will prepare a floodplain and wetlands assessment for this proposed DOE action. After DOE issues the assessment, a floodplain Statement of Findings will be published in the **Federal Register**.

Issued in Oak Ridge, Tennessee on August 30, 1999.

James L. Elmore,

Alternate NEPA Compliance Officer.

[FR Doc. 99–24161 Filed 9–15–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Science; Office of Science Financial Assistance Program Notice 99–26; Plasma Physics Junior Faculty Development Program

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Fusion Energy Sciences (OFES) of the Office of Science (SC), U.S. Department of Energy hereby announces its interest in receiving grant applications for support under its Plasma Physics Junior Faculty Development Program. Applications should be from tenure-track faculty investigators who are currently involved in experimental or theoretical plasma physics research and should be submitted through a U.S. academic institution. The purpose of this program is to support the development of the individual research programs of exceptionally talented scientists and engineers early in their careers.

DATES: To permit timely consideration for awards in FY 2000, formal applications in response to this notice should be received on or before January 20, 2000.

ADDRESSES: Completed formal applications referencing Program Notice 99–26 should be forwarded to: U.S. Department of Energy, Office of Science, Grants and Contracts Division, SC–64, 19901 Germantown Road, Germantown, Maryland 20874–1290, ATTN: Program Notice 99–26. The above address must also be used when submitting applications by U.S. Postal Service Express, any other commercial mail delivery service or when hand carried by the applicant.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald McKnight, U.S. Department of Energy, Office of Fusion Energy Sciences, Science Division, SC–55 (GTN), 19901 Germantown Road, Germantown, Maryland 20874–1290. Telephone: (301) 903–4597. E-mail: ronald.mcknight@science.doe.gov

SUPPLEMENTARY INFORMATION: The Plasma Physics Junior Faculty Development Program was started in FY 1997. A principal goal of this program is to identify exceptionally talented plasma faculty members early in their careers and assist and facilitate the development of their research programs. Eligibility for awards under this notice is, therefore, restricted to tenure-track regular academic faculty investigators who are conducting experimental or theoretical plasma physics research. Applications from Junior Faculty involved in any areas of plasma physics research, not only magnetic fusion, are welcomed and encouraged. Emphasis is to be placed on basic plasma science research. For applications to be considered for funding, certification of the status of the applicant as a tenure-track regular academic faculty member by the head of the applicant's academic department or other university/college certifying official will be required before the grant is awarded. Awards made under this program will help to maintain the vitality of university plasma physics research and assure continued excellence in the teaching of plasma physics and related disciplines.

It is anticipated that annual funding levels up to $150,000 per award may be made available for grants under this notice during FY 2000, contingent upon the availability of appropriated funds. Funding for equipment above this level will be considered on a case-by-case basis. DOE may make up to three awards during FY 2000, depending on the number of meritorious applications and the availability of appropriated funds. Multiple year funding of grant awards is expected, with funding provided on an annual basis subject to availability of funds. The usual duration of these grants is three years and they will not normally be renewed after the project period is completed. It is anticipated that at the end of the grant period, grantees will submit new grant applications to continue their research to the Department of Energy or other Federal funding agencies. For the Office of Science, these applications should follow the usual application process. Applications will be subjected to scientific merit review and will be evaluated against the following criteria, which are listed in descending order of importance as set forth in 10 CFR Part 605:

1. Scientific and/or technical merit of the project;
2. Appropriateness of the proposed method or approach;
3. Competency of applicant's personnel and adequacy of proposed resources; and
4. Reasonableness and appropriateness of the proposed budget.

An additional review criteria will address educational aspects of the proposed work including the involvement of graduate and undergraduate students. These aspects should be discussed in the application.

General information about development and submission of applications, eligibility, limitations, evaluations and selection processes, and other policies and procedures are contained in the Application Guide for the Office of Science Financial Assistance Program and 10 CFR Part 605 which is available on the World Wide Web at:

http://www.er.doe.gov/production/grants/grants.html

The Catalog of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR Part 605.

Issued in Washington, DC on August 31, 1999.

John Rodney Clark,

Associate Director of Science for Resource Management.

[FR Doc. 99–24162 Filed 9–15–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–611–000]

Colorado Interstate Gas Company; Notice of Request Under Blanket Authorization

September 10, 1999.

Take notice that on September 1, 1999, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP99–611–000 a request pursuant to Sections 157.205 and 157.208 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.208) and CIG's blanket certificate issued in Docket No. CP83–21–000 pursuant to Section 7 of the Natural Gas Act, for authorization to increase the Maximum Allowable Operating Pressure (MAOP) at the Weld County KN and Carpenter-Burns Meter Stations, in Colorado and 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.* Call (202) 208–2222 for assistance.

CIG states that the Carpenter-Burns and Weld County KN Meter Stations are both on CIG's 15A Lateral that extends east from the Cheyenne Compressor Station approximately 39 miles. CIG further states the MAOP of the lateral is 847 psig, the MAOP of the Carpenter-Burns Meter Station downstream of regulators is 400 psig and the MAOP of the Weld County KN Meter Station downstream of regulators is 718 psig. Since the delivery obligation at the Carpenter-Burns Meter Station is 400 psig, CIG proposes to increase the MAOP of the meter station to 520 psig so CIG can meet this delivery obligation without violation of the MAOP

limitation. To accomplish this, CIG proposes to change the regulators and gas test the facilities downstream of these regulators. The Carpenter-Burns Meter Station delivers gas to Cheyenne Light Fuel and Power Co.

CIG states that the Weld County KN Meter Station is at the end of the 15A Lateral and delivers gas to KN Interstate Gas Transmission Company (KN). CIG further states that there are regulators between the lateral and the meter station that protects the meter station from the higher MAOP. However, when KN shuts off deliveries from this meter, a situation occurs where it is possible to exceed the MAOP of the metering facilities. To fix this situation, CIG is proposing to replace valving, meter tubes, and some piping, all within the Weld County KN Meter Station Yard to increase the MAOP of the metering facility to 891 psig. This will eliminate operational problems associated with the MAOP limitation at this metering station.

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 not 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–24112 Filed 9–15–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1927–008]

PacifiCorp; Notice of Site Visit

September 10, 1999.

Staff from the Commission's Office of Hydropower Licensing, and Oak Ridge National Laboratory (ORNL) will visit the North Umpqua Hydroelectric Project on October 13 and 14, 1999. ORNL has been contracted by the Commission to prepare and Environmental Impact Statement (EIS) on the North Umpqua relicense application that was filed on January 30, 1995.

The purpose of this visit is to familiarize ORNL staff with the project setting, it's operation, environmental issues, and to meet the U.S. Forest Service staff who will be cooperating in the preparation of the EIS. Those participating in the site visit will meet at the Umpqua National Forest Supervisor's Office located at 2900 Stewart Parkway, Roseburg, Oregon at 8:00 am on October 13, 1999. Prior to leaving for the project, there will be a brief description of the project and the day's itinerary. Participants should bring a bag lunch. The itinerary for the second day, October 14, will be set on the 13th depending on the progress made. Any person wishing to attend should contact Vince Yearick at (202) 219–3073, fax at (202) 219–2152, or e-mail at *vince.yearick@ferc.fed.us.* Please notify Mr. Yearick by October 8, 1999, if you plan to attend.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–24110 Filed 9–15–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10822–000 and 10823–000; Connecticut]

Summit Hydropower Company; Notice of Availability of Final Environmental Assessment

September 10, 1999.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for original minor licenses for the Upper Collinsville Hydroelectric Project and the Lower Collinsville Hydroelectric Project, located on the Farmington River in New Hartford County, Connecticut, and has prepared a Final Environmental Assessment (FEA) for the project.

Copies of the FEA are available in the Public Reference Branch, Room 2–A, of the Commission's offices at 888 First Street, NE, Washington, DC 20426. For further information, contact James T. Griffin at (202) 219–2799. The FEA may also be viewed on the web at http://www.ferc.fed.us/online/rims.htm (please call (202) 208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–24109 Filed 9–15–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11243–016; Alaska]

Whitewater Engineering Corporation; Notice of Availability of Draft Environmental Assessment

September 10, 1999.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (order 486, 52 FR 47897), the Commission's Office of Hydropower Licensing has reviewed the application for license amendment for the Power Creek Project, No. 11243–016. The Power Creek Project is located on Power Creek in Cordova, Alaska. The licensee is proposing to reroute the transmission line from the licensed subterranean route to an underwater route beneath Eyak Lake. The Draft Environmental Assessment (DEA) finds that approving the amendment application would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the DEA are available for review in the Commission's Reference and Information Center, Room 2A, 888 First Street, NE, Washington, DC 20426. For further information, please contact Ms. Hillary Berlin, at (202) 219–0038. The DEA may also be viewed on the web at http://www.ferc.fed.us/online/rims.htm (please call (202) 208–2222 for assistance).

Please submit any comments within 45 days from the date of this notice. Any comments, conclusions, or recommendations that draw upon studies, reports, or other working papers of substance should be supported by appropriate documentation.

Comments should be addressed to David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please affix Project No. 11243–016 to all comments.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–24111 Filed 9–15–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6439–6]

Agency Information Collection Activities: Proposed Collection; Comment Request; Trade Secret Claims for Emergency Planning and Community Right-to-Know (EPCRA Section 322)

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 proposed Information Collection Request (ICR) to the Office of Management and Budget (OMB): Trade Secret Claims for Emergency Planning and Community Right-to-Know (EPCRA Section 322) EPA ICR Number 1428.05. This ICR renews a previously approved ICR No. 1428.04 (expires March 31, 2000, OMB Control Number 2050–0078). Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before November 16, 1999.

FOR FURTHER INFORMATION CONTACT: Interested persons may obtain a copy of the ICR without charge by contacting Sicy Jacob, Chemical Emergency Peparedness and Prevention Office, SW, Washington DC 20460, 202–260–7249, fax no. 202–260–0927, or e-mail: *Jacob.Sicy@epamail.epa.gov*.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those who wish to file a claim of trade secrecy of reporting requirements under Section 322 of EPCRA. Entities may include chemical manufacturers, non-chemical manufacturers, petroleum refineries, etc.

Title: Trade Secret Claims for Emergency Planning and Community Right-to-Know (EPCRA Section 322), EPA ICR Number 1428.05.

Abstract: This information collection request pertains to trade secrecy claims submitted under Section 322 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA). EPCRA contains provisions requiring facilities to report to State and local authorities, and EPA, the presence and release of extremely hazardous substances (described in Sections 302 and 304), inventory of hazardous chemicals (described in Sections 311 and 312) and manufacture, process and use of toxic chemicals (described in Section 313). Section 322 of EPCRA allows a facility to withhold the specific chemical identity from these EPCRA reports if the facility asserts a claim of trade secrecy for that chemical identity. The provision establishes the requirements and procedures that facilities must follow to request trade secrecy treatment of chemical identities, as well as the procedures for submitting public petitions to the Agency for review of the ''sufficiency'' of trade secrecy claims.

Trade secrecy protection is provided for specific chemical identities contained in reports submitted under each of the following EPCRA sections: (1) 303(d)(2)—Facility notification of changes that have or are about to occur, (2) 303(d)(3)—Local Emergency Planning Committee (LEPC) requests for facility information develop or implement emergency plans, (3) 311—Material Safety Data Sheets (MSDSs) submitted by facilities, or lists of those chemicals submitted in place of the MSDSs, (4) 312—Tier II emergency and hazardous chemical inventory forms, and (5) 313—Toxic chemical release inventory forms.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless is displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 9.9 hours per claim. The total annual burden for the respondents is 3,121 hours at a cost of $190,280. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: September 10, 1999.

Jim Makris,

Director, Chemical Emergency Preparedness and Prevention Office.

[FR Doc. 99–24165 Filed 9–15–99; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[PF–890; FRL–6098–3]

Notice of Filing a Pesticide Petition to Establish a Tolerance for Certain Pesticide Chemicals in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by docket control number PF–890, must be received on or before October 1, 1999.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the ''SUPPLEMENTARY INFORMATION'' section. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–890 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Jim Tompkins, Registration Support Branch, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (703) 305–5697; and e-mail address: tompkins.jim@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**--Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number PF–890. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–890 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by E-mail to: ''*opp-docket@epa.gov*,'' or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 5.1/6.1 or ASCII file format. All comments in electronic form must be identified by docket control number PF–890. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the ''FOR FURTHER INFORMATION CONTACT'' section.

E. What Should I Consider as I Prepare My Comments for EPA.

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides

and pests, Reporting and recordkeeping requirements.

Dated: September 7, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the views of the petitioner. EPA is publishing the petition summary verbatim without editing it in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Zeneca Ag. Products

PP5F4554

EPA has received a pesticide petition [PP 5F4554] from Zeneca Ag. Products, 1800 Concord Pike, P. O. Box 15458, Wilmington, DE 19850-5458 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of sulfosate (the trimethylsulfonium (TMS) salt of glyphosate, also known as glyphosate-trimesium in or on the raw agricultural commodity (RAC) wheat grain at 10 parts per million (ppm) (of which no more than 2.5 ppm is TMS); wheat hay at 1 ppm (of which no more than 0.5 ppm is TMS); wheat straw at 90 ppm (of which no more than 40 ppm is TMS); wheat bran at 30 ppm (of which no more than 6 ppm is TMS); and wheat shorts at 20 ppm (of which no more than 5 ppm is TMS); and to increase the tolerance in poultry meat by-products to 0.5 ppm and in milk to 2 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of sulfosate has been studied in corn, grapes, and soybeans. EPA has concluded that the nature of the residue is adequately understood and that the only residues of concern are the parent ions N-(phosphonomethyl)-glycine anion (PMG) and trimethylsulfonium cation.

2. *Analytical method*. Gas chromatography/mass selective (GC/MS) detector methods have been developed for PMG analysis in crops, animal tissues, milk, and eggs. GC detection methods have been developed for TMS in crops, animal tissues, milk, and eggs.

3. *Magnitude of residues in crops—Wheat*. Residue data are available for sulfosate in a total of 20 trials conducted in 8 EPA regions. The proposed tolerance of 1 ppm (of which no more than 0.5 ppm is TMS) for wheat hay; the proposed tolerance of 10 ppm (of which no more than 2.5 ppm is TMS) for wheat grain; and the proposed tolerance of 90 ppm (of which no more than 40 ppm is TMS) for wheat straw will accommodate any residue resulting from the proposed use pattern.

Wheat seed for processing were obtained and samples were processed. Analysis of the treated samples showed that residue of PMG and TMS concentrated in wheat bran, wheat shorts, and aspirated grain fractions. The proposed tolerance for wheat bran of 30 ppm (of which no more than 6 ppm is TMS) and the proposed tolerance for wheat shorts of 20 ppm (of which no more than 5 ppm is TMS) is adequate to accommodate any residues arising from this use pattern in wheat. No tolerances are required for wheat middlings or patent flour. Aspirated grain fractions (AGF) were also collected. Analysis of the treated samples showed that residue of both TMS and PMG concentrated in AGF, but the combined levels are less than the existing tolerance in 40 CFR 180.489 for AGF. No change in the existing tolerance is required.

4. *Magnitude of residue in animals*—i. *Ruminants*. The maximum dietary burden in dairy cows results from a diet comprised of 20% AGF, 60% wheat forage, 15% sweet corn stover, and 5% cotton gin byproducts for a total dietary burden of 427 ppm. The maximum dietary burden in beef cows results from a diet comprised of 20% AGF, 25% sweet corn stover, 25% sorghum grain, 25% wheat forage, and 5% cotton gin byproducts for a total dietary burden of 438 ppm. Comparison to a ruminant feeding study at a dosing level of 1,000 ppm indicates that the appropriate tolerance levels resulting from proposed additional uses are covered by existing tolerances in 40 CFR 180.489, except milk. The appropriate tolerance for milk is 2 ppm.

ii. *Poultry*. The maximum dietary burden in poultry results from a diet comprised of 80% sorghum grain and 20% soybean hulls for a total dietary burden of 43 ppm. Comparison to a poultry feeding study at a dosing level of 50 ppm indicates that the appropriate tolerance levels are covered by existing tolerances in 40 CFR 180.489, except poultry meat by-products. The appropriate tolerance for poultry meat by-product is 0.5 ppm.

B. Toxicological Profile

1. *Acute toxicity*. Several acute toxicology studies have been conducted placing technical grade sulfosate in Toxicity Category III and IV.

2. *Genotoxicty*. The toxicological endpoints for sulfosate are discussed in Unit 3.B. of the **Federal Register** notice of April 8, 1999 (64 FR 17171) (FRL 6071-2).

3. *Reproductive and developmental toxicity*. The toxicological endpoints for sulfosate are discussed in Unit 3.B. of the **Federal Register** notice of April 8, 1999 (FR 17171).

4. *Subchronic toxicity*. The toxicological endpoints for sulfosate are discussed in Unit 3.B. of the **Federal Register** notice of April 8, 1999 (64 FR 17171).

5. *Chronic toxicity*. The toxicological endpoints for sulfosate are discussed in Unit 3.B. of the **Federal Register** notice of April 8, 1999 (FR 17171).

6. *Animal metabolism*. The metabolism of sulfosate has been studied in animals. The residues of concern for sulfosate in meat, milk, and eggs are the parent ions PMG and TMS only.

7. *Metabolite toxicology*. There are no metabolites of toxicological concern. Only the parent ions, PMG and TMS are of toxicological concern.

8. *Endocrine disruption*. Current data suggest that sulfosate is not an endocrine disruptor.

C. Aggregate Exposure

1. *Dietary exposure*—i. *Food*. For the purposes of assessing the potential dietary exposure, Zeneca has utilized the tolerance level for all existing and pending tolerances; and the proposed maximum permissible levels of 10 ppm for wheat grain (of which no more than 2.5 ppm is TMS); 1 ppm for wheat hay (of which no more than 0.5 ppm is TMS); 90 ppm for wheat straw (of which no more than 40 ppm is TMS); 30 ppm for wheat bran (of which no more than 6 ppm is TMS); and 20 ppm for wheat shorts (of which no more than 5 ppm is TMS) and 100% crop treated acreage for all commodities. Assuming that 100% of foods, meat, eggs, and milk products

will contain sulfosate residues and those residues will be at the level of the tolerance results is an overestimate of human exposure. This is a very conservative approach to exposure assessment.

a. *Chronic exposure*. For all existing and pending tolerances; and the proposed maximum permissible levels proposed in this notice of filing, the potential exposure for the U.S. population is 0.04 milligrams/kilograms bodyweight/day (mg/kg bwt/day) (17.6% of reference dose (RfD). Potential exposure for children's population subgroups range from 0.02 mg/kg bwt/day (7.8% of RfD for nursing infants (< 1 year old) to 0.12 mg/kg/ bwt/day (47.8%) for children 1-6 years old. The chronic dietary risk due to food does not exceed the level of concern (100%).

b. *Acute exposure*. The exposure to the most sensitive population subgroup, non-nursing infants, is 23.5% of the acute RfD at the 95th percentile. The acute dietary risk due to food does not exceed the level of concern (100%).

ii. *Drinking water*. Results from computer modeling indicate that sulfosate in ground water will not contribute significant residues in drinking water as a result of sulfosate use at the recommended maximum annual application rate (8.00 lbs a.i./acre). The computer model uses conservative numbers, therefore it is unlikely that ground water concentrations would exceed the estimated concentration of 0.014 parts per billion (ppb), and sulfosate should not pose a threat to ground water.

The surface water estimates are based on an exposure modeling procedure called GENEEC (Generic Expected Environmental Concentration). The assumptions of two applications of 4.00 lbs a.i./acre resulted in calculated estimated maximum concentrations of 58 ppb (acute, based on the highest 56–day value) and 10 ppb (chronic, average). GENEEC modeling procedures assumed that sulfosate was applied to a 10-hectare field that drained into a 1-hectare pond, 2-meters deep with no outlet.

As a conservative assumption, because sulfosate residues in groundwater are expected to be insignificant compared to surface water, it has been assumed that 100% of drinking water consumed was derived from surface water in all drinking water exposure and risk calculations. To calculate the maximum acceptable acute and chronic exposures to sulfosate in drinking water, the dietary food exposure (acute or chronic) was subtracted from the appropriate (acute or chronic) RfD. Drinking Water Levels of Concern (DWLOCs) were then calculated using the maximum acceptable acute or chronic exposure, default body weights (70 kg - adult, 10 kg - child), and drinking water consumption figures (2 liters - adult, 1 liter - child).

The maximum concentration of sulfosate in surface water is 58 ppb. The acute DWLOCs for sulfosate in surface water were all greater than 5,400 ppb. The estimated average concentration of sulfosate in surface water is 10 ppb which is much less than the calculated levels of concern (> 1,300 ppb) in drinking water as a contribution to chronic aggregate exposure. Therefore, for current and proposed uses of sulfosate, Zeneca concludes with reasonable certainty that residues of sulfosate in drinking water would not result in unacceptable levels of aggregate human health risk.

2. *Non-dietary exposure*. Sulfosate is currently not registered for use on any residential non-food sites. Therefore, residential exposure to sulfosate residues will be through dietary exposure only.

D. Cumulative Effects

There is no information to indicate that toxic effects produced by sulfosate are cumulative with those of any other chemical compound.

E. Safety Determination

1. *U.S. population*—i. *Acute risk*. Since there are no residential uses for sulfosate, the acute aggregate exposure only includes food and water. Using the conservative assumptions of 100% of all crops treated and assuming all residues are at the tolerance level for all established and proposed tolerances, the aggregate exposure to sulfosate will utilize 12.3% of the acute RfD at the 95th percentile for the U.S. population. The estimated peak concentrations of sulfosate in surface and ground water are less than DWLOCs for sulfosate in drinking water as a contribution to acute aggregate exposure. Residues of sulfosate in drinking water do not contribute significantly to the aggregate acute human health risk considering the present uses and uses proposed in this action.

ii. *Chronic risk*. Using the conservative exposure assumptions described above, the aggregate exposure to sulfosate from food will utilize 17.6% of the chronic RfD for the U.S. population. The estimated average concentrations of sulfosate in surface and ground water are less than DWLOCs for sulfosate in drinking water as a contribution to chronic aggregate exposure. Residues of sulfosate in drinking water do not contribute significantly to the aggregate chronic human health risk considering the present uses and uses proposed in this action.

2. *Infants and children*. The data base on sulfosate relative to prenatal and postnatal toxicity is complete. Because the developmental and reproductive effects occurred in the presence of parental (systemic) toxicity, these data do not suggest an increased prenatal or postnatal sensitivity of children and infants to sulfosate exposure. Therefore, Zeneca concludes, upon the basis of reliable data, that a 100-fold uncertainty factor is adequate to protect the safety of infants and children and an additional safety factor is unwarranted.

i. *Acute risk*. Using the conservative exposure assumptions described above, the aggregate exposure to sulfosate from food will utilize 23.5% of the acute RfD at the 95th percentile for the most highly exposed group, children (1–6 years). The estimated peak concentrations of sulfosate in surface and ground water are less than DWLOCs for sulfosate in drinking water as a contribution to acute aggregate exposure. Residues of sulfosate in drinking water do not contribute significantly to the aggregate acute human health risk considering the present uses and uses proposed in this action.

ii. *Chronic risk*. Using the conservative exposure assumptions described above, we conclude that the percent of the RfD that will be utilized by aggregate exposure to residues of sulfosate is 47.8% for children (1-6 years), the most highly exposed group. The estimated average concentrations of sulfosate in surface and ground water are less than DWLOCs for sulfosate in drinking water as a contribution to chronic aggregate exposure. Residues of sulfosate in drinking water do not contribute significantly to the aggregate chronic human health risk considering the present uses and uses proposed in this action.

F. International Tolerances

There are no Codex Maximum Residue Levels established for sulfosate.

[FR Doc. 99–24168 Filed 9–15–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00276; FRL–6095–5]

North American Regional Action Plan on Mercury; Notice of Availability for Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: Today's notice makes available for public comment the draft of the second phase of the North American Regional Action Plan (NARAP) on Mercury. This regional action plan stems from activities taken under the North American Agreement on Environmental Cooperation (NAAEC) between the governments of Canada, Mexico, and the United States. The NARAP represents a mutually agreed upon framework for future actions to be taken by each country either independently or collaboratively under the direction of the Commission for Environmental Cooperation (CEC).

The Mercury NARAP is being made available for public/stakeholder review to allow interested parties the opportunity to provide guidance on the nature and direction that these three North American governments should proceed in order to reduce mercury use and releases to the environment.

DATES: Comments, identified by the docket control number OPPTS–00276, must be received by EPA on or before October 18, 1999.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the ''SUPPLEMENTARY INFORMATION'' section. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–00276 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: For general information contact: Christine Augustyniak, Associate Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone numbers: 202–554–1404 and TDD: 202–554–0551; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: Greg Susanke, Office of Pollution Prevention and Toxics, National Program Chemicals Division (7404), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: 202–260–3547; fax number: 202–260–0001; e-mail address: susanke.greg@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Notice Apply to Me?

You may be potentially affected by this notice if you use mercury in, or release mercury from processing, operations, or products. Potentially affected entities may include, but are not limited to: the automotive vehicle and equipment manufacturing sector, the mercury cell chlor-alkali sector, the dry cell battery manufacturing sector, the electrical switches and relays sector, the lamp manufacturing sector, health and dental care sectors, the users of mercury for cultural and artisanal uses, and the analytical, testing, measurement, and calibration sector. If you have any questions regarding the applicability of this notice to a particular entity, consult the technical person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

B. How Can I Get Additional Information or Copies of This Document and Other Related Documents?

1. *Electronically*. Electronic copies of this document are available from the EPA Home Page at the **Federal Register** - Environmental Documents entry for this document under ''Laws and Regulations'' (http://www.epa.gov/fedrgstr/). You can follow the menu to find this **Federal Register** notice using the publication date or the **Federal Register** citation for this notice. You can also obtain copies of this document and certain other available documents from the CEC Internet Home Page at http://www.cec.org/. On the Home Page select ''CEC Resources and Publications'' and then look up the entry for this document under the ''Regional Action Plans'' section.

2. *In person*. The Agency has established an official record for this notice under docket control number OPPTS–00276. The official record consists of the documents specifically referenced in this notice, any public comments received during an applicable comment period, and other information related to this notice, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, Rm. NE B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is 202–260–7099.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–00276 in the subject line on the first page of your response.

1. *By mail*. Submit your written comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier*. Deliver your written comments to: OPPT Document Control Office (DCO) in East Tower Rm. G–099, Waterside Mall, 401 M St., SW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is 202–260–7093.

3. *Electronically*. You may submit your comments electronically by e-mail to: oppt.ncic@epa.gov. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments will also be accepted on standard computer disks in Wordperfect 5.1/6.1 or ASCII file format. All comments in electronic form must be identified by the docket control number OPPTS–00276. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI Information That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this notice 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 the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version

of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the technical person identified in the ''FOR FURTHER INFORMATION CONTACT'' section.

E. What Should I Consider as I Prepare My Comments for EPA?

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 copies of any technical information and/or data you used that support your views.
- If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
- Provide specific examples to illustrate your concerns.
- Offer alternative ways to improve the document.
- Make sure to submit your comments by the deadline in this notice.
- To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this notice in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

A. What Action is the Agency Taking?

EPA is representing the United States as the lead Agency in drafting not only the NARAP on Mercury but also other NARAPs on selected persistent, bioaccumulative, and toxic substances of concern. The action plans are to incorporate, as appropriate, pollution prevention principles and precautionary approaches in making recommendations to reduce risks associated with these substances.

These action plans reflect a shared commitment by the parties to work cooperatively by building upon international environmental agreements and existing policies and laws; by bringing a regional perspective to international initiatives that are in place or being negotiated with respect to persistent toxic substances; by promoting cooperation with Latin American and Caribbean nations and with countries that have territories in the high Arctic; and by encouraging mutually consistent trade and environment policies that are conducive to the conservation, protection, and enhancement of the environment in their territories. At the same time, each action plan is unique and recognizes the differentiated responsibilities of each of the countries while taking into account each country's respective natural endowments, climate and geographical conditions, and economic, technological, and infrastructure capabilities.

The action plans reflect a long-term commitment to regional action. The sharing and transfer of information and best practices are seen as important means of enhancing national capacity for the sound management of chemicals. Other important elements and outcomes of these cooperative initiatives include collaboration and cooperation in the measurement, monitoring, modeling, research and assessment of selected persistent and toxic substances in environmental media. Such cooperation will improve the quality, availability, and relevance of the ''environmental information'' needed to make informed and responsible decisions throughout the implementation of the action plans.

The action plans are also intended to help facilitate the meaningful participation of the public, including nongovernmental organizations; business and industry; native North Americans; provincial, state and municipal governments; academia; and technical and policy experts. Regular public reporting of the progress that has occurred with respect to each action plan will be important to its eventual success.

B. What is the Agency's Authority for Taking This Action?

The NARAP on Mercury is one of a number of such regional undertakings that stem from the NAAEC between the governments of Canada, Mexico, and the United States. As a parallel side agreement to the North American Free Trade Agreement, the NAAEC came into force on January 1, 1994 as an overarching framework for environmental cooperation. The NAAEC established the CEC to ''facilitate cooperation on the conservation, protection and enhancement of the environment in their territories.'' The Council (of Ministers) of the Commission agreed to Resolution 95–05 on the Sound Management of Chemicals on October 13, 1995, at its second regular meeting held in Oaxaca, Mexico. The resolution established ''a working group composed of two senior officials selected by each party whose duties pertain to the regulation or management of toxic substances and who shall work with the CEC to implement the decisions and commitments set out in this resolution.'' The resolution specifically calls for the development of four regional action plans for selected persistent and toxic substances as a first priority in the parties' common desire to address national and regional concerns associated with the sound management of chemicals. Mercury, as well as dichloro diphenyl trichloroethane (DDT), chlordane, and polychlorinated biphenyls (PCBs), is one of the four priority substances identified by the parties for action plan development.

List of Subjects

Environmental protection.

Dated: September 8, 1999.

Stephen L. Johnson,

Acting Deputy Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 99–24167 Filed 9–15–99; 8:45 am]

BILLING CODE 6560–50–F

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Equal Employment Opportunity Commission.

DATE AND TIME: Tuesday, September 28, 1999, at 2:00 P.M. (Eastern Time).

PLACE: Training Center in the EEOC Office Building, 1801 L Street, N.W., Washington, D.C. 20507.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Votes, and
2. EEOC—A Year in Review and a Dialogue for the Future.

Note: Any matters not discussed or concluded may be carried over to a later meeting. (In addition to published notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission meetings). Please telephone (202) 663–7100 (voice) and (202) 663–4074 (TDD) at any time for information on these meetings.

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer on (202) 663–4070.

Dated: September 14, 1999.

Frances M. Hart,

Executive Officer, Executive Secretariat.

[FR Doc. 99–24307 Filed 9–14–99; 3:52 pm]

BILLING CODE 6750–06–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 64-162) published on page 45969 of the issue for August 23, 1999.

Under the Federal Reserve Bank of Boston heading, the entry for The Royal Bank of Scotland Group plc, Edinburgh, Scotland, is revised to read as follows:

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. The Royal Bank of Scotland Group plc, and The Royal Bank of Scotland plc, and RBSG International Holdings Ltd., all of Edinburgh, Scotland, and Citizens Financial Group, Inc., Providence, Rhode Island; to acquire 100 percent of the voting shares of UST Corp., and thereby acquire USTrust and United States Trust Company, all of Boston, Massachusetts.

In connection with this application, Applicants have also applied to acquire Cambridge Trade Finance Corporation, Boston, Massachusetts, and thereby engage in short-term financing of international transactions involving import and export of goods, pursuant to section 225.28(b)(1) of Regulation Y.

Comments on this application must be received by September 24, 1999.

Board of Governors of the Federal Reserve System, September 10, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–24120 Filed 9–15–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 12, 1999.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Omega Financial Corporation, State College, Pennsylvania; to acquire 24.9 percent of the voting shares of Clearfield Bank & Trust Company, Clearfield, Pennsylvania.

2. Backlund Investment Company, Peoria, Illinois; to retain an additional 5.36 percent of the voting shares of Hopedale Investment Company, Peoria, Illinois, and thereby indirectly acquire Community Bank of Hopedale, Hopedale, Illinois.

3. Backlund Scott Company, Peoria, Illinois; to retain an additional 5.36 percent of the voting shares of Hopedale Investment Company, and thereby indirectly acquire Community Bank of Hopedale, Hopedale, Illinois.

4. Backlund-White, Inc., Peoria, Illinois; to retain an additional 10.36 percent of the voting shares of Backlund Scott Company, Peoria, Illinois, and thereby indirectly retain Wyoming Bank and Trust Company, Wyoming, Illinois; to retain 5.63 percent of the voting shares of Backlund Investment Company, Peoria, Illinois, and thereby indirectly retain State Street Bank and Trust Company, Quincy, Illinois; and to retain 5.36 percent of the voting shares of Hopedale Investment Company, Peoria, Illinois, and thereby indirectly retain Community Bank of Hopedale, Hopedale, Illinois.

5. Bartonville Investment Company, Peoria, Illinois; to retain an additional 5.36 percent of the voting shares of Hopedale Investment Company, Peoria, Illinois, and thereby indirectly acquire Community Bank of Hopedale, Hopedale, Illinois.

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Gold Banc Corporation, Inc. and Gold Banc Acquisition Corporation VIII, Inc., both in Leawood, Kansas; to acquire up to 100 percent of the voting shares of Union Bancshares, Ltd., Denver, Colorado, and thereby indirectly acquire Union Bank & Trust, Denver, Colorado. In connection with this application, Gold Banc Acquisition Corporation VIII, Inc. has applied to become a bank holding company.

Board of Governors of the Federal Reserve System, September 10, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–24119 Filed 9–15–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible 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, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the world.

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 September 30, 1999.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. Canadian Imperial Bank of Commerce, Toronto, Canada; to make an investment in Identrus, LLC, New York, New York (formerly known as Global Trust Organization LLC), and engage *de novo* directly and through Identrus LLC, in digital certification and data

processing and data transmission activities, as described below. Notificant also proposes to engage in activities that it maintains are incidental to permissible digital certification and data processing and data transmission activities.

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 Notificant, 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, Notificant, 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 section 225.25(b)(14) of Regulation Y. Notificant contends 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 section 225.25(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). Notificant contends 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 notice is available for immediate inspection at the Federal Reserve Bank 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, September 10, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–24118 Filed 9–15–99; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[INFO–99–36]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

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 for other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: Follow-Up Study of Children With Developmental Disabilities (0920–0436)—RENEWAL—National Center for Environmental Health (NCEH). In the mid-1980s, a number of 10-year-old children were identified as having one or more of five developmental disabilities: mental retardation, cerebral palsy, epilepsy, hearing impairment, or vision impairment. These children were identified (mainly from special education records in the public schools) in the metro-Atlanta area as part of a study to develop surveillance methods for these conditions in school-age children. A follow-up study was initiated to trace, locate and interview these children, who are now in their early twenties, to assess their status with regard to educational attainment, employment, living arrangements, services received, functional limitations,

adaptive behavior, social participation, health, and quality of life.

This study proposes to continue with the one-time, in-person interview and includes a contemporaneous comparison group of persons who, at age 10 years, were in regular education classes in the same schools as were the persons with developmental disabilities. The data generated from this study will continue to be used to estimate the burden of secondary health conditions, limited social participation, and economic disadvantage among young adults with long-standing, developmental impairments. The total cost to recipients is $0.00.

This request is for a one-year renewal of the currently-approved study.

Data Collection:

Respondents	No. of respondents	No. of responses/ respondent	Avg. burden of response (in hrs.)	Total burden (in hrs.)
Contacting	1,056	1	10/60	176
Interview	898	1	60/60	898
Call Backs	90	1	10/60	15
Total				1,089

Dated: September 10, 1999.

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–24143 Filed 9–15–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–1039–CN2]

RIN 0938–AI87

Medicare Program; Hospice Wage Index; Correction

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice; correction notice.

SUMMARY: This document corrects a typographical error that appeared in the notice published in the **Federal Register** on October 5, 1998, entitled ''Medicare Program; Hospice Wage Index.''

EFFECTIVE DATE: This correction is effective October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Carol Blackford, (410) 786–5909.

SUPPLEMENTARY INFORMATION: On October 5, 1998, we published a notice in the **Federal Register** (63 FR 53446) announcing the annual update to the hospice wage index. The wage index is used to reflect local differences in wage levels. That update was effective October 1, 1998 and is the second year of a 3-year transition period. The provisions in this correction notice are effective as if they had been included in the document published in the **Federal Register** on October 5, 1998.

On November 1, 1998, we published a notice (63 FR 63326) correcting the October 5, 1998 notice. In that correction notice, we inadvertently failed to make one typographical correction. Therefore, in FR Doc. 98–26501 of October 5, 1998, we are now making the following correction:

- On page 53448, in Table A, under the MSA code number 1303 for Burlington, VT, the wage index ''1.1037'' is corrected to read ''1.0137''.

Authority: Section 1814(i) of the Social Security Act (42 U.S.C. 1395f(i)(1)).

(Catalog of Federal Domestic Assistance Program No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: September 8, 1999.

Brian P. Burns,

Deputy Assistant, Secretary for Information, Resources Management.

[FR Doc. 99–24096 Filed 9–15–99; 8:45 am]

BILLING CODE 4120–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by contacting John Peter Kim, J.D., M.B.A., Technology Licensing Specialist, at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7056 ext. 264; fax: 301/402–0220; e-mail: jk141n@nih.gov. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Oligonucleotides Which Specifically Bind Retroviral Nucleocapsid Proteins

Alan Rein, Jose Casas-Finet, Robert Fisher, Matthew Fivash, Louis E. Henderson (NCI)

Serial No. 09/180,903 filed 12 Jul 1999; PCT/US97/08936 filed 19 May 1997; Serial No. 60/017,128 filed 20 May 1996

The human immunodeficiency virus (HIV) is the causative agent of acquired immunodeficiency syndrome (AIDS). A retroviral protein species, the gag polyprotein, is involved in the assembly of retrovirus particles and capable of specific interactions with nucleic acids. After the virion is released from the cell, the polyprotein is cleaved by the virus-encoded protease. One of the cleaved products, the nucleocapsid (NC) protein, then binds to genomic RNA, forming the ribonucleoprotein core of the mature particle. The interaction between gag and genomic RNA is known to involve the NC domain of the polyprotein. In addition, the NC protein plays crucial roles in both the reverse transcription and integration steps in the viral life cycle.

The present invention relates to retroviral nucleocapsid proteins, such as NC and the gag precursor, and their ability of bind to specific nucleic acid sequences with high affinity. The high affinity of this interaction has potential applications in the design of new antiviral approaches and in sensitive detection of HIV particles. Accordingly, the invention provides for oligonucleotides which bind to

nucleocapsides proteins with high affinity, molecular decoys for retroviral nucelocapsid proteins which inhibit viral replication, targeted molecules comprising high affinity oligonucleotides, assays for selecting test compounds, and related kits.

Human Monoclonal Antibodies to HIV–1 Envelope Glycoprotein gp120

Brynmor A. Watkins and Marvin S. Reitz, Jr. (NCI) Serial No. 60/141,701 filed 30 Jun 1999

The human immunodeficiency virus (HIV) is the causative agent of acquired immunodeficiency syndrome (AIDS). Drug-resistance is a critical factor contributing to the gradual loss of clinical benefit to treatments for HIV infection. Accordingly, combination therapies have further evolved to address the mutating resistance of HIV. However, there has been great concern regarding the apparent growing resistance of HIV strains to current therapies.

The present invention relates to human monoclonal antibodies to type 1 human immunodeficiency virus (HIV–1) envelope glycoprotein gp120, to phage display libraries, and to diagnostic methods and pharmaceutical compositions which employ these antibodies therapeutically and prophylactically.

Antiviral Genetic Target Within HIV gag-pol Transframe Region

Shizuko Sei and Hiroaki Mitsuya (NCI)
Serial No. 60/141,072 filed 25 Jun 1999

The human immunodeficiency virus type 1 (HIV–1) is a retrovirus that infects CD4+ T-lymphocytes, causing immunosuppression and the acquired immunodeficiency syndrome (AIDS). The subject invention provides the methods for the potent inhibition of HIV–1 replication, thus effective measure to treat HIV–1 infection, utilizing oligonucleotides and oligonucleotide analogues, including peptide nucleic acids, that can target either DNA or RNA sequences within the HIV gag-pol transframe region. Blocking the expression of the sequences mentioned in the subject invention leads to a decreased and discoordinated synthesis of viral protease, resulting in a significant reduction in the virion production from HIV–1-infected cells.

Identification and Use of High Efficacy Vaccine Antigens Which Modulate Antigen Presenting Cells

Polly Matzinger and John P. Ridge (NIAID)
Serial No. 09/313,487 filed 17 May 1999

Through modulation of the activation state of an antigen presenting cell (APC), the activation of a T cell is concordantly governed, *e.g.*, the activation of a killer T cell. The subject invention accordingly provides uses and applications in the field of immunology for novel pharmaceuticals, therapeutic and prophylactic agents, and vaccine components for the treatment and prevention of cancer, systemic infection, and autoimmune responses.

Thiazepine Inhibitors of HIV–1 Integrase

Yves Pommier, Nouri Neamati, Antonio Garafalo, Vito Nacci (NCI)
Serial No. 60/133,726 filed 12 May 1999

The human immunodeficiency virus (HIV) is the causative agent of acquired immunodeficiency syndrome (AIDS). Drug-resistance is a critical factor contributing to the gradual loss of clinical benefit to treatments for HIV infection. Accordingly, combination therapies have further evolved to address the mutating resistance of HIV. However, there has been great concern regarding the apparent growing resistance of HIV strains to current therapies.

It has been found that a certain class of compounds including thiazepines and analogs and derivatives thereof are effective and selective anti-integrase inhibitors. These compounds have been found to inhibit both viral replication and the activity of purified HIV–1 integrase. The subject invention provides for such compounds and for methods of inhibiting HIV integrase.

Acetylated and Related Analogues of Chicoric Acid as HIV Integrase Inhibitors

Terrence R. Burke, Jr., Zhaiwei Lin, He Zhao, Nouri Neamati, Yves Pommier (NCI)
Serial No. 60/121,127 filed 22 Feb 1999

The human immunodeficiency virus (HIV) is the causative agent of acquired immunodeficiency syndrome (AIDS). Drug-resistance is a critical factor contributing to the gradual loss of clinical benefit to treatments for HIV infection. Accordingly, combination therapies have further evolved to address the mutating resistance of HIV. However, there has been great concern regarding the apparent growing resistance of HIV strains to current therapies.

Chicoric acid has been found to have potential in HIV therapies. The subject invention provides for new chicoric acid analogues and derivatives that inhibit HIV–1 integrase, as well as improved synthetic methods for enantiomers of chicoric acid itself as well as its analogues and derivatives. Also provided are methods for inhibiting the replication of HIV–1 either alone or in combination therapies.

Identification of Globotriaosylceramide as a Promoter of HIV–1 Entry Into Cells

Robert Blumenthal, Anu Puri, Peter Jug (NCI)
Serial No. 60/108,903 filed 17 Nov 1998

The human immunodeficiency virus (HIV) is the causative agent of acquired immunodeficiency syndrome (AIDS). It has been noted that human immunodeficiency virus type 1 (HIV–1) enters permissive cells by binding to the cellular receptor, CD4, and chemokine receptors specific for the envelope glycoprotein (gp120–g41) of a given HIV–1 isolate, followed by gp120–gp41 mediated fusion of the viral and target cell membranes.

The subject invention relates to the discovery of glycosphingolipid cofactors which are essential for entry of a broad range of HIV–1 isolates into cells expressing CD4 and appropriate chemokine receptors. The invention provides for diagnostics, prophylactics, therapeutics, and methods of use for the treatment and prevention of HIV–1 infection and/or AIDS.

Inhibition of Retroviral LTR Promoters by Calcium Response Modifiers

Elise C. Kohn, Kevin Gardner, Lance A. Liotta (NCI)
Serial No. 09/103,519 filed 23 Jun 1998; Serial No. 08/353,765 filed 12 Dec 1994

The human immunodeficiency virus (HIV) LTR is synergistically activated by the phorbol ester 12-myristic 13-acetate (PMA) and T cell specific mitogenic lectin phytohemagglutinin A (PHA). This reflects the activation of the HIV LTR by endogenous T cell mechanisms in vitro. A class of non-voltage-gated calcium influx inhibitor compounds is disclosed which is newly discovered to inhibit the activation of retroviral LTR promoters, including HIV–LTR, by PHA and PMA. This class of compounds can be used to delay or suppress the transition of HIV infection from a latent to a virulent condition, thereby preventing or ameliorating retroviral diseases such as Acquired Immune Deficiency Syndrome (AIDS). The compounds are also useful in cancer treatment, allowing for coordinated therapeutic approaches to retroviral diseases and related cancers such Kaposi's Sarcoma. The compounds can also be used to standardize in vitro assays of commercial importance for clinical and experimental application.

Inhibition of HIV Replication Using Soluble Tat Peptide Analogs

Fatah Kashanchi (NCI), M.R. Sadaie (FDA), John M. Brady (NCI)
Serial No. 09/269,991 filed 02 Oct 1997; PCT/US97/17704 filed 02 Oct 1997; Serial No. 60/027,658 filed 04 Oct 1996

The subject invention embodies the identification of a domain within the transactivator Tat protein of HIV–1, a protein which is necessary for replication of the virus. A number of peptide derivatives of this domain have been constructed. It has been demonstrated that some of these derivatives inhibit Tat transactivation of the human immunodeficiency virus (HIV) LTR (long terminal repeat) promoter. Most importantly, the peptide derivatives also inhibit virus replication and thus provide the basis for potential therapeutic antiviral agents for the treatment of HIV infections.

Dated: September 8, 1999.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 99–24122 Filed 9–15–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301–402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Novel HIV Related Peptides

Giuseppe Scala, Xueni Chen, Oren J. Cohen, Anthony S. Fauci (NIAID)
Serial No. 60/132,760 filed 6 May 1999 (with priority to 11 Jan. 1999)
Licensing Contact: Robert Benson; 301/496–7056 ext. 267; e-mail: rb20manih.gov

This invention concerns novel peptides that selectively react with sera from people who are HIV infected. The peptides were selected by screening random peptide libraries displayed phages with sera from long-term non-progressor (LTNP) subjects followed by counterscreening with non-infected sera. The peptides are potentially useful as vaccines against HIV, and to raise antisera for passive immunization against HIV. In fact, the peptides behaved as antigenic mimics of linear or conformational HIV–1 epitopes generated in vivo in subjects infected with different HIV–1 strains and quasispecies. Moreover, the selected epitopes fulfilled the requirements for an effective immunogen; in fact, the inventors have shown that antisera from immunized mice decrease HIV replication in an in vitro assay. Claimed are the methodology, which allows the identification of pools of HIV-specific peptides by taking advantage of the HIV-specific antibody repertoire induced by the natural infection; peptides, alone or as part of larger vaccine constructs; and antibodies raised against the peptides.

Method of Detecting and Treating Inflammatory Disease

Esther M. Sternberg, Ruth M. Barrientos, Samuel Listwak, Mehrnaz J. Tehrani (NIMH)
Serial No. 60/132,921 filed 6 Apr 1999
Licensing Contact: Kai Chen; 301/496–7735 ext. 247; e-mail: kc169a@nih.gov

A new diagnostic tool for screening for resistance, or susceptibility to certain forms of inflammatory disease (including Alzheimer's, Systemic Lupus Erythematosis, Sarcoidosis, Scleroderma, and Arthritis) was identified using a mutation of the Angiotensin Converting Enzyme (ACE) gene. The mutation in the ACE cDNA was associated with a high level of ACE activity and resistance to exudative inflammation. Related mutations could confer or predict susceptibility to these diseases. Drugs designed to interact with the enzyme, or at the active site near the mutation could be used to treat such illnesses. This could have important implications in the study of human populations with related inflammatory diseases and may be linked to a variety of autoimmune and inflammatory diseases. It is available for immediate licensing, and research collaborations via Cooperative Research and Development Agreements (CRADAs) will be considered.

Nucleic Acid and Amino Acid Sequences of Hemoglobin-Response Genes in Candida albicans and the Use of Reagents Derived From these Sequences in the Diagnosis of Disseminated Candida albicans Infections

David D. Roberts, Sizhuang Yan (NCI)

Serial No. 09/258,634 filed 26 Feb 1999

Licensing Contact: George Keller; 301/496–7735 ext. 246; e-mail: gk40j@nih.gov

Candida albicans is a commensal yeast flora commonly found in the gastrointestinal tract in about 60% of healthy individuals. However, it is also the most common pathogen causing fungal infections in immunocompromised individuals, including AIDS and cancer patients, and organ transplant recipients. Infections caused by Candida albicans range from superficial to deep-seated, and systemic candidiasis is a common complication in immunosuppressed hosts. Invasive infections leading to candidemia in this patient population have high morbidity and mortality. The Centers for Disease Control and Prevention found that candidemia increased tenfold within the past ten years and constitutes the third most common cause of positive blood cultures. Currently, there is no quick diagnostic method to identify candidemia, except the traditional fungal culture. It has been demonstrated that, in the presence of hemoglobin, several new genes are expressed, and hemoglobin induces and facilitates the invasion and colonization of the opportunistic pathogen to hose tissues. The DNA sequences of these new genes could be useful targets to develop molecular diagnostic kits for rapid diagnosis of disseminated candidiasis. Such kits can also be widely used as research tools to define the molecular mechanism of candidemia.

Dated: September 8, 1999.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 99–24123 Filed 9–15–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by contacting John Fahner-Vihtelic, Technology Licensing Specialist/Patent Advisor, at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7735 ext. 270; fax: 301/402–0220; e-mail: jf36z@nih.gov. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Molecular Rotation Engine

Thomas D. Schneider (NCI)

DHHS Reference No. E–018–99/0 filed 03 Aug 1999

The present application describes a molecular-based macroscopic rotating engine. The engine is constructed of two cylinders, one inner and one outer whose inner surfaces are coated with oriented mobility or contractile proteins. In the presence to ATP the cylinders rotate relative to each other. Speed of relative rotation is controlled by the concentration of ATP or by nesting a series of cylinders inside each other. Power is controlled by adjusting the length of the cylinders. One advantage of this technology over other macroscopic motors is that it can be used to supply power to prosthetic implants and medical devices without the drawbacks associated with conventional power sources. Other advantages are that the motor operates at room temperature, fuels can be prepared by growing sugar so the motor does not contribute to carbon dioxide pollution and the waste products are biologically safe.

Layered Electrophoresis Scan: A Method for High Throughput Molecular Fingerprinting of Tissue and Cell Samples

Michael Emmert-Buck (NCI)

DHHS Reference No. E–079–99/0 filed 26 Jul 1999

Layered expression scanning is a technique which combines tissue and/or cell samples with a high-throughput array approach to provide a simple and rapid method for comprehensive molecular analysis. The method works by placing a biological sample (tissue section, or dissected cell populations, or lysates from cells) adjacent to a set of capture layers, each containing an individual hybridization molecule (antibody or DNA sequence). The specimen(s) is transferred through the membranes and, importantly, the overall two-dimensional architecture and histological relationships within the sample(s) are maintained. As the proteins and nucleic acids are transferred each target molecule specifically hybridizes to the membrane containing its antibody or complementary DNA sequence. After hybridization each of the membranes are analyzed, providing a measurement of the level of expression of each targeted molecule in all of the cell types present in the sample.

A Single Tube Homogeneous Assay for Lipoprotein Subfraction Analysis

Alan T. Remaley, Maureen Sampson, Gyorgy Csako (CC)

Serial No. 60/136,709 filed 28 May 1999

The present invention describes a single tube assay for determining high density lipoprotein HDL-cholesterol (HDL–C) and low density lipoprotein (LDL-–C) and total cholesterol (total–C), from a single serum sample. This technology is useful in determining a patient's risk factor for heart disease. Previously, multiple costly tests were performed in order to determine low density lipoprotein LDL–C and HDL–C by measuring total–C, total triglyceride, and HDL–C. That method of testing had limitations and was complex. In this methodology, the use of the homogeneous assay for HDL–C, does not require the physical separation of HDL. The new assay developed is efficient, less costly, and compares favorably to current assays for HDL–C, total cholesterol, and triglyceride. This technology may also be used to simplify the procedure for the point of care testing of hyperlipidemia.

Methods and Devices for Isolation and Analysis of Cellular Protein Content

Lance A. Liotta, Emmanuel P. Petricoin, Nicole Simone, Michael E. Buck (NCI)

Serial No. 60/120,288 filed 16 Feb 1999

The present provisional application presents a comprehensive method to determine protein characteristics of a sample tissue cell in order to quantitatively discern and compare the protein content of healthy cells versus diseased cells. Furthermore, the tissue source of a tumor metastasis is available from the acquisition of this information. The realms for molecular biology study are moving from genomics to proteomics, the study of variations in the protein levels of cells, caused by the state of the cell itself, whether healthy or unhealthy. The invention at hand provides a method for using new and innovative methods for superior cell analysis. Previous methods, such as UV-laser ablation of unwanted tissue regions and oil well isolation of tissue cells, were complex, labor intensive, and did not utilize the important protein stabilizers. Direct comparisons between healthy cells and tumor cells were not made due to limitations of the methods. The new method consists of first using the new method of Laser Capture Microdissection (LCM) to obtain pure cell populations. Next, the sample is placed in a device so that the proteins are solubilized. Now the immunological and biochemical methods and subsequent analyses are performed. These techniques include (but are not limited to) immunoassays, 1D and 2D gel electrophoresis characterization, Western blotting, Matrix Assisted Laser Desorption Ionization/Time of Flight (MALDI/TOF) and Surface Enhanced Laser Desorption Ionization Spectroscopy (SELDI). The methods listed above allow for the direct comparison of both qualitative and quantitative tissue content of healthy and diseased cells, from the same sample. The sequential method of using LCM, protein isolation, analysis and comparison is superior since by simply using immunohistochemistry, the location of the tumor is found, but none of the protein characteristics, such as amino acid sequence and binding ability are discerned as they are in the present application. In addition, by using protein fingerprinting, the source of the tumor metastasis is found effectively. The methodology at hand has been tested extensively with the different methods listed above. This technology can be used in hospitals and research pathology labs for quantitative measure of protein characteristics of cells.

Dated: September 7, 1999.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 99–24124 Filed 9–15–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by contacting Richard U. Rodriguez, M.B.A., Technology Licensing Specialist, at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7056 ext. 287; fax: 301/402–0220; e-mail: rr154z@nih.gov. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Methods for Treating Tumors Using Anti-Angiogenic Compounds

Steven K. Libutti, Andrew L. Feldman (NCI), Serial No. 60/133,243 filed 07 May 1999.

Angiogenesis is the process of tumor vascularization which involves both positive and negative regulators. It is recognized as a critical process in tumor progression and is essential for the growth and persistence of solid tumors and their metastases. This vacularization is induced by a variety of pro-angiogenic factors, which are balanced against naturally occurring negative regulators of angiogenesis, such as endostatin.

Endostatin is a protein derived from the cleavage of the precursor collagen XVIII. It is an endogenous inhibitor of angiogenesis and tumor growth that can inhibit angiogenesis and can induce dormancy or regression of large tumors in mice. Furthermore, endostatin does not induce acquired drug resistance, a problem associated with chemotherapy and other cytochemical therapies. However, difficulties in producing sufficient recombinant endostatin for widespread clinical use has presented significant obstacles in developing an endostatin therapy model.

The present invention describes a method of delivering endostatin as well as other inhibitors of angiogenesis by administering an adenovirus vector carrying a modified endostatin gene. This method allows the host to produce high levels of secreted endostatin systemically and in the local tumor environment.

This invention obviates the need to systemically administer recombinant protein and may allow for more efficient treatment strategies.

Methods for Identifying Modulators of GADD45 Polypeptide Activity

Xin Wei Wang, Curtis C. Harris, Albert J. Fornace Jr., Jill D. Coursen. Qimin Zhan (NCI), Serial No. 60/126,069 filed 25 Mar 1999.

A common method of treatment for cancer is to give radiation or chemicals to damage cancer cell's DNA so badly that the cell dies. However, these treatments are equally toxic to healthy cells. One approach to protecting normal cells from exposure to anti-cancer treatments would be to simultaneously treat the cells with a second agent which interacts preferentially with the cancer cells making them more susceptible to toxic radiation or chemical effective. This could be achieved by ''sensitizing'' the cancer to toxic treatments so the growing tumor cells die with a smaller amount of toxic radiation or chemical.

This invention describes a method of ''sensitizing'' the DNA of a cancer cell making it more susceptible to conventional therapies including radiation. Utilizing this technology, patients could be exposed to radiation doses that would inactivate the cancer cell but spare the healthy cells. Normally, a cell with unrepaired DNA damage will die by apoptosis as it progresses part G2/M into mitosis. If the cell can ''stall'' its cell cycle long enough to repair this DNA damage, the self-destructive reaction may be avoided. However, if this stalling mechanism can be disturbed, less DNA repair time is available and thus relatively lesser amounts of anti-cancer agent are needed to kill the cell.

One possible mediator of this stalling mechanism is GADD45, a ubiquitously expressed polypeptide induced by irradiation or DNA damaging agents. Inhibiting GADD45 prevents the cell from sufficiently repairing DNA damage to prevent its self-destructive passage to apoptosis. Thus, when a GADD45 inhibitor is co-administered with a DNA damaging drug, the cell is more sensitive to the irradiation or damaging drug.

The present invention describes ingenious methods that have been embodied in a variety of ways so that, for the first time, GADD45 can be envisioned as a platform from which a variety of therapeutic interventions might be envisioned. These include but are not limited to, novel methods to assay for modulators of GADD45 as means to sensitize a proliferating cell to a DNA damaging agent by administration of novel inhibitors of GADD45 polypeptide activity.

Method for Detecting Radiation Exposure

Albert J Fornace, Jr. (NCI), Sally A. Amundson (NCI), Jeffrey Trent (NHGRI), Serial No. 60/121,756 filed 26 Feb 1999.

Ionizing radiation has many medical, industrial and military uses. Ionizing radiation is often used in the therapy of diseases such as cancer, however, exposure to biologically significant levels of such radiation can also cause genotoxic stress. In addition, many individuals are potentially exposed to radiation through occupational or accidental exposure. Such radiation can elicit a variety of cellular responses, ranging from cell-cycle arrest to mutation, malignant transformation, or cell death. The present invention describes a method for detecting exposure of organisms to biologically significant or hazardous amounts of ionizing radiation.

This invention describes the identification of a large set of genes that are induced by ionizing radiation. Different patterns of gene induction are produced depending upon dose of radiation and time after treatment. Many of these genes are induced by physiological doses of radiation routinely used for cancer therapy. These genes sets may be useful as markers of exposure to hazardous radiation, or as markers to predict the likely response of a particular tumor to radiation therapy, and subsequently to track and access the response of patients to radiotherapy. In addition, these gene sets may also be useful in toxicological and epidemiological research and studies.

Dated: September 7, 1999.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institute of Health.

[FR Doc. 99–24125 Filed 9–15–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Cancer Institute Director's Consumer Liaison Group.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Cancer Institute Director's Consumer Liaison Group.

Date: October 18–19, 1999.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: NCI Director's Report; Discussion of NCI web site from the consumer perspective; New clinical trial system; Accessibility and appropriateness of NCI services and resources.

Place: Natcher Conference Center, Conference Room D, 45 Center Drive, Bethesda, MD 20892.

Contact Person: Eleanor Nealon, Director, Office of Liaison Activities, Building 31—Room 10A16, 9000 Rockville Pike, Rockville, MD 20892, 301/594–3194.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 10, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–24126 Filed 9–15–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Cancellation of Meeting

Notice is hereby given of the cancellation of the President's Cancer Panel, September 22, 1999, 9:00 AM to September 22, 1999, 4:00 PM, National Institutes of Health, Building 31, C Wing, Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20892 which was published in the **Federal Register** on August 24, 1999, 64 FR 46207. The meeting is cancelled due to scheduling conflicts.

Dated: September 10, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–24127 Filed 9–15–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel, September 13, 1999, 1:00 p.m. to September 13, 1999, 2:00 p.m., 6130 Executive Boulevard, EPN/F, Rockville, MD 20852 which was published in the **Federal Register** on August 24, 1999, 64FR46208.

The meeting has been rescheduled for October 4, 1999 at 1:00 p.m. The meeting is closed to the public.

Dated: September 10, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–24128 Filed 9–15–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6). Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel Review of Applications for Research Training. September 30–October 1, 1999.

Date: September 30–October 1, 1999.

Time: September 30, 1999, 8:00 p.m. to 9:00 p.m.

Agenda: To review and evalute grant applications.

Place: 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Time: October 1, 1999, 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Eric H. Brown, PhD, Scientific Review Administrator, NIH, NHLBI, DEA, Rockledge Building II, 6701 Rockledge Drive, Suite 7204, Bethesda, MD C 7956, (301) 435–0299.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 9, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–24134 Filed 9–15–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Clinical Trials Review Committee.

Date: October 24–25, 1999.

Time: 6:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Joyce A. Hunter, PhD., NHLBI/DEA/Review Branch, Rockledge Building II, Room 7192, MSC 7924, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 435–0287.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 9, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–24136 Filed 9–15–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Heart, Lung, and Blood Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Advisory Council.

Date: October 28–29, 1999.

Open: October 28, 1999, 8:30 a.m., to 2:00 p.m..

Agenda: For discussion of program policies and issues.

Place: National Institutes of health, Building 31, C Wing, Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20892.

Closed: October 28, 1999, 2:00 p.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of health, Building 31, C Wing, Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: Robert Carlsen, Acting Director, Division of Extramural Affairs, Nat. Heart, Lung, and Blood Institute, NIH, Two Rockledge Center, Room 7100, 6701 Rockledge Drive, Bethesda, MD 20892, 301/435–0260.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 9, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–24137 Filed 9–15–99 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Advisory Mental Health Council, September 16, 1999, 10:30 a.m. to September 17, 1999, 2:45 p.m., Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD, 20892 which was published in the **Federal Register** on August 24, 1999, 64 FR 46208.

The Closed session on September 16, is to review and evaluate grant applications. It is not to revise applications as a typo stated. The Open session on September 17, will begin at 8:30 a.m. instead of 8:00 a.m. and continue to adjournment. The meeting is partially Closed to the public.

Dated: September 8, 1999.

Anna P. Snouffer,

Acting Director, Office of Federal Advisory Committee.

[FR Doc. 99–24131 Filed 9–15–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NIA.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual grant applications conducted by the National Institute on Aging, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIA, Laboratory of Cardiovascular Science.

Date: October 19–21, 1999.

Closed: October 19, 1999, 7 p.m. to adjournment.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Best Western Hotel & Conference Center, Fells Point Room, Baltimore, MD 21224.

Closed: October 20, 1999, 8 a.m. to 8:30 a.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Gerontology Research Center, 4940 Eastern Avenue, Baltimore, MD 21224.

Open: October 20, 1999, 8:30 a.m. to 11:55 a.m.

Agenda: Review of the Laboratory of Cardiovascular Science.

Place: Gerontology Research Center, 4940 Eastern Avenue, Baltimore, MD 21224.

Closed: October 20, 1999, 11:55 a.m. to 1 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Gerontology Research Center, 4940 Eastern Avenue, Baltimore, MD 21224.

Open: October 20, 1999, 1 p.m. to 5:10 p.m.

Agenda: The continuation of the Review of the Laboratory of Cardiovascular Science.

Place: Gerontology Research Center, 4940 Eastern Avenue, Baltimore, MD 21224.

Closed: October 20, 1999, 5:10 p.m. to 5:30 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Gerontology Research Center, 4940 Eastern Avenue, Baltimore, MD 21224.

Closed: October 21, 1999, 8 a.m. to 8:30 a.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Gerontology Research Center, 4940 Eastern Avenue, Baltimore, MD 21224.

Open: October 21, 1999, 8:30 a.m. to 12:20 p.m.

Agenda: The continuation of presentations and discussions of the Review of the Laboratory of Cardiovascular Science.

Place: Gerontology Research Center, 4940 Eastern Avenue, Baltimore, MD 21224.

Closed: October 21, 1999, 12:20 p.m. to 1:10 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Gerontology Research Center, 4940 Eastern Avenue, Baltimore, MD 21224.

Open: October 21, 1999, 1:10 p.m. to 2:55 p.m.

Agenda: The continuation of presentations and discussions of the Review of the Laboratory of Cardiovascular Science.

Place: Gerontology Research Center, 4940 Eastern Avenue, Baltimore, MD 21224.

Closed: October 21, 1999, 2:55 p.m. to 4 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Gerontology Research Center, 4940 Eastern Avenue, Baltimore, MD 21224.

Contact Person: Dan L. Longo, MD, Scientific Director, National Institute of Aging, Gerontology Research Center, National Institutes of Health, 5600 Nathan Shock Drive, Baltimore, MD 21224–6825, 410–558–8110, dl14q@nia.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: September 9, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–24132 Filed 9–15–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: NIDR Special Grants Review Committee Special Grant Review.

Date: October 21–22, 1999.

Time: 8:30 AM to 5 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Gaithersburg Hilton, 620 Perry Parkway, Gaithersburg, MD.

Contact Person: William J. Gartland, PHD, Scientific Review Administrator, National Institute of Dental & Craniofacial RES., National Institutes of Health, PHS, DHHS, 45 Center Drive, Natcher Building, RM. 4AN44F, Bethesda, MD 20892.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: September 9, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–24133 Filed 9–15–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel Superfund Basic Research Program.

Date: October 18–20, 1999.

Time: 8:30 AM to %:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Imperial Hotel and Convention Center, 4700 Emperor Boulevard, Durham, NC 27703.

Contact Person: Michael A. Oxman, PhD, Scientific Review Administrator, NIEHS, Building 31, Room B1C02, 31 Center Drive, MSC 2256, 9000 Rockville Pike, Bethesda, MD 20892–2256, 301–496–9613.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel Superfund Basic Research Program.

Date: October 25–27, 1999.

Time: 8:30 AM to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Imperial Hotel and Convention Center, 4700 Emperor Boulevard, Durham, NC 27703.

Contact Person: Michael A. Oxman, PhD, Scientific Review Administrator, NIEHS, Building 31, Room B1C02, 31 Center Drive, MSC 2256, 9000 Rockville Pike, Bethesda, MD 20892–2256, 301–496–9613.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: September 9, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–24135 Filed 9–15–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NIDA.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552(b)(6) Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute on Drug Abuse, including consideration of personnel qualifications and performance, and the competence of individual investigators,

the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDA.

Date: October 5–6, 1999.

Time: 9:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Division of Intramural Research, NIDA, Johns Hopkins Bayview Campus, Bldg. C, 2nd Floor Auditorium, 5500 Nathan Shock Drive, Baltimore, MD 21224.

Contact Person: Stephen J. Heishman, PhD, Research Psychologist, Clinical Pharmacology Branch, Addiction Research Center, National Institute on Drug Abuse, National Institutes of Health, DHHS, 5500 Nathan Shock Drive, Baltimore, MD 21224, (410) 550–1547.

Dated: September 9, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–24139 Filed 9–15–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, R13 Review Meeting.

Date: September 15, 1999.

Time: 11:45 AM to 1:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIEHS-East Campus, 79 TW Alexander Drive, Building 4401, Room 3446, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: J. Patrick Mastin, PhD, Scientific Review Administrator, NIEHS, P.O. Box 12233 MD EC–24, Research Triangle Park, NC 27709, (919) 541–1446.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: September 9, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–24140 Filed 9–15–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The portions of the meeting devoted to the review and evaluation of journals for potential indexing by the National Library of Medicine will be closed to the public in accordance with the provisions set forth in section 552b(c)(9)(B), Title 5 U.S.C., as amended. Premature disclosure of the titles of the journals as potential titles to be indexed by the National Library of Medicine, the discussions, and the presence of individuals associated with these publications could significantly frustrate the review and evaluation of individual journals.

Name of Committee: Literature Selection Technical Review Committee.

Date: October 7–8, 1999.

Open: October 7, 1999, 9:00 a.m. to 10:30 a.m.

Agenda: Administrative reports and program developments.

Place: National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

Closed: October 7, 1999, 10:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate journals as potential titles to be indexed by the National Library of Medicine.

Place: National Library of Medicine, 8600 Rockville Pike, Board Room, Bldg 38, Rm 2E–09, Bethesda, MD 20894.

Closed: October 8, 1999, 8:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate journals as potential titles to be indexed by the National Library of Medicine.

Place: National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

Contact Person: Sheldon Kotzin, BA, Chief, Bibliographic Services Division, Division of Library Operations, National Library of Medicine, 8600 Rockville Pike, Bldg 38A/Room 4N419, Bethesda, MD 20894.

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: September 9, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 99–24138 Filed 9–15–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: September 16, 1999.

Time: 10:45 a.m. to 11:45 a.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michael Micklin, PhD, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3154, MSC 7848, Bethesda, MD 20892, 301–435–0682.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: September 16, 1999.

Time: 2:00 p.m. to 2:45 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michael Micklin, PhD, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3154, MSC 7848, Bethesda, MD 20892, 301–435–0682.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: September 16, 1999.

Time: 2:00 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michael Micklin, PhD, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3154, MSC 7848, Bethesda, MD 20892, 301–435–0682.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 10, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–24129 Filed 9–15–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclosed confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: September 9, 1999.

Time: 3:00 to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Nancy Pearson, PhD, Chief, Genetic Sciences Initial Review Group, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2112, MSC 7890, Bethesda, MD 20892, (301) 435–1047, pearsonn@csr.nih.gov

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–396, 93.837,93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 8, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy

[FR Doc 99–24130 Filed 9–15–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Toxicology Program; Meeting of the Advisory Committee on Alternative Toxicological Methods

Pursuant to Section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Toxicology Program (NTP) Advisory Committee on Alternative Toxicological Methods, U.S. Public Health Service. The meeting will be held from 8:45 a.m. to 4:00 p.m. on October 14, 1999 in the Conference Center, Building 101, South Campus, NIEHS, 111 Alexander Drive, Research Triangle Park, North Carolina, 27709. The meeting will be entirely open to the public from 8:45 a.m. to adjournment with attendance limited only by space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations should notify the contact person listed below in advance of the meeting.

Background

Under authority of 42 U.S.C. 217a, Section 222 of the Public Health Service Act, as amended, the Department of Health and Human Services has established an Advisory Committee on Alternative Toxicological Methods. The Committee functions to provide advice on the activities and priorities of the National Toxicology Program (NTP) Interagency Center for the Evaluation of Alternative Toxicological Methods (Center) and the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM), and to provide advice on ways to foster partnership activities and productive interactions among all stakeholders. The Advisory Committee is composed of knowledgeable representatives drawn from academia, industry, public interest organizations, other state and Federal agencies, and the international community.

The National Toxicology Program established the Center and ICCVAM to fulfill specific mandates provided to the National Institute of Environmental Health Sciences by Public Law 103–43, Section 1301. The NIEHS was directed to: (1) Develop and validate toxicological testing methods, including alternative methods than can reduce or eliminate the use of animals in acute or chronic toxicity testing, (2) establish criteria for the validation and regulatory acceptance of alternative testing methods, and (3) recommend a process through which scientifically validated alternative methods can be accepted for regulatory use. Criteria and processes for validation and regulatory acceptance were developed in conjunction with 14 other Federal agencies and programs with broad input from the public. These are described in the document ''Validation and Regulatory Acceptance of Toxicological Test Methods: A Report of the Ad Hoc Interagency Coordinating Committee on the Validation of Alternative Methods'' NIH publication 97–3981, March 1997, which is available on the internet at http://ntp-server.niehs.nih.gov /htdocs/ICCVAM/ICCVAM/htm, or by request to the Center at the address provided below.

A standing Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) was subsequently established as a collaborative effort by NIEHS and 13 other Federal regulatory and research agencies and programs. The ICCVAM facilitates cross-agency communication and coordination on issues relating to validation, acceptance, and national/international harmonization of toxicological test methods. The

ICCVAM works with the Center to carry out the scientific review of proposed methods of multi-agency interest, and provides recommendations regarding their usefulness to appropriate agencies. The ICCVAM also provides a mechanism for interagency communication with stakeholders throughout the process of test method development and validation. The following Federal regulatory and research agencies and organizations are participating in this effort:

Consumer Product Safety Commission
Department of Defense
Department of Energy
Department of Health and Human Services
  Agency for Toxic Substances and Disease Registry
  Food and Drug Administration
  National Institute for Occupational Safety and Health/CDC
  National Institutes of Health
  National Cancer Institute
  National Institute of Environmental Health Sciences
  National Library of Medicine
Department of the Interior
Department of Labor
  Occupational Safety and Health Administration
Department of Transportation
  Research and Special Programs Administration
Environmental Protection Agency

The Center was established to provide operational support for the ICCVAM and to assist Federal Agencies by coordinating and facilitating: (1) The interagency review and adoption of toxicological test methods of multi-agency interest and (2) the participation and communication with other stakeholders throughout the process of test method development and validation. The Center organizes, in collaboration with ICCVAM, independent scientific peer reviews and workshops for test methods of interest to Federal agencies. Peer review panels are convened to develop scientific consensus on the usefulness of test methods to generate information for specific human health and/or ecological risk assessment purposes. Expert workshops are convened to evaluate the adequacy of current test methods for assessing specific toxicities, to identify areas in need of improved or new methods, to evaluate proposed validation studies, and to evaluate the validation status of methods. The Center provides an opportunity for partnerships with other agencies and organizations to facilitate the development, validation, and review of alternative testing methods. The Center and ICCVAM seek to promote the scientific validation and regulatory acceptance of toxicological test methods that will enhance agencies' ability to assess risks and make decisions, and that will refine, reduce, and replace animal use whenever possible. The Center Office is located at NIEHS and can be contacted by telephone 919–541–3398, fax 919–541–0947, or email, iccvam@niehs.nih.gov.

Tentative Agenda—National Toxicology Program Advisory Committee on Alternative Toxicological Methods; October 14, 1999

Building 101, Conference Center, South Campus, National Institute of Environmental Health Science (NIEHS), Research Triangle Park, North Carolina

8:45–8:55 a.m.
  Call to Order, Introductions—Dr. K. Stitzel, Chair,The Procter & Gamble
8:55–9:10 a.m.
  Welcome and NTP Update—Dr. G. Lucier, NIEHS
9:10–9:50 a.m.
  Updates—Dr. W. Stokes, NIEHS
  - NTP Center and ICCVAM
  - The Corrositex(®) Peer Review Panel Report (25 minutes)
  Discussion (15 minutes)
9:50–12:15 p.m.
  Regulatory Agency Processes for Consideration of ICCVAM
  Test Method Recommendations; Acceptance Consideration of the LLNA
  - EPA, EPA
  - FDA, FDA
  - CPSC, CPSC
  - OSHA, OSHA

Potential Partnership Opportunities for Center/ICCVAM

1:15–2:15 p.m.
  Endocrine Disruptor Testing and Screening Methods:
  - Update on EPA Standardization and Validation Task Force Activities—Dr. T. Maciorowski, EPA
  - Update on OECD Endocrine Screening and Testing Validation Efforts (30 minutes)—Dr. G. Lucier
  - Discussion (30 minutes)
2:30–3:00 p.m.
  Overview of the Multilaboratory Evaluation of in vitro Cytotoxicity (MEIC) Test Program (20 Minutes)—Dr. John Harbell, Institute for In Vitro Sciences
  - Discussion (10 minutes)
3:00–3:30 p.m.
  Potential Use of In Vitro Cytotoxicity Tests to Predict Acute Oral Lethality of Science,s Chemicals (20 minutes)—Dr. Rodger Curren, Institute for In Vitro
  - Discussion (10 minutes)
3:30–4:00 p.m.
  General Discussion (30 minutes)—Dr. K. Stitzel
4:00–4:15 p.m.
  Public Comment
4:15
  Adjourn

The Executive Secretary's Office, Environmental Toxicology Program, P.O. Box 12233, NIEHS, Research Triangle Park, North Carolina 27709, telephone (919) 541–3971, FAX (919) 541–0295, will have available an agenda with times and a roster of Committee members prior to the meeting and summary minutes subsequent to the meeting.

Dated: September 3, 1999.

Samuel H. Wilson,

Deputy Director, National Institute of Environmental Health Sciences.

[FR Doc. 99–24121 Filed 9–15–99; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a list of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Drug Abuse Warning Network—(OMB number 0930–0078, extension)—-The Drug Abuse Warning Network (DAWN) collects data on drug-related medical emergencies and deaths as reported from about 660 hospitals and medical examiners nationwide. Used by Federal, State, and local agencies, this on-going data system supports efforts to identify drug abuse trends, assess health hazards associated with substance abuse, and schedule substances under the Controlled Substances Act. The annual burden estimate is 15,284 hours as shown below:

	Number of respondents	Number of responses/ respondent	Hours per response	Gross burden hours	IR[1] reporting hours	Total adjusted burden (hrs)
Hospitals						
ED Forms	520	334	0.15	26,052	12,876	13,176
ED Logs	520	48	0.02	499	247	252
Hospital Total				26,551	13,123	13,428
Medical examiners						
ME Forms	140	107	0.25	3,745	1,953	1,792
ME Logs	140	48	0.02	134	70	64
ME Total				3,879	2,023	1,856
DAWN Total				30,430	15,146	15,284

[1] There is no burden associated with reporting by Independent Reporters (IRs), so these hours are not included in Total Adjusted Burden.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Allison Eydt, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: September 9, 1999.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 99–24144 Filed 9–15–99; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit Applications

AGENCY: Fish and Wildlife Service

ACTION: Notice of receipt of permit applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 USC 1531 *et seq.*).

Permit No. TE–014444

Applicant: California Army National Guard, and National Guard Bureau, Camp Roberts, California.

The applicant requests a permit to take (capture, mark, and release) the San Joaquin kit fox (*Vulpis macrotis mutica*) in conjunction with population monitoring at Camp Roberts, California, for the purpose of enhancing its survival. These activities were previously conducted under subpermit MONGWT.

Permit No. TE–014496

Applicant: Dr. Michael Hanson, California Polytechnic State University, San Luis Obispo, California.

The applicant requests a permit to take (capture, mark, and release) the San Joaquin kit fox (*Vulpis macrotis mutica*) in conjunction with population monitoring at Camp Roberts, California, for the purpose of enhancing its survival. These activities were previously conducted under subpermit HANSMT.

Permit No. TE–014806

Applicant: Erin Robbins, Mooney and Associates, San Diego, California.

The applicant requests a permit to take (pursue by survey) the Quino checkerspot butterfly (*Euphydryas editha quino*) throughout the species range in southern California, for the purpose of enhancing its survival.

Permit No. TE–828382

Applicant: Dr. Sharon K. Collinge, University of Colorado, Boulder, Colorado.

The applicant requests to amend her permit to remove and reduce to possession the Contra Costa Goldfields (*Lasthehia conjugens*) plant in its entirety throughout the species range in California for the purpose of enhancing its survival.

Permit No. TE–014999

Applicant: Death Valley National Park, Death Valley, California.

The applicant requests a permit to take (harass, capture, and release; sacrifice) the Devil's Hole pupfish (*Cyprinodon diabolis*) in conjunction with scientific research throughout the species range for the purpose of enhancing its survival.

Permit No. TE–014497

Applicant: Haleakala National Park, Makawao, Hawaii.

The applicant requests a permit to: take (locate and monitor nests; conduct surveys; band; salvage live eggs, goslings, and adults; and release) the nene goose (*Branta sandvicensis*) in conjuction with population monitoring and captive propagation; take (capture, band, and release) the Hawaiian dark-rumped petrel (*Pterodroma phaeopygia sandwichensis*) in conjunction with ecological and demographic research; and remove and reduce to possession the seeds, inflorescence, and leaves of *Argyroxiphium sandwicense* ssp. *macrocephalum, Bidens micrantha* ssp. *kalealaha, Clermonontia oblongifolia* ssp. *mauiensis, Clermontiia lindseyana, Clermontia peleana* ssp. *singuliflora, Ctenitis squamigera, Cyanea grimesiana* ssp. *grimesiana, Diplazium molokaiense, Geranium arboreum, Geranium multiflorum, Ischaemum byrone, Melicpoe balloui, Melicope ovalis, Phlegmariurus mannii, Plantago princeps* var. *laxiflora, Platanthera holochila, Schiedea halakalensis, Schiedea hookeri, Solanum incompletum,* and *Huperzia mannii* in conjunction with viability and propagation research, and herbarium and taxonomic identification, at Haleakala National Park, Hawaii for the purpose of enhancing their survival. Activities with all species except *Clermontiia lindseyana, Clermontia peleana* ssp. *singuliflora, Ctenitis squamigera, Cyanea grimesiana* ssp. *grimesiana, Diplazium molokaiense, Ischaemum byrone, Melicpoe balloui, Melicope ovalis, Phlegmariurus mannii, Plantago princeps* var. *laxiflora, Platanthera holochila, Schiedea hookeri,* and *Solanum incompletum* were previously covered under subpermit NPSHAL–8.

Permit No. TE–797665

Applicant: Regional Environmental Consultants, San Diego, California.

The applicant requests a permit amendment to remove and reduce to possession (collect seed and plant material, and salvage) *Hemizonia conjugens, Acanthomintha ilicifolia, Allium munzii, Arctostaphylos glandulosa* ssp. *crassifolia*, and *Monardella linoides* var. *viminea* in conjunction with habitat enhancement throughout their range on Federal lands in California for the purpose of enhancing their survival.

Permit No. TE–751345

Applicant: Ronald Baxter, Lake Mathews'Estelle Mountain Reserve, Perris, California.

The applicant requests an amendment to his permit to take (mark with Passive Integrated Transponder tags) the Stephens' kangaroo rat (*Dipodomys stephensi*) in conjunction with population monitoring on the Lake Mathews-Estelle Mountain Reserve, Riverside County, California for the purpose of enhancing its survival.

Permit No. TE–828708

Applicant: Maria-Paloma Nieto, Nipomo, California.

The applicant requests a permit amendment to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) in conjunction with surveys throughout its range for the purpose of enhancing its survival.

Permit No. TE–016381

Applicant: U.S. Geological Survey, Biological Resources Division, Wildlife Research Field Station, Dixon, California.

The applicant requests to renew and amend their permit to: take (capture) the northern salt marsh harvest mouse (*Reithrodontomys raviventris halocoetes*) in conjunction with surveys throughout its range in California; take (capture and collect voucher specimens) the tidewater goby (*Eucyclogobius newberryi*) in conjunction with surveys and ecological research throughout its range in California; take (harass by survey) the California clapper rail (*Rallus longirostris obsoletus*) in conjunction with surveys in Napa, Sonoma, and Solano Counties, California; and take (capture, handle, and harvest eggs and embryos) the desert pupfish (*Cyprinodon macularius*) in conjunction with scientific research in San Diego and Imperial Counties, California for the purpose of enhancing their survival. Activities for the tidewater goby, desert pupfish, and northern salt marsh harvest mouse were previously authorized under subpermit BRDDIX.

Permit No. 702631

Applicant: Assistant Regional Director-Ecological Services, Region 1, U.S. Fish and Wildlife Service, Portland, Oregon.

The applicant requests a permit amendment to allow take of the following species: the Jaguar (*Pantera onca*), Alameda striped racer snake (*Masticophis lateralis euryxanthus*), Behren's silverspot butterfly (*Speyeria zerene behrensii*), Callippe silverspot butterfly (*Speyeria callippe callippe*), Eskimo curlew (*Numenius borealis*), Mariana mallard duck (*Anas platyrynchos oustaleti*), Coastal cutthroat trout (*Oncorhynchus clarki clarki*), and the Umpqua River cutthroat trout (*Oncorhynchus clarki*).

Authorization to remove and reduce to possession specimens of the following plant species is also requested: *Allium munzii, Alopercus aequalis var. sonomensis, Alsinidendron trinerve, Amaranthus brownii, Arabis hoffmannii, Arctostaphylos confertiflora, Astragalus clarianus, Astragalus jaegerianus, Astragalus lentiginosus* var. *coachellae, Astragalus tener* var. *titi, Astragalus tricarinatus, Atriplex coronata* var. *notatior, Berberis nevinii, Berberis pinnata* ssp. *insularis, Caesalpinia* (=*Menzoneuron*) *kavaiense, Carex albida, Castilleja mollis, Cercocarpus traskiae, Chamaesyce hooveri, Chamaesyce* (=*Euphorbia*) *skottsbergii* var. *kalaeloana, Astragalus brauntonii* and *Pentachaeta lyonii.* Take and collection activities will be conducted throughout the range of the species in conjunction with recovery efforts in order to enhance their propagation and survival.

Permit No. TE–734837

Applicant: The Klamath Tribe, Chiloquin, Oregon.

The applicant requests a permit to take (capture and sacrifice) the shortnose sucker (*Chasmistes brevirostris*) and Lost River sucker (*Deltistes luxatus*) in conjunction with population and ecological studies throughout the species range for the purpose of enhancing their survival. The activities were previously authorized under subpermit KLATRB–9.

Permit No. TE–016712

Applicant: Ventana Wilderness Sanctuary, Monterey, California.

The applicant requests a permit to take (capture, handle, and release) the California condor (*Gymnogyps californianus*) in conjunction with reintroduction actions throughout the species range for the purpose of enhancing its survival. The activities were previously authorized under subpermit VENTWS–10.

Permit No. TE–788074

Applicant: Ellen Bauder, San Diego, California

The applicant requests a permit amendment to remove and reduce to possession (collect seed and plant material) *Acanthomintha ilicifolia, Astragalus magdalenae* var. *piersonii,* and *Hemizonia conjugens* in conjunction with scientific research throughout their range on Federal lands in California for the purpose of enhancing their survival.

DATES: Written comments on these permit applications must be received on or by October 18, 1999.

ADDRESSES: Written data or comments should be submitted to the Chief'Endangered Species, Ecological Services, U.S. Fish and Wildlife Service, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181; Fax: (503) 231–6243. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 20 days of the date of publication of this notice to the address above; telephone: (503) 231–2063. Please refer to the respective permit number for each application when requesting copies of documents.

Dated: September 9, 1999.

Thomas Dwyer,

Regional Director, Region 1, Portland, Oregon.

[FR Doc. 99–24145 Filed 9–15–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a Technical/Agency Draft Recovery Plan for Endangered Fat Threeridge (*Amblema neislerii*), Shinyrayed Pocketbook (*Lampsilis subangulata*), Gulf Moccasinshell (*Medionidus penicillatus*), Ochlockonee Moccasinshell (*Medionidus simpsonianus*), Oval Pigtoe (*Pleurobema pyriforme*) and Threatened Chipola Slabshell (*Elliptio chipolaensis*), and Purple Bankclimber (*Elliptoideus sloatianus*) for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability and public comment period.

SUMMARY: We, the Fish and Wildlife Service, announce the availability for public review of the technical/agency draft recovery plan for endangered fat threeridge (*Amblema neislerii*), shinyrayed pocketbook (*Lampsilis subangulata*), Gulf moccasinshell (*Medionidus penicillatus*), Ochlockonee moccasinshell (*Medionidus simpsonianus*), oval pigtoe (*Pleurobema pyriforme*) and threatened Chipola slabshell (*Elliptio chipolaensis*), and purple bankclimber (*Elliptoideus sloatianus*). These mussels are endemic to eastern Gulf Slope streams draining the Apalachicola Region of southeast Alabama, southwest Georgia, and north Florida. Their center of distribution is the Apalachicola-Chattahoochee-Flint (ACF) River basin of southeast Alabama, southwest Georgia, and northwest Florida. They are currently known from restricted portions of from one to four independent river systems. These species inhabit stable sandy and gravelly substrates in medium-sized streams to large rivers, often in areas swept free of silt by the current. The abundance and distributions of the seven mussel species decreased historically from habitat loss associated with reservoir construction, channel construction and maintenance, and erosion. These habitat changes have resulted in significant extirpations (localized loss of populations), restricted and fragmented distributions, and poor recruitment of young. We solicit review and comment from the public on this draft plan.

DATES: We must receive comments on the draft recovery plan on or before November 15, 1999 to receive consideration by us.

ADDRESSES: You may obtain a copy of the draft recovery plan by contacting the U.S. Fish and Wildlife Service, Panama City Field Office, 1612 June Avenue, Panama City, Florida 32405 (telephone 850/769–0552). Send written comments and materials regarding the plan to the Project Leader at the above address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Gail A. Carmody at the above address and telephone number (extension 225).

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals or plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of our endangered species program. To help guide the recovery effort, we are working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for recognizing the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that a public notice and an opportunity for public review and comment be provided during recovery plan development. We will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. We and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

Despite intensive research and management efforts, the survival of these mussels is still perilous. Based upon available information concerning their range, biology, and threats to their continued survival, it is not yet possible to determine if or when full recovery of these species is possible. This draft recovery plan outlines a mechanism that provides for the protection, maintenance, and enhancement of the only known wild populations and the establishment of new wild populations in the future. We officially determined endangered status for five freshwater mussels, and threatened status for two freshwater mussels from eastern Gulf Slope drainage of Alabama, Florida, and Georgia in Final rule of **Federal Register** 63(50):12664–12687. The eastern Gulf Slope streams draining the Apalachicola Region are defined as streams from the Escambia to the Suwannee River systems. Occurring in southeast Alabama, southwest Georgia, and north Florida, they collectively form one of the largest drainage areas in the eastern Gulf Coastal Plain. Historically, these rivers were known for their rich freshwater mussel populations. However, listed mussel species have undergone significant reduction in total range and abundance. We will use comments and information provided during this review in preparing the final recovery plan.

Public Comments Solicited

We solicit written comments on the recovery plan described. We will consider all comments received by the date specified above prior to approval of the plan.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: September 10, 1999.

Gail A. Carmody,

Project Leader.

[FR Doc. 99–24146 Filed 9–15–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–260–1060–00–24 1A]

Call for Nominations for the Wild Horse and Burro Advisory Board

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Wild Horse and Burro Advisory Board call for nominations.

SUMMARY: The purpose of this notice is to solicit public nominations for the Wild Horse and Burro Advisory Board. The Board provides advice concerning management, protection, and control of wild free-roaming horses and burros on the public lands administered by the Department of the Interior, through the Bureau of Land Management, and the Department of Agriculture, through the Forest Service.

DATES: Nominations should be submitted to the address listed below under **ADDRESSES** no later than November 1, 1999.

ADDRESSES: Wild Horse and Burro Group, WO 260, Bureau of Land Management, Department of the Interior, 1849 ''C'' St., Mail Stop: 306 LS, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Lee Delaney, (202) 452–7744.

SUPPLEMENTARY INFORMATION: Any individual or organization may nominate one or more persons to serve on the Wild Horse and Burro Advisory Board. Individuals may also nominate themselves for Board membership. All nomination letters should include the name, address, profession, relevant biographic data, and reference sources for each nominee, and should be sent to the address listed under **ADDRESSES**, above. You may make nominations for the following categories of interest:

Wild horse and burro advocacy group

Wild horse and burro research (especially genetics and population biology)

Veterinary medicine (equine science)

Natural resources management (especially rangeland science)

Humane organization

Wildlife management

Livestock management

Public-at-large

The specific category that the nominee will represent should be identified in the letter of nomination. Board membership must be balanced in terms of categories of interest represented. Each member must be a person who, as a result of training and experience, has knowledge or special expertise which qualifies him or her to provide advice from among the categories of interest listed above. Members will be appointed to staggered terms of 1–3 years.

Pursuant to Section 7 of the Wild Free-Roaming Horses and Burros Act, members of the Board cannot be employees of Federal or State Government.

Members will serve without salary, but will be reimbursed for travel and per diem expenses at current rates for Government employees.

The Board will meet no less than two times annually. The Director, Bureau of Land Management may call additional meetings in connection with special needs for advice.

Dated: September 1, 1999.

Robert E. Doyle,

Acting Director, Bureau of Land Management.

[FR Doc. 99–23675 Filed 9–15–99; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–030–5101–00–A166; AZA–30690 & AZA–30831]

Notice of Availability of Record of Decision for the Griffith Energy Project

AGENCY: Bureau of Land Management.

ACTION: Notice of availability.

SUMMARY: Pursuant to Title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716), as amended and the National Environmental Policy Act of 1969, the Bureau of Land Management, Kingman Field Office, Arizona, has issued a Record of Decision for a natural gas pipeline and electric transmission line associated with the Griffith Energy Project (reference Record of Decision issued by Western Area Power Administration and published in **Federal Register** on May 14, 1999). The Record of Decision documents the approval to construct 3.65 miles of natural gas pipeline, 2 miles of 230 kV Transmission Line, and 16 miles of upgrading of the existing Davis-Prescott 230 kV Transmission Line. These decisions were based on information from the Griffith Energy Project Final Environmental Impact Statement which was filed by EPA in the **Federal Register** on April 2, 1999.

ADDRESSES: Copies of the Record of Decision are available from: Bureau of Land Management, Kingman Field Office, 2475 Beverly Ave., Kingman, Arizona, 86401–3629.

DATES: There is a 30 day appeal period starting on the date of publishing this notice of availability. For information on how to file an appeal please contact BLM's Kingman Field Office at (520) 692–4400.

FOR FURTHER INFORMATION CALL: Bill Wadsworth, phone: (520) 692–4400.

SUPPLEMENTARY INFORMATION: The Griffith Energy Project included public, state and private lands approximately 10 miles west of Kingman AZ, within Mohave County in northwestern Arizona. Western Area Power Administration was the lead agency for the project and has issued a Record of Decision concerning the interconnection to Western's transmission system.

Dated: September 3, 1999.

John R. Christensen,

Field Manager.

[FR Doc. 99–24164 Filed 9–15–99; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–330–3130–00; CACA–39081]

Opening of Public Lands; California

AGENCY: Bureau of Land Management.

ACTION: Opening Order, Humboldt, California.

SUMMARY: This notice opens lands to disposal by Recreation and Public Purposes Grant.

EFFECTIVE DATE: Immediately upon publication.

FOR FURTHER INFORMATION CONTACT: Charlotte Hawks, Arcata Field Office, BLM, 1695 Heindon Road, Arcata CA 95521–4573, (707) 825–2319.

SUPPLEMENTARY INFORMATION: On November 21, 1995, the land described below was proposed for land exchange CACA 39081 and segregated from all other applications. This parcel was dropped from the exchange. The segregation affecting these lands is hereby terminated. The lands are opened only to disposal by Recreation and Public Purpose Act Grant (Act of June 14, 1926, 43 U.S.C. 869):

Humboldt Meridian, California
T.5S., R.3E., Sec: 11, SW¼SW¼,
Containing 40.00 acres.

Lynda J. Roush,

Arcata Field Manager.

[FR Doc. 99–24147 Filed 9–15–99; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–960–1420–00, ES–50496, Group 180, Minnesota]

Notice of Filing of Plat of Survey; Minnesota

The plat of the survey of two islands in Tom's Lake, Township 131 North, Range 39 West, 5th Principal Meridian, Minnesota, will be officially filed in Eastern States, Springfield, Virginia at 7:30 a.m., on October 19, 1999.

The survey was requested by Steven H. Zimmerman, Managing Partner, Tom's Lake Farm, Elk River, Minnesota.

All inquiries or protests concerning the technical aspects of the survey must be sent to the Chief Cadastral Surveyor, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to 7:30 a.m., October 19, 1999.

Copies of the plat will be made available upon request and prepayment of the appropriate fee.

Dated: September 1, 1999.

Joseph W. Beaudin,

Chief Cadastral Surveyor.

[FR Doc. 99–24104 Filed 9–15–99; 8:45 am]

BILLING CODE 4310–GJ–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–960–1420–00, ES–50497, Group 181, Minnesota]

Notice of Filing of Plat of Survey; Minnesota

The plat of the survey of an island in Mud Lake, Township 31 North, Range 20 West, 4th Principal Meridian, Minnesota, will be officially filed in Eastern States, Springfield, Virginia at 7:30 a.m., on October 19, 1999.

The survey was requested by Mr. Timothy J. Dwyer, Attorney and Counselor at Law, on behalf of Kelley Land and Cattle Company.

All inquiries or protests concerning the technical aspects of the survey must be sent to the Chief Cadastral Surveyor, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to 7:30 a.m., October 19, 1999.

Copies of the plat will be made available upon request and prepayment of the appropriate fee.

Dated: September 1, 1999.

Joseph W. Beaudin,

Chief Cadastral Surveyor.

[FR Doc. 99–24105 Filed 9–15–99; 8:45 am]

BILLING CODE 4310–CJ–M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Advisory Board Meeting

TIME AND DATE: 9:00 a.m. to 5:00 p.m. on Monday, November 1, 1999 and 9:00 a.m. to 12 noon on Tuesday, November 2, 1999.

PLACE: Wyndham—Washington, D.C. Hotel, 1400 M Street, NW, Washington, DC 20005.

STATUS: Open.

MATTERS TO BE CONSIDERED: Updates on Strategic Planning and Interstate Compact Activities; Discussions of Mentally Ill in Jails and Prisons and Policy Regarding Private Organizations and NIC Services; and Program Division Reports.

CONTACT PERSON FOR MORE INFORMATION: Larry Solomon, Deputy Director, (202) 307–3106, ext. 155.

Morris L. Thigpen,

Director.

[FR Doc. 99–24106 Filed 9–15–99; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

September 9, 1999.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Ira Mills ({202} 219–5096 ext. 143) or by E-Mail to Mills-Ira@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ({202} 395–7316), on or by October 18, 1999.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Bureau of Labor Statistics.

Title: Mass Layoff Statistics (MLS) Program.

OMB Number: 1220–0090.

Frequency: On occasion; Quarterly.

Affected Public: Business or other for-profit; Not-for-profit institutions; Farms; Federal Government; State, Local or tribal government.

Number of Respondents: 15,652.

Estimated Time Per Respondent: 60 minutes for SESAs and 30 minutes for employers.

Total Burden Hours: 73,570.

Total Annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services): $0.

Description: Clause (iii) of section 309(2)(15)(a)(1)(A) of the Workforce Investment Act states that the Secretary of Labor shall oversee the development, maintenance, and continuous improvement of the incidence of, industrial and geographical location of, and number of workers displaced by permanent layoffs and plant closings. The Mass Layoff Statistics (MLS) program use a standardized, automated approach to identify, describe, and track the impact of major job cutbacks. The program utilizes, to the greatest degree possible, existing Unemployment Insurance (UI) records and computerized data files, supplemented by direct employer contact.

Ira L. Mills,

Department Clearance Officer.

[FR Doc. 99–24173 Filed 9–15–99; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting Notice

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended), notice is hereby given of a meeting of the Steerring Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: September 29, 1999, U.S. Department of Labor, 10:00–12:00 noon, Room S–1011, 200 Constitution Ave., NW, Washington, DC 20210.

Purpose: The meeting will include a review and discussion of current issues which influence U.S. trade policy. Potential U.S. negotiating objectives and bargaining positions in current and anticipated trade negotiations will be discussed. Pursuant to 19 U.S.C. 2155(f) it has been determined that the meeting will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions. Accordingly, the meeting will be closed to the public.

For further information, contact: Jorge Perez-Lopez, Director, Office of International Economic Affairs, Phone: (202) 219–7597.

Signed at Washington, DC this 10th day of September, 1999.

Andrew James Samet,

Deputy Under Secretary International Affairs.

[FR Doc. 99–24174 Filed 9–15–99; 8:45 am]

BILLING CODE 4510–28–M

DEPARTMENT OF LABOR

Pension and Water Benefits Administration

Medical Child Support Working Group

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (FACA), notice is given of the fifth meeting of the Medical Child Support Working Group (MCSWG). The Medical Child Support Working Group was jointly established by the Secretaries of the Department of Labor (DOL) and the Department of Health and Human Services (DHHS) under section 401(a) of the Child Support Performance and Incentive Act of 1998. The purpose of the MCSWG is to identify the impediments to the effective enforcement of medical support by State child support enforcement agencies, and to submit to the Secretaries of DOL and DHHS a report containing recommendations for appropriate measures to address those impediments.

DATES: The meeting of the MCSWG will be held on Monday, October 4, 1999, and Tuesday, October 5, 1999, from 8:30 a.m. to approximately 6 p.m., and on Wednesday, October 6, 1999 from 8:30 a.m. to approximately noon.

ADDRESSES: The meeting will be held in the Conference Center of the Quality Inn Iwo Jima, 1501 Arlington Boulevard (U.S. Route 50) at Fairfax Drive, Arlington, Virginia 22209, telephone number (703) 524–5000. All interested parties are invited to attend this public meeting. Seating may be limited and will be available on a first-come, first-serve basis. Persons needing special assistance, such as sign language interpretation or other special accommodation, should contact the Executive Director of the Medical Child Support Working Group, Office of Child Support Enforcement at the address listed below.

FOR FURTHER INFORMATION CONTACT: Ms. Samara Weinstein, Executive Director, Medical Child Support Working Group, Office of Child Support Enforcement, Fourth Floor East, 370 L'Enfant Promenade, SW, Washington, DC 20447 (telephone (202) 401–6953; fax (202) 401–5559; e-mail: sweinstein@acf.dhhs.gov). These are not toll-free numbers. The date, location and time for subsequent MCSWG meetings will be announced in advance in the **Federal Register.**

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2)) (FACA), notice is given of a meeting of the Medical Child Support Working Group (MCSWG). The Medical Child Support Working Group was jointly established by the Secretaries of the Department of Labor (DOL) and the Department of Health and Human Services (DHHS) under section 401(a) of the Child Support Performance and Incentive Act of 1998 (P.L. 105–200).

The purpose of the MCSWG is to identify the impediments to the effective enforcement of medical support by State child support enforcement agencies, and to submit to the Secretaries of DOL and DHHS a report containing recommendations for appropriate measures to address those impediments. This report will include: (1) Recommendations based on assessments of the form and content of the National Medical Support Notice, as issued under interim regulations; (2) appropriate measures that establish the priority of withholding of child support obligations, medical support obligations, arrerages in such obligations, and in the case of a medical support obligation, the employee's portion of any health care coverage premium, by such State agencies in light of the restrictions on garnishment provided under title III of the Consumer Credit Protection Act (15 U.S.C. 1671–1677); (3) appropriate procedures for coordinating the provision, enforcement, and transition of health care coverage under the State programs for child support, Medicaid and the Child Health Insurance Program; (4) appropriate measures to improve the availability of alternate types of medical support that are aside from health care coverage offered through the noncustodial parent's health plan, and unrelated to the noncustodial parent's employer, including measures that establish a noncustodial parent's responsibility to share the cost of premiums, co-payments, deductibles, or payments for services not covered under a child's existing health coverage; (5) recommendations on whether reasonable cost should remain a consideration under section 452(f) of the Social Security Act; and (6) appropriate measures for eliminating any other impediments to the effective enforcement of medical support orders that the MCSWG deems necessary.

The membership of the MCSWG was jointly appointed by the Secretaries of DOL and DHHS, and includes representatives of: (1) DOL; (2) DHHS; (3) State Child Support Enforcement Directors; (4) State Medicaid Directors; (5) employers, including owners of small businesses and their trade and industry representatives and certified human resource and payroll professionals; (6) plan administrators and plan sponsors of group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(1); (7) children potentially eligible for medical support, such as child advocacy organizations; (8) State medical child support organizations; and (9) organizers representing State child support programs.

Agenda

The agenda for this meeting includes a discussion of the issues to be included in the MCSWG's report to the Secretaries containing recommendations for appropriate measures to address the impediments to the effective enforcement of medical child support as listed above. At the May, 1, 1999, meeting the MCSWG formed four (4) subcommittees to discuss barriers, issues, options, and recommendations in the interim between full MCSWG meetings. At this October, 1999, meeting the four subcommittees will present their initial issues and recommendations to the full MCSWG for further discussion and consideration.

Public Participation

Members of the public wishing to present oral statements to the MSCWG should forward their requests to Samara Weinstein, MCSWG Executive Director, as soon as possible and at least four days before the meeting. Such request should be made by telephone, fax machine, or mail, as shown above. Time permitting, the Chairs of the MCSWG will attempt to accommodate all such requests by reserving time for presentations. The order of persons making such presentations will be assigned in the order in which the requests are received. Members of the public are encouraged to limit oral statements to five minutes, but extended written statements may be submitted for the record. Members of the public also may submit written statements for distribution to the MCSWG membership and inclusion in the public record without presenting oral statements. Such written statements should be sent

to the MCSWG Executive Director, as shown above, by mail or fax at least five business days before the meeting.

Minutes of all public meetings and other documents made available to the MCSWG will be available for public inspection and copying at both the DOL and DHHS. At DOL, these documents will be available at the Public Documents Room, Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5638, 200 Constitution Avenue, NW, Washington, DC from 8:30 a.m. to 5:30 p.m. Questions regarding the availability of documents from DOL should be directed to Ms. Ellen Goodwin, Plan Benefits Security Division, Office of the Solicitor, Department of Labor (telephone (202) 219–4600, ext. 119). This is not a toll-free number. Any written comments on the minutes should be directed to Ms. Samara Weinstein, Executive Director of the Working Group, as shown above.

Signed at Washington, DC, this 10th day of September, 1999.

Richard McGahey,

Assistant Secretary for Pension and Welfare Benefits.

[FR Doc. 99–24172 Filed 9–15–99; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (99–115)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Wessex, Inc., of Blacksburg, VA, has applied for an exclusive patent license to practice the invention described and claimed in U.S. Patent No. 5,269,288, entitled ''Protective Coating for Ceramic Materials,'' which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to NASA Ames Research Center.

DATES: Responses to this notice must be received by November 15, 1999.

FOR FURTHER INFORMATION CONTACT: Robert M. Padilla, Patent Counsel, NASA Ames Research Center, Mail Stop 202A–3, Moffett Field, CA 94035–1000, telephone (650) 604–5104.

Dated: September 8, 1999.

Edward A. Frankle,

General Counsel.

[FR Doc. 99–24196 Filed 9–15–99; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL SKILL STANDARDS BOARD

Notice of Open Meeting

AGENCY: National Skill Standards Board.

ACTION: Notice of open meeting.

SUMMARY: The National Skill Standards Board was established by an Act of Congress, the National Skill Standards Act, Title V, Pub. L. 103–227. The 27-member National Skill Standards Board will serve as a catalyst and be responsible for the development and implementation of a national system of voluntary skill standards and certification through voluntary partnerships which have the full and balanced participation of business, industry, labor, education and other key groups.

TIME & PLACE: The meeting will be held from 8:30 a.m. to approximately 12:00 p.m. on Friday, October 1, 1999, at the Hilton (Washington Dulles Airport), 13869 Park Center Road, Herndon, VA 20171.

AGENDA: The agenda for the Board Meeting will include: an update from the Board's committees; presentations from representatives of the Sales & Service Voluntary Partnership (SSVP) and Manufacturing Skill Standards Council (MSSC); progress reports on Convening Group activities.

PUBLIC PARTICIPATION: The meeting, from 8:30 a.m. to 12:00 p.m., is open to the public. Seating is limited and will be available on a first-come, first-served basis. Seats will be reserved for the media. Individuals with disabilities should contact Leslie Donaldson at (202) 254–8628, if special accommodations are needed.

FOR FURTHER INFORMATION CONTACT: Tracy Marshall, Director of Operations at (202) 254–8628.

Signed at Washington, DC, this 10th day of September, 1999.

Edie West,

Executive Director, National Skill Standards Board.

[FR Doc. 99–24175 Filed 9–15–99; 8:45 am]

BILLING CODE 4510–23–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection: 10 CFR Part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.''

2. Current OMB approval number: 3150–0021.

3. How often the collection is required: On occasion. Upon submittal of an application for a construction permit, operating license, operating license renewal, early site review, design certification review, decommissioning or termination review, manufacturing license, materials license, or upon submittal of a petition for rulemaking.

4. Who is required or asked to report: Licensees and applicants requesting approvals for actions proposed in accordance with the provisions of 10 CFR Parts 30, 32, 33, 34, 35, 36, 39, 40, 50, 52, 54, 60, 61, 70 and 72.

5. The number of annual respondents: 29.

6. The number of hours needed annually to complete the requirement or request: 60,288.

7. Abstract: 10 CFR Part 51 of the NRC's regulations specifies information and data to be provided by applicants and licensees so that the NRC can make determinations necessary to adhere to the policies, regulations, and public laws of the United States, which are to be interpreted and administered in accordance with the policies set forth in the National Environmental Policy Act of 1969, as amended.

Submit, by November 15, 1999, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov/NRC/PUBLIC/OMB/index.html). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 E6, Washington, DC 20555–0001, by telephone at 301–415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 9th day of September 1999.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–24171 Filed 9–15–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–364]

Notice of Issuance of an Environmental Assessment and Finding of No Significant Impact for the BWX Technologies (BWXT), Parks Township, Pennsylvania

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuing an exemption to BWX Technologies (BWXT or the licensee) from the requirement at 10 CFR Part 20, Appendix G III (E)(1) and (2) to investigate and report to the Commission when receipt of a shipment, or part of a shipment, of radioactive waste is not acknowledged by the intended recipient within 20 days of the shipment of the waste.

Environmental Assessment

Identification of the Proposed Action

By letter dated May 11, 1999, BWXT requested an exemption from the requirement at 10 CFR Part 20.Appendix G III (E)(1) and (2) to investigate and report to the Commission when receipt of a shipment, or part of a shipment, of radioactive waste is not acknowledged by the intended recipient within 20 days of the shipment of the waste. Instead, BWXT would only investigate and file a report to the NRC when receipt of the shipment is not received within 35 days of the date of shipment.

Need for the Proposed Action

The BWXT operation involves the decommissioning of its facility in Parks Township, Pennsylvania. As part of this operation, BWXT ships radioactive waste to a radioactive waste disposal facility in Hanford, Washington. As described in the licensee's request, the radioactive waste being shipped to the Hanford, WA facility will typically take longer than the 20 days contemplated in the NRC's regulations at 10 CFR Part 20 Appendix G III (E)(1) and (2). As such, the licensee could be required to investigate and file a report of the investigation with the NRC for each routine shipment of waste. The licensee also stated in its request that a tracking system for rail shipments allows the licensee, and its transportation subcontractor, to monitor the progress of the shipment.

Environmental Impact of the Proposed Action

The NRC staff has examined the licensee's proposed exemption request and concluded that the proposed exemption request is procedural and administrative in nature. Therefore, exempting BWXT from the requirements at 10 CFR Part 20 Appendix G III (E)(1) and (2) and instead requiring BWXT to investigate and report to NRC when receipt of a shipment is not received within 35 days of a shipment will not endanger life or property, or the common defense and security, and will not cause any environmental impact.

Alternatives to the Proposed Action

Since there are no environmental impacts associated with this proposed action, no alternatives other than the proposed action were evaluated.

Agencies and Persons Consulted

Staff of the Pennsylvania Department of Environmental Protection were consulted for this proposed action.

Finding of No Significant Impact

As discussed above, the proposed action is procedural and administrative in nature and there is no environmental impact associated with this action. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

This application for the proposed action was docketed under 10 CFR Part 70, Docket No. 70–364. For further details with respect to this action, see the licensee's May 11,1999, request, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC 20555.

Dated at Rockville, Maryland, this 7th day of September 1999.

For the Nuclear Regulatory Commission.

Larry W. Camper,

Chief, Decommissioning Branch, Division of Waste Management, Office of Material Safety and Safeguards.

[FR Doc. 99–24170 Filed 9–15–99; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1994; Computer Matching Programs Office of Personnel Management/Department of Labor Office of Workers' Compensation Programs

AGENCY: Office of Personnel Management (OPM).

ACTION: Publication of notice of computer matching to comply with Public Law 100–503, the Computer Matching and Privacy Act of 1988.

SUMMARY: OPM is publishing notice of its computer matching program with the Department of Labor, Office of Workers' Compensation Programs (OWCP) to meet the reporting and publication requirements of Public Law 100–503. The purpose of this match is to identify and/or prevent erroneous payments under the Civil Service Retirement Act (CSRA) or the Federal Employees' Retirement System Act (FERSA) and the Federal Employees' Compensation Act (FECA). The match will identify individuals receiving prohibited benefits simultaneously under CSRA or FERSA and the FECA. All three laws prohibit the receipt of certain simultaneous payments covering the same period of time.

The match will involve the OPM system of records published as OPM CENTRAL–1, Civil Service Retirement and Insurance Records at 60 FR 63075, December 8, 1995, as amended August 27, 1998 (63 FR 45881) and the Department of Labor system of records published as DOL/GOVT–1, entitled ''Office of Workers' Compensation Programs, Federal Employees' Compensation Act File'' at 58 FR 49548, on September 23, 1993, with

amendments published at 59 FR 47361 on September 15, 1994.

DATES: The matching program will begin in September 1999, or 40 days after agreements by the parties participating in the match have been submitted to Congress and the Office of Management and Budget, whichever is later. The matching program will continue for 18 months from the beginning date and may be extended an additional 12 months thereafter. The data exchange will begin at a date mutually agreed upon between OPM and OWCP after September 1, 1999, unless comments to the match are received that result in cancellation of the program. Subsequent matches will take place semi-annually on a recurring basis until one of the parties advises the other in writing of its intention to reevaluate, modify and/or terminate the agreement.

ADDRESSES: Send comments to Kathleen M. McGettigan, Assistant Director for Systems, Finance and Administration, Office of Personnel Management Room 4312, 1900 E. Street NW. Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Marc Flaster, (202) 606–2115.

SUPPLEMENTARY INFORMATION: The computer matching program between OPM and OWCP will involve comparison of beneficiaries under the FECA and the CSRA or the FERSA. The match will identify beneficiaries receiving payment of compensation for wage loss or death under the FECA and those receiving retirement or death benefits under the CSRA or FERS covering the same period of time.

The concurrent receipt of benefits under the FECA based on wage loss and under the CSRA or FERSA for retirement, or under the FECA, CSRA, or FERSA based on the death of a Federal employee is prohibited. OPM has the responsibility to monitor retirement annuity and survivor benefits paid under the retirement laws to ensure that it beneficiaries are not receiving benefits under the FECA which are prohibited during receipt of benefits under the CSRA or FERSA. Similarly, it is OWCP's responsibility to ensure that Federal employees or dependents of deceased Federal employees receiving benefits under the FECA are not also receiving benefits under CSRA or FERSA which are prohibited.

By comparing the information received through this computer matching program on a regular basis, the agencies will be able to make a timely and more accurate adjustment in their benefit payments. The match will prevent overpayments, fraud and abuse, thus assuring that benefit payments are proper under the appropriate Acts.

Additional information regarding the matching program, including the authority for the program, a description of the matches, the personnel records to be matched, security safeguards, and plans for the disposal of records following completion of the match are provided in the text below.

Office of Personnel Management.

Janice R. Lachance,

Director.

Matching of Records Between Office of Workers' Compensation Programs and the Office of Personnel Management

A. Authority. The Civil Service Retirement Act (CSRA), 5 U.S.C. 8331, *et seq.;* the Federal Employees' Retirement System Act (FERSA), 5 U.S.C. 8401, *et seq.;* and the Federal Employees' Compensation Act (FECA), 5 U.S.C. 8101, *et seq.*

B. Description of Computer Matching Program. OPM pays annuities or survivor benefits to individuals who also may receive benefits under the FECA. OPM's responsibility as the Administrator of CSRA and the FERSA is to assure that such benefit payments are proper and to prevent fraud and abuse. The computer matching program is an efficient method of determining whether these individuals are receiving benefits simultaneously from both OPM and OWCP which is prohibited by law.

OWCP will provide OPM with extracts of its payment files containing data (names, social security numbers, payee relationship codes, addresses, zip codes, and payment data) needed to identify the individual and determine if he or she is receiving benefits from both organizations at the same time. OPM will match OWCP's extract of its payment files against its payment records for the same dates to determine if benefits were being paid for the same day by both agencies. OPM will provide OWCP with a list of valid matches. Both organizations will detect, identify, and follow-up on payment of prohibited dual benefits. An individual identified as receiving prohibited dual benefits will be offered an opportunity to contest the findings and proposed actions and the opportunity to elect the benefits he or she wishes to receive. This due process will be provided to the individual before any payment adjustments are made.

C. Personnel Records to be Matched. The respective OPM and OWCP system of records cited above, which contain payment date on beneficiaries, will be matched.

D. Privacy Safeguards and Security. The personal privacy of the individuals whose names are included in the tapes is protected by strict adherence to the provisions of the Privacy Act of 1974 and OMB's Guidance Interpreting the Provisions of Pub. L. 100–503, the Computer Matching and Privacy Act of 1988 (54 FR 25818). Security safeguards include limiting access only to the files agreed to and only to agency personnel having a ''need to know''. All automated records will be password protected and the data listing will be locked in file areas after normal duty hours. Records matched or created by the match will be stored in an area that is physically safe from access by unauthorized persons during normal work hours and after work, or when not in use.

E. Disposal of Records. The files will remain the property of the respective source agencies and all records including those not containing matches will be returned to the source agency for destruction. ''Hits'', those records relating to matched individuals, will be disposed of in accordance with the Privacy Act and the Federal Record Schedules after serving their purpose. The data obtained from confirmed hits will be entered in the claims file, subject to release only in accordance with the provisions of the Privacy Act.

[FR Doc. 99–24113 Filed 9–15–99; 8:45 am]

BILLING CODE 6325–01–M

RAILROAD RETIREMENT BOARD

Proposed Data Collection Available for Public Comment and Recommendations

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and purpose of information collection: Request to Non-Railroad

Employer for Information About Annuitant's Work and Earnings; OMB 3220–0107. Under Section 2 of the Railroad Retirement Act (RRA), a railroad employee's retirement annuity or an annuity paid to the spouse of a railroad employee is subject to work deduction in the Tier II component of the annuity and any employee supplemental annuity for any month in which the annuitant works for a Last Pre-Retirement Non-Railroad Employer (LPE). LPE is defined as the last person, company, or institution, other than a railroad employer, that employed an employee or spouse annuitant. In addition, the employee, spouse or divorced spouse Tier I annuity benefit is subject to work deductions under Section 2(F)(1) of the RRA for earnings from any non-railroad employer that are over the annual exempt amount.

The regulations pertaining to non-payment of annuities by reason of work are contained in 20 CFR 230.1 and 230.2.

The RRB utilizes Form RL–231–F, Request to Non-Railroad Employer for Information About Annuitant's Work and Earnings, to obtain the information needed for determining if any work deduction should be applied because an annuitant worked in non-railroad employment after the annuity beginning date. One response is requested of each respondent. Completion is voluntary.

No changes are proposed to Form RL–231–F.

Estimate of Annual Respondent Burden: The estimated annual respondent burden is as follows:

Form Nos.	Annual responses	Time (min)	Burden (hrs)
RL–231–F	300	30	150
Total	300		150

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 99–24107 Filed 9–15–99; 8:45 am]

BILLING CODE 7905–01–M

RAILROAD RETIREMENT BOARD

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in Section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C., Section 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such Section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning October 1, 1999, shall be at the rate of 27 cents.

In accordance with directions in Section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning October 1, 1999, 37.1 percent of the taxes collected under Sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 62.9 percent of the taxes collected under such Sections 3211(b) and 3221(c) plus 100 percent of the taxes collected under Section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

By Authority of the Board.

Dated: September 7, 1999.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 99–24108 Filed 9–15–99; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–24006; File No. 812–10792]

The Travelers Insurance Company, et al.; Notice of Application

September 10, 1999.

AGENCY: Securites and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of application for an order under Section 6(c) of the Investment Company Act of 1940 (''Act'') granting relief from Sections 2(a)(32), 22(c), and 27(i)(2)(A) of the Act and Rule 22c-1 thereunder.

SUMMARY OF APPLICATION: Applicants request an order to permit the offer and sale of variable annuity contracts (''Contracts'') that offer an optional principal protection feature. Applicants also request an order on behalf of any other person who may become the principal underwriter for the Contracts (Future Underwriters'').

APPLICANTS: The Travelers Insurance Company (''The Travelers''), The Travelers Life and Annuity Company (''Travelers Life,'' together with The Travelers, ''Insurers''), The Travelers Fund BD III for Variable Annuities (''Fund BD III''), The Travelers Fund BD IV for Variable Annuities (''Fund BD IV.'' together with Fund BD III, the ''Separate Accounts''), and Tower Square Securities, Inc. (''Tower Square'').

FILING DATE: The application was filed on September 18, 1997, and was amended and restated on June 24, 1998.

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 October 1, 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: Secretray, SEC, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants, Kathleen A. McGah, Esq., The Travelers Insurance Company, One Tower Square, Hartford, CT 06183.

FOR FURTHER INFORMATION CONTACT: Lorna MacLeod, Attorney, or Mark Amorosi, Special Counsel, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

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, NW, Washington, DC 20549 (tel (202) 942–8090).

Applicants' Representations

1. The Travelers, a Connecticut stock insurance company, is licensed to conduct life insurance business in all of the states of the United States, the District of Columbia, Puerto Rico, Guam, the British and US Virgin Islands, and the Bahamas. The Travelers is an indirect wholly owned subsidiary of the Travelers Group Inc.

2. Travelers Life, a Connecticut stock insurance company, is licensed to conduct life insurance business in a majority of states of the United States. Travelers Life is a wholly owned subsidiary of The Travelers.

3. Fund BD III and Fund BD IV were established under the laws of Connecticut as separate investment accounts by The Travelers and Travelers Life, respectively. Assets allocated to each Separate Account support benefits payable under group and individual annuity contracts offered by the Insurers. Each Separate Account is registered with the Commission as a unit investment trust, and meets the definition of ''separate account'' in Section 2(a)(37) of the Act.

4. Tower Square, an indirect wholly owned subsidiary of The Travelers, is the principal underwriter for the Contracts. Tower Square is registered as a broker-dealer under the Securities Exchange Act of 1934 (''1934 Act'') and is a member of the National Association of Securities Dealers, Inc. (''NASD''). Each Future Underwriter will be registered as a broker-dealer under the 1934 Act, and will be a member of the NASD.

5. The Contracts are single premium variable annuity contracts that may be purchased in connection with certain retirement plans on a tax-qualified or a non tax-qualified basis. The net premium may be allocated to one or more of each Separate Account's sub-accounts, or to the general account of The Travelers or Travelers Life, as relevant, where such premium is credited with a fixed rate of interest.

6. The Contracts offer an optional principal protection features (''Principal Protection Feature'' or ''Feature''). If purchased, The Travelers or Travelers Life, as relevant, will guarantee that upon the Feature's expiration date (''Principal Protection Expiration Date''), the Contract Value [1] will at least equal a specified percentage of the premium adjusted for withdrawal reductions (*i.e.*, the amount of any partial withdrawal plus any charges deducted as a result of any such withdrawal) even if the value of the Contract otherwise determined on that date is less than the guaranteed amount.

7. More specifically, on the Principal Protection Expiration Date (the last day of the eighth Contract year), The Travelers or Travelers Life, as relevant, will contribute to the Contract Value any amount needed to bring the Contract Value up to 115%, 100% or 90%, depending on the selection, of the premium, as adjusted for any withdrawal reductions.

8. In addition, on the Principal Protection Expiration Date, the Insurer will transfer the greater of the guaranteed amount or Contract Value from the Protected Funding Option to the sub-account investing in the Money Market Portfolio unless the Contract owner informs The Travelers or Travelers Life, as relevant, in writing prior to the Principal Protection Expiration Date of a different investment choice within the Contract. On and after the Principal Protection Expiration Date, The Contract owner may remain in the Contract, purchase a new Contract with the Principal Protection Feature, annuitize the Contract, exchange the Contractor for another annuity contract, surrender the Contract, or make a partial withdrawal of the Contract Value.

9. To qualify for the Principal Protection Feature, at the time of purchase the Contract owner must allocate the entire premium to the Protected Funding Option. In addition, until the Principal Protection Expiration Date, the Contract owner must refrain from: (1) transferring any amounts from the Protected Funding Option; and (2) annuitizing the Contract. The Insurers will treat any transfer or annuitization from the Principal Protection Feature as a surrender of the Contract. The Contract owner, however, may surrender or make partial withdrawals from the Contract at any time, subject to the withdrawal charges discussed below. The amounts withdrawn, including any withdrawal charges assessed on the withdrawn amounts, will no longer be protected by the Principal Protection Feature, and will reduce the amount of the principal guarantee proportionately.

10. There are two charges associated with the Principal Protection Feature. First, there is a Principal Protection Fee, of up to 2.00% annually of Contract Value, depending on the level of guarantee chosen. The Principal Protection Fee is deducted daily from Contract Value. Second, there is a Principal Protection Cancellation Charge. This charge is assessed should the Contract owner surrender or partially withdraw from the Contract before the Principal Protection Expiration Date. The Principal Protection Cancellation Charge equals up to 4% of the premium and declines to 0% at the end of eight Contract years.

11. The Principal Protection Fee and the Principal Protection Cancellation Charge compensate each Insurer for the liabilities associated with providing the Feature. These include the cost associated with the financial hedging instruments or reinsurance purchased by each Insurer to hedge against such Insurer's potential losses resulting from the Feature. The Principal Protection Fee is designed so that if a Contract owner persists until the Principal Protection Expiration Date, each Insurer will recover most, if not all, of the cost of either purchasing the hedging instruments or the reinsurance associated with providing the guarantee. The Principal Protection Cancellation Charge is designed so that each Insurer may recover its costs if a Contract owner surrenders or withdrawas from the Feature prior to the Principal Protection Expiration Date. Insurers intend to set the rates for the Principal Protection Fee monthly. The rate in effect at the time of Contract purchase will lock in for the life of the Feature. The Principal Protection Fee is expected to fall within the range set forth below based on current market conditions, but will not exceed 2.00 percent:

Level of guarantee percent of purchase payment	Charge range as a percent of contract value
115	1.25–2.00
110	.75–1.50
90	.50–1.25

Similar to the Principal Protection Fee, the Insurers may modify the amount of the Principal Protection Cancellation Charge periodically but the amount of the charge in effect at the time of Contract purchase will lock in for the life of the Principal Protection Feature. The maximum levels of Principal Protection Cancellation Charge are:

Contract year	Principal protection cancellation charge (as a percentage of premium not previously surrendered)
1	4
2	4

[1] Contract Value equals the amount of premium reduced by all charges and partial withdrawals made, and increased or decreased by the amount of investment performance credited to the Contract.

Contract year	Principal protection cancellation charge (as a percentage of premium not previously surrendered)
3	4
4	3
5	3
6	3
7	1
8	1

12. In addition to the Principal Protection Cancellation Charge, a contingent deferred sales charge (''CDSC'') may be imposed on certain withdrawals from all Contracts (whether or not they include the Principal Protection Feature). The CDSC decreases from 6% to 0% over nine years. However, 10% of the premium may be withdrawn each year after the first Contract year without the imposition of the CDSC, and the Principal Protection Cancellation Charge (when an owner has the Feature).

Applicants' Legal Analysis

1. Section 6(c) authorizes the Commission, by order upon application, to conditionally or unconditionally grant an exemption from any provision, rule, or regulation of the Act to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Because the provisions described below may be inconsistent with certain aspects of the Principal Protection Feature's charge structure, Applicants seek exemptions from Sections 2(a)(32), 22(c), 27(i)(2)(A) of the Act and Rule 22c–1 thereunder, to the extent necessary, pursuant to Section 6(c) to assess the Principal Protection Cancellation Charge against Contract owners enrolled in the Principal Protection Feature who surrender or partially withdraw from the Contracts prior to the Principal Protection Expiration Date.

2. Section 2(a)(32) of the Act defines ''redeemable security'' as any security under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof.

3. As discussed above, the Principal Protection Cancellation Charge compensates each Insurer for the risks such Insurer assumes should a Contract owner enrolled in the Principal Protection Feature surrender or partially withdraw from a Contract prior to the Principal Protection Expiration Date. This charge is not assessed at redemption for administrative expenses. The Principal Protection Cancellation Charge represents a charge for an optional insurance benefit for which each Insurer is entitled to receive compensation. In this manner, Applicants state that the charge is similar to other charges made by insurers, and approved by the Commission, at redemption for optional insurance benefits. Accordingly, Applicants assert that the deduction of a Principal Protection Cancellation Charge is a legitimate charge for an optional insurance benefit under the Contracts, and therefore does not reduce the amount of Fund BD III's or Fund BD IV's current net assets that a Contract owner otherwise would be entitled to receive.

4. Moreover, Applicants submit that although Section 2(a)(32) does not specifically contemplate the imposition of a charge at the time of redemption, such charge is not necessarily inconsistent with the definition of ''redeemable security.'' Applicants argue that a cancellation charge is little different, for this purpose, from the ''redemption'' charge authorized in Section 10(d)(4) of the Act. Congress, according to Applicants, intended that such a redemption charge, which is expressly described as a ''discount from net asset value,'' be deemed consistent with the concept of ''proportionate share'' under Section 2(a)(32).

5. Consistent with Section 2(a)(32), therefore, Applicants submit that the Contracts will be ''redeemable securities.'' The Contracts provide for surrender and partial withdrawal of Contract Value. The prospectuses for the Contracts disclose the contingent nature of the Principal Protection Cancellation Charge. Accordingly, Applicants assert that there will be no restriction on or impediment to, surrender or partial withdrawal that should cause the Contracts to be considered other than redeemable securities within the meaning of the Act and rules thereunder. Upon surrender or partial withdrawal of a Contract enrolled in the Principal Protection Feature, a Contract owner will receive his ''proportionate share'' of the relevant Separate Account: *i.e.*, the amount of the premium reduced by the amount of all charges and increased or decreased by the amount of investment performance credited to the Contract.

6. Rule 22c–1, promulgated under Section 22(c) of the Act, imposes requirements with respect to both the amount payable on redemption and the time as of which such amount is calculated. Specifically, Rule 22c–1, in pertinent part, prohibits a registered investment company issuing a redeemable security and its principal underwriter from selling, redeeming, or repurchasing any such security, except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption, or of an order to purchase or sell such security.

7. Regarding the amount payable, Applicants submit that the assessment of the Principal Protection Cancellation Charge, an insurance charge, upon surrender or partial withdrawal of a Contract enrolled in the Principal Protection Feature, does not alter a Contract owner's current net asset value. Furthermore, regarding the timing requirement of Rule 22c–1, Applicants, consistent with their current procedures, state that they will determine the cash surrender value under a Contract in accordance with Rule 22c–1 on a basis next computed after receipt of a Contract owner's request for surrender or partial withdrawal. Accordingly, Applicants submit that they will comply with both the amount payable and timing requirements of Rule 22c–1.

8. In addition, the deduction of the Principal Protection Cancellation Charge is consistent with the policy behind Rule 22c–1. Applicants state that the Commission's purpose in adopting Rule 22c–1 was to minimize (i) dilution of interests of the other security holders and (ii) speculative trading practices that are unfair to such holders. Applicants assert that the Principal Protection Cancellation Charge would in no way have the dilutive effect which Rule 22c–1 is designed to prohibit, because a surrendering Contract owner would ''receive'' no more than an amount equal to the Contract Value determined pursuant to the formula set out in his Contract and after receipt of his request. Furthermore, Applicants claim, variable annuities, by nature, do not lend themselves to the kind of speculative short-term trading that Rule 22c–1 was aimed against, and, even if they could be so used, the Principal Protection Cancellation Charge would discourage, rather than encourage, any such trading.

9. Applicants also assert that the deduction of the Principal Protection Cancellation Charge upon surrender or partial withdrawal from Contracts enrolled in the Principal Protection Feature will be advantageous to Contract owners for a number of reasons. First, a deferred charge structure has long been accepted as an

appropriate feature of variable annuities. The existence of products with deferred charges provides investors a valuable choice, and according to Applicants, the Commission and its staff have supported efforts to expand investor choice without sacrificing investor protection. In this context a deferred charge structure also reinforces the intention that the product be held as a long-term investment. Second, the amount of the Contract owners' premiums that will be allocated to the relevant Separate Account, and be available to earn a return for the Contract owners, will be greater than it would be if the charges were deducted from the premiums. Applicants submit that the Commission recognized this in authorizing deferred sales charges for variable annuity contracts pursuant to Rule 6c–8 under the Act.

10. Finally, Applicants assert that their charge structure provides equitable treatment to all Contract owners enrolled in the Principal Protection Feature. Applicants state that they established the charge structure of the Principal Protection Feature so that each Insurer may recover its costs over the life of the guarantee. If Contract owners who selected the Principal Protection Feature could surrender or partially withdraw from the Contracts prior to the Principal Protection Expiration Date without the imposition of the Principal Protection Cancellation Charge, each Insurer may not be able fully to recover its costs. If each Insurer did not assess the Principal Protection Cancellation Charge and instead increased the Principal Protection Fee or added a front-end charge, the Insurer could be charging persisting Contract owners enrolled in the Feature more than may otherwise be necessary to recover the costs attributable to such Contract owners. Accordingly Applicants submit that the Contracts will satisfy the requirements of Rule 22c–1.

11. Section 27(i)(2)(A) of the Act, in pertinent part, makes it unlawful for any registered separate accounting funding variable insurance contracts, or for the sponsoring insurance company of such account, to sell any such contract unless such contract is a redeemable security. Applicants submit that the assessment of a Principal Protection Cancellation Charge should not be construed as a restriction on redemption. Applicants maintain that the Contracts enrolled in the Principal Protection Feature are redeemable securities and that the imposition of the Principal Protection Cancellation Charge upon surrender or partial withdrawal represents nothing more than the deduction of an insurance charge. Moreover, as Applicants previously stated, the charge is only assessed if the Contract owner has elected the Principal Protection Feature. Accordingly, Applicants submit that the Contracts will satisfy the requirements of Section 27(i)(2)(A).

12. Applicants seek the relief requested herein not only with respect to themselves and the Contracts described above, but also with respect to Future Underwriters. Applicants represent that the terms of the relief requested with respect to any Future Underwriter are consistent with standards set forth in Section 6(c) of the Act.

13. Applicants state that, without the requested class relief, exemptive relief for any Future Underwriter would have to be requested and obtained separately. Applicants assert that these additional requests for exemptive relief would present no issues under the Act not already addressed herein. Applicants state that if the Applicants were to repeatedly seek exemptive relief with respect to the same issues addressed herein, investors would not receive additional protection or benefit, and investors and the Applicants could be disadvantaged by increased costs from preparing such additional requests for relief. Applicants argue that the requested class relief is appropriate in the public interest because the relief will promote competitiveness in the variable annuity market by eliminating the need for Applicants to file redundant exemptive applications, thereby reducing administrative expenses and maximizing efficient use of resources. Elimination of the delay and the expense of repeatedly seeking exemptive relief would, Applicants argue, enhance each Applicant's ability effectively to take advantage of business opportunities as such opportunities arise. Applicants submit, for all the reasons stated herein, that their request for class exemptions is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act, and that an order of the Commission including such class relief, should therefore, be granted.

Conclusion

For the reasons stated above, Applicants believe that the requested exemptions, in accordance with the standards of Section 6(c), are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–24185 Filed 9–15–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24005; 812–11720]

Vision Group of Funds, Inc. and Manufacturers and Traders Trust Company; Notice of Application

September 9, 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 APPLICATION: Applicants request an order to permit a series of a registered open-end management investment company to acquire all of the assets, subject to the liabilities, of two other series of the investment company. Because of certain affiliations, applicants may not rely on rule 17a–8 under the Act.

APPLICANTS: Vision Group of Funds, Inc. (''Vision Funds'') and Manufacturers and Traders Trust Company (''M&T Bank'').

FILING DATES: The application was filed on July 29, 1999 and amended on September 8, 1999.

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 request should be received by the Commission by 5:30 p.m. on October 4, 1999, and should be accompanied by proof of service on applicants, in the form if 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 Matthew G. Maloney, Esq, Dickstein Shapiro Morin & Oshinsky LLP, 2101 L Street, N.W., Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel, at (202) 942–0574 or George J. Zornada, 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 Commission's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549–0102 (telephone (202) 942–8090).

Applicant's Representations

1. Vision Funds, a Maryland corporation, is registered under the Act as an open-end management investment company and is currently comprised of ten series, including Vision Growth & Income Fund (''Growth & Income Fund''), Vision Capital Appreciation Fund (''Capital Appreciation Fund'' and together with the Growth & Income Fund, the ''Acquired Funds'') and Vision Mid Cap Stock Fund (the ''Acquiring Fund'' and together with the Acquired Funds, the ''Funds''). The Acquiring Fund is a newly-organized series of Vision Funds.

2. M&T Bank is the investment adviser to the Acquire Funds. M&T Bank is exempt from registration under the Investment Advisers Act of 1940 (the ''Advisers Act'') pursuant to section 202(a)(11)(A) of the Advisers Act. M&T Bank will also act as the investment adviser of the Acquiring Fund. Currently, M&T Bank holds of record 35.13% and 43.81% of the outstanding voting securities of the Growth & Income Fund and the Capital Appreciation Fund, respectively, and thereby holds or shares voting and/or investment discretion with respect to more than 25%of the outstanding voting securities of each of the Acquired Funds.

3. On June 21, 1999, the board of directors of Vision Funds (the ''Board''), none of whom are ''interested persons'' as defined in section 2(a)(19) of the Act (''Disinterested Directors''), approved and entered into an agreement and plan of reorganization between the Acquired Funds and the Acquiring Fund (the ''Reorganization Agreement'' and the transaction, the ''Reorganization''). The Reorganization is expected to occur on or after October 15, 1999. Under the Reorganization Agreement, the Acquiring Fund would acquire all of the assets, subject to the liabilities, of the Acquired Funds in exchange for class A shares of the Acquiring Fund having an aggregate net asset value equal to the aggregate net asset value of the corresponding Acquired Fund's shares determined on the closing date of the Reorganization. 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. The Acquiring Fund shares received by the Acquired Funds will be distributed pro rata by each Acquired Fund to its shareholders and each Acquired Fund will liquidate and dissolve.

4. Applicants state that the investment objectives and policies of the Funds are substantially similar. Each Acquired Fund offers a single class of shares, class A. The Acquiring Fund will offer identical class A shares.[1] No sales load will be imposed in connection with the Reorganization. The Funds will pay the Reorganization expenses.

5. The Board, which is composed entirely of Disinterested Directors, found that the Reorganization is in the best interests of each Acquired Fund, and that the interest of existing shareholders of each Acquired Fund will not be diluted as a result of the Reorganization. During its deliberations, the Board reviewed, among other things: (a) the terms and conditions of the Reorganization Agreement; (b) the investment advisory and other fees projected to be paid by the Acquiring Fund, and the projected expense ratio of the Acquiring Fund as compared to those of each Acquired Fund; (c) the investment objectives, strategies, techniques, investment risks and limitations of the Acquiring Fund and their compatibility with those of each Acquired Fund; (d) that the Funds would pay the expenses of the Reorganization; (e) the potential economics of scale to be gained from combining the assets of the Acquired Funds into the Acquiring Fund; and (f) the anticipated tax-free nature of the Reorganization.

6. The Reorganization is subject to a number of conditions precedent, including: (a) the shareholders of each Acquired Fund will have approved the Reorganization Agreement; (b) applicants will have received exemptive relief from the Commission; (c) a registration statement on Form N–14 relating to the Acquiring Fund and filed with the Commission will have become effective; (d) the receipt of an opinion of counsel with respect to the tax-free nature of the Reorganization; and (e) that each Acquired Fund will have declared and paid a dividend or dividends on its shares which, together with all previous dividends, will have the effect of distributing to its shareholders all of the Acquired Fund's investment company taxable income, if any, its tax-exempt interest income, if any, and all of its net capital gain realized. The Reorganization Agreement may be terminated by the Board and the Reorganization abandoned any time prior to the closing date of the Reorganization. Applicants agree not to make any material changes to the Reorganization Agreement without prior approval of the Commission.

7. The definitive prospectus/proxy statement will be filed with the Commission on or about September 16, 1999 and will be mailed to shareholders of the Acquired Funds at least 20 days before the date of the shareholders meetings scheduled for October 14, 1999.

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 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. Applicants state that the Funds may be deemed affiliated persons and thus the Reorganization may be prohibited by section 17(a).

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 state that they may not rely on rule 17a–8 because the Funds may be deemed to be affiliated for reasons other than those set forth in the rule. By virtue of the direct or indirect ownership by M&T Bank of more than 5% of the outstanding voting securities

[1] Class A shares of the Funds have a maximum front-end sales load of 5.50% and are subject to a distribution fee under rule 12b–1 under the Act of .25% and shareholder services fees of .25%.

of each of the Acquired Funds, each Acquired Fund may be deemed an affiliated person of an affiliated person of the other Acquired Fund, and the Acquiring Fund. Because of this ownership, each Acquired Fund may be deemed an affiliated person of an affiliated person of the Acquiring Fund for reasons other than having a common investment adviser.

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(b) of the Act exempting them from section 17(a) of the Act to the extent necessary to permit applicants to consummate the Reorganization. Applicants submit that the Reorganization satisfies the standards of section 17(b) of the Act. Applicants state that the Board has found that participation in the Reorganization is in the best interests of each Fund, and that the interests of the existing shareholders will not be diluted as a result of the Reorganization. In addition, applicants state that the exchange of Acquired Funds' shares for Acquiring Fund shares will take place on the basis of net asset value.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–24114 Filed 9–15–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41821; File No. SR–CBOE–99–17]

Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 3 to Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Operation of the Retail Automatic Execution System

September 1, 1999.

I. Introduction

On April 16, 1999, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change amending the CBOE's rules governing the operation of its Retail Automatic Execution System (''RAES''). The proposal increases the maximum order sizes of certain RAES-eligible options and authorizes the appropriate Floor Procedure Committees (''FPCs'') of the Exchange to change current procedures governing assignment and price improvement of RAES orders. On May 21, 1999, the CBOE filed with the Commission Amendment No. 1 to the proposal.[3] Notice of the proposal was published in the **Federal Register** on June 17, 1999.[4] The Commission received no comments on the proposal. On August 23, 1999, the CBOE filed Amendment No. 2 to the proposal,[5] on August 31, 1999, the CBOE filed Amendment No. 3 to the proposal.[6]

II. Description of the Proposal

a. Summary

This filing does four things. First, it increases from 20 to 50 contracts the maximum size of orders for equity options and certain classes of index options eligible to be executed through RAES.[7] Second, it authorizes the appropriate FPCs to implement a new RAES order assignment procedure called ''Variable RAES'' (described below) for some or all classes of CBOE options. Third, it allows the appropriate FPCs to authorize automatic RAES ''step-ups'' for price differentials greater than the one ''tick'' differential currently specified in the rules.[8] Fourth, it makes editorial revisions to clarify or update current RAES rules.

b. Previous Partial Approval

The Commission previously granted accelerated approval to a portion of this rule filing. Specifically, on August 23, 1999, the Commission approved Amendment No. 2, which permitted the CBOE to immediately implement Variable RAES in five stocks that are dually listed on both the Philadelphia stock Exchange (''Phlx'') and the CBOE.[9] Amendment No. 2 was filed in tandem with a related rule proposal, SR–CBOE–99–47, which increased the maximum RAES order size from 20 to 50 contracts in options on those five stocks only.[10] SR–CBOE–99–47 became effective on August 23, 1999. The Commission granted immediate approval of Amendment No. 2 to enable Variable RAES to be used on August 23, when the new order size maximum on the five dually traded options went into effect.

c. Order Size Increase

Formerly, the maximum size of RAES-eligible orders was 20 contracts for all classes of equity options (other than the five dually traded classes noted above), all classes of sector index options and all other classes of index options (except options on the S&P 500 Index, the Nasdaq 100 Index, the Dow Jones Industrial Average, and interest rate options).[11] This proposed rule change

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the CBOE clarified issues relating to implementation of the new RAES order assignment procedures. *See* letter from Timothy Thompson, Director, Regulatory Affairs, CBEO, to Gordon Fuller, Special Counsel, Division of Market Regulation, SEC, dated May 20, 1999.

[4] *See* Securities Exchange Act Release No. 41501 (June 9, 1999), 64 FR 32568.

[5] Amendment No. 2 is described below. *See* letter from Christopher R. Hill, Attorney, CBOE, to Michael Walinskas, Associate Director, Division of Market Regulation, SEC, dated August 23, 1999.

[6] Amendment No. 3 is described below. *See* letter from Timothy Thompson, Director, Regulatory Affairs, CBOE, to Gordon Fuller, Special Counsel, Division of Market Regulation, SEC, dated August 31, 1999.

[7] The proposal also effects a minor increase (from 99 contracts to 100 contracts) in the maximum size of RAES orders for options on two indices—the S&P 500 Index and the Nasdaq 100 Index—to bring those size maximums into conformity with size maximums for other index options and interest rate options. *See infra* note 11.

[8] ''Step-ups'' refers to the ability to improve the price at which an order is executed on RAES to match a better price in another market.

[9] Those stocks are Dell Computer Corporation (''DLQ''), International Business Machines (''IBM''), Johnson & Johnson (''JNJ''), Coca-Cola (''KO''), and Ford Motor Company (''F''). Securities Exchange Act Release No. 41782 (August 23, 1999), 64 FR 47881 (September 1, 1999).

[10] Securities Exchange Act Release No. 41823 (September 1, 1999).

[11] The RAES eligibility maximum was formerly 99 contracts for options on the S&P 500 Index and the Nasdaq 100 Index, and 100 contracts for options on the DJIA and interest rate options. To simplify

Continued

increases the maximum order size for these options classes to 50 contracts. Increasing the RAES eligibility maximum to 50 contracts for these classes of options does not, however, automatically permit orders up to this size to be entered into RAES. Instead, the actual maximum RAES eligibility size will be established by the appropriate FPC of the CBOE, which may maintain the maximum for particular classes at levels below the 50-contract maximum.

Under existing Interpretation and Policy .01 under Rule 6.8, the appropriate FPC may increase the size of RAES-eligible orders for multiply-traded equity options to match the size of orders in options of the same class that are eligible for entry into the automated execution system of any other options exchange, subject to filing notice of the increase under Section 19(b)(3)(A) of the Act.[12] The CBOE nonetheless believes the FPC should be able to permit up to 50 contracts to be eligible for RAES in response to the perceived needs of the market without regard to automatic execution limits on other exchanges. The CBOE also seeks greater flexibility in competing for order flow with other exchanges that have 50-contract maximum eligibility levels for their own automatic execution systems, since the CBOE will not be limited to responding to increases in automatic execution eligibility levels initiated by the other exchanges. CBOE represents that its systems capacity is sufficient to accommodate the increased number of automatic executions anticipated to result from implementation of the proposal.

d. Variable RAES

The proposed rule change authorizes the appropriate FPCs to implement Variable RAES for some or all classes of CBOE options. Under former procedures, RAES orders were randomly assigned to market makers, and each market maker had to buy or sell the entire order assigned to him or her. By contrast, Variable RAES will enable each market marker to designate a maximum number of contracts he or she is willing to buy or sell when a RAES order is assigned to that market maker. No market maker, however, will be able to designate a maximum that is less than a stated minimum number of contracts per assignment established by the appropriate FPC. In determining appropriate minimum execution levels, the FPC must take into account whether market makers have sufficient capital to fill an order that size.

If the number of contracts in a RAES order is less than or equal to the market maker's specified limit, the market maker will be obligated to buy or sell all of the contracts in the order, and the next RAES order will be assigned to the next market maker on the RAES assignment rotation. If the number of contracts in an order exceeds the specified limit, the market maker will be obligated to buy or sell the number of contracts equal to the specified limit. The remainder of the order will be assigned to the next market maker on the RAES assignment rotation, who will likewise be obligated to buy or sell the number of remaining unassigned contracts in the order up to that market maker's limit. The assignment rotation will continue in this manner until all of the contracts in the order have been assigned to one or more market makers, even if this requires more than one assignment to the same market maker as the assignment rotation continues.

Variable RAES will apply to all classes of options eligible for entry into RAES. CBOE represents that Variable RAES will be implemented following the effectiveness of this proposed rule change, and will be described in a circular to be distributed to the membership prior to that time. If the appropriate FPC decides to implement a different RAES order assignment procedure, CBOE will file a proposed rule change with the Commission pursuant to Section 19(b)(1) of the Act and Rule 19b–4 thereunder.

e. Increase in Automation Step-Up Increment

Finally, the proposed rule change authorizes the appropriate FPC to establish a ''step-up amount'' for purposes of the automatic step-up procedure of Interpretation and Policy .02 under Rule 6.8 that is greater than the minimum quote interval (''tick'') for that class of option under rule 6.42. The automatic step-up procedure formerly stated that in designated classes of multiple-traded options, if the Exchange's best bid or offer is inferior to the bid or offer in another market by no more than one tick, an order in RAES will be automatically excluded at the better bid or offer. The proposal enables the appropriate FPC to establish price differentials greater than one tick at which orders will be automatically executed in RAES in order to match better bids or offers in other markets.

f. Amendment No. 3

Amendment No. 3 changes the language of the RAES rules to more clearly define the limits of the FPC's discretion to implement Variable RAES and increase automatic step-up increments. Amendment No. 3 also clarifies language in the RAES rules. Specifically, Amendment No. 3:

(1) Requires the appropriate FPCs to provide at least three days' advance notice to Exchange members of the FPC's intention to discuss an issue relating to the RAES allocation method, and to provide members with the opportunity to give written comments, or appear at the meeting, or both. To prevent delay the FPCs may initially implement Variable RAES without notice and comment; however, that initial implementation will be subject to review at the next FPC meeting, pursuant to notice and comment procedures;

(2) Describes the criteria the FPCs will consider in setting a minimum contract limit under Variable RAES. The Amendment explains that the appropriate FPC will select a minimum that is not so high as to discourage market makers from participating on RAES. On the other hand, the appropriate FPC will choose a level high enough that the market-makers retain the incentive to pay attention to and update their quotes;

(3) Clarifies language that orders routed over RAES ''may be subject to such contingencies as the appropriate [FPC] shall approve.'' The Amendment revises this language to make clear that the FPC may approve certain ''contingency orders'' for routing to RAES. The FPC may consider whether the order can be easily accommodated by RAES without substantial system changes, whether the nature of the contingency makes it reasonable to include the order in RAES, and whether there is customer interest in including the order in RAES;

(4) Clarifies the term ''group'' in revised Interpretation .04 to Rule 6.8 which states that ''that first order in any group of rerouted orders'' will be entitled to be filled at the offer (bid) which existed at the time of the order's entry into the RAES system. The Amendment states that ''group'' refers to orders kicked out as the result of an instance where the prevailing market bid or offer is equal to the best bid or offer on the Exchange's book. When the market bid or offer changes or the booked order is traded such that the market no longer equals the book, then the instance by which an order will be kicked out in a particular group will have ended; and

(5) Describes the factors that would be considered by the appropriate FPC in determining whether to increase the ''step-up'' amount beyond the minimum increment for the particular class of options. RAES will execute orders in designated classes at the National Best Bid or Offer (''NBBO'') if the NBBO is better than the CBOE's best bid or offer by no more than the ''step-up amount.'' In determining the ''step-up amount,'' the

---

the administration of RAES and eliminate confusion, this proposal makes the RAES eligibility maximums 100 contracts for these four classes of options. *See* Rule 6.8(e). One hundred contracts is also the RAES eligibility maximum for options on the Dow Jones High Yield Select 10 Index. *See* Securities Exchange Act Release No. 41509 (June 10, 1999), 64 FR 32906 (June 18, 1999) (approving increase in RAES order size limit from 20 contracts to 100 contracts).

[12] 15 U.S.C. 78s(b)(3)(A).

appropriate FPC will consider the impact of such decision in attracting order flow to the Exchange, the desire or need to reduce the amount of orders rejected for manual handling to provide for a more orderly market, and any other relevant factors.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[13] The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 of the Act.[14] Section 6(b)(5)[15] of the Act that the rules of an exchange must be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating securities transactions. These rules also must help to remove impediments to and perfect the mechanism of a free and open market.

Moreover, the Commission finds good cause for approving Amendment No. 3 prior to the 30th day after the date the Amendment is published for comment in the **Federal Register** pursuant to Section 19(b)(2) of the Act.[16] Amendment No. 3 addresses the discretion of the FPCs to implement Variable RAES and expand the automatic step-up increment, but does not otherwise affect the operation of RAES. In view of the immediate need of RAES market makers to limit their risk to compensate for increased exposure to the larger RAES order sizes, the Commission finds that acceleration of Amendment No. 3 is appropriate.

The Commission does not object at this time to extending the benefits available through RAES to larger-size customer orders up to 50 contracts. The Commission believes that increasing to 50 the number of option contracts executable through RAES will enable the Exchange to more effectively and efficiently manage increased order flow in actively traded option classes consistent with its obligations under the Act. In addition, this increase should bring the speed and efficiency of automated execution to a greater number of retail orders. The Commission also believes that the CBOE should have flexibility to compete for order flow with other exchanges without being limited to responding to increases in automatic execution eligibility levels initiated by those other exchanges. The Commission notes that it has approved similar proposals by other exchanges increasing to fifty the maximum size of orders that may be executed automatically.[17]

The Commission believes, based on representations by the Exchange, that the increase will not expose RAES to risk of failure or operational breakdown. Our approval of this increase is expressly conditioned on CBOE's representation that its systems capacity is sufficient to accommodate the increased number of automatic executions anticipated to result from implementation of this proposal.

Although the Commission has a degree of comfort with respect to the proposed increase, the Commission notes that any proposed increases above fifty contracts may raise additional issues, including such matters as market maker financial exposure, price improvement, and quote dissemination. Because of these concerns, the Commission welcomes the opportunity to review the Exchange's experience with any increase in maximum order size to fifty contracts. If, in the future, exchanges seek to increase order size levels above fifty contracts, this examination will help the Commission assess whether such increases are appropriate and, if so, whether the Commission should seek additional assurances regarding such increases.

In addition, the Commission is persuaded that permitting the CBOE to implement Variable RAES is appropriate. Variable RAES allows RAES market makers to choose the level of risk they are comfortable with (subject to minimum size requirements set by the (FPCs). Allowing market makers to limit their risk in this way is particularly important because the CBOE may increase the maximum size of orders eligible for RAES from 20 to 50 contracts in many options classes, thus increasing the potential exposure of RAES market makers to risk in those options. In approving Variable RAES, however, the Commission emphasizes that its approval is expressly conditioned on the CBOE's representation that the FPCs will take market maker capitalization into account in setting the RAES order size minimums, thus further reducing the risk market makers and exposed to. Accordingly, the Commission finds that increasing the maximum size of RAES orders, in conjunction with implementation of Variable RAES, will serve to remove impediments to a free and open market while fostering investor protection, consistent with section 6(b)(5) of the Act.

Finally, the Commission finds that allowing the FPCs to expand the step-up limit beyond one tick for multiply traded options removes impediments to a free and open market and protects investors consistent with Section 6(b)(5) of the Act, by increasing the likelihood that RAES investors will gain to superior bids and offers available in another market.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 3, including whether it 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, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the Amendment that are filed with the Commission, and all written communications relating to the Amendment between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–99–17 and should be submitted by October 7, 1999.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[18] that the proposed rule change (SR–CBOE–99–17) be, and hereby is, approved; and that Amendment No. 3 is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–24115 Filed 9–15–99; 8:45 am]

BILLING CODE 8010–01–M

[13] The Commission has considered to proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78s(b)(2).

[17] *See* Securities Exchange Act Release No. 36601 (December 18, 1995), 60 FR 66817 (December 26, 1995); *see also* Securities Exchange Act Release No. 41823 (September 1, 1999) (SR–PCS–99–04).

[18] 15 U.S.C. 78s(b)(2).

[19] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request, Comment Request and Emergency Consideration Request

In compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, SSA is providing notice of its information collections that require submission to the Office of Management and Budget (OMB). SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

Comments should be directed to the SSA Reports Clearance Officer at the address listed at the end of the notices. You can obtain a copy of the collection instruments and/or the OMB clearance packages by calling the SSA Reports Clearance Officer on (410) 965–4145, or by writing to him.

I. The information collection listed below will be submitted to OMB within 60 days from the date of this notice. Therefore, comments and recommendations regarding the information collection would be most useful if received by the Agency within 60 days from the date of this notice.

Medical Use Report, 20 CFR 416.268–0960–0267. The information required by this regulation is used by the Social Security Administration to determine if an individual is entitled to special Supplemental Security Income (SSI) payments. The respondents are SSI recipients whose payments were stopped based on earnings.

Number of Respondents: 60,000.

Frequency of Response: 1.

Average Burden Per Response: 3 minutes.

Estimated Average Burden: 3,000 hours.

II. The information collection listed below has been submitted to OMB for clearance. Written comments and recommendations on this information collection would be most useful if received within 30 days from the date of this publication.

Social Security Card Fee Survey—0960–NEW. The Social Security Administration (SSA) processes over 11 million applications per year for replacement Social Security Number (SSN) cards. SSA is proposing to conduct a survey of a random sample of applicants who request a replacement SSN card to obtain information on reasons for replacing the SSN card and willingness to pay a fee for a replacement card. SSA is evaluating whether to charge a fee for replacement cards (other than for a name change) and will use the information from the survey to develop policy on when it would be appropriate to charge a fee for a replacement SSN card.

Number of Respondents: 3,600.

Frequency of Response: Once.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 300 hours.

III. SSA is requesting emergency consideration from OMB by September 30, 1999 of the information collections listed below. Written comments and recommendations on these information collections would be most useful if received prior to the date shown above.

1. Claimant's Recent Medical Treatment—0960–0282. Form SSA–4290 is used by SSA to collect information from State or alternate providers of vocational rehabilitation services regarding participation in a rehabilitation program by an individual whose medical condition has improved and whose participation has ceased. This information is necessary to determine whether the individual's improved medical condition meets the statutory requirements for continued eligibility for benefit payments. The respondents are State Vocational Rehabilitation agencies or alternate providers of vocational rehabilitation services.

Number of Respondents: 8,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 2,000 hours.

2. Permanent Residence Under Color of Law (PRUCOL)-0960–0451. Public Law 105–306, Noncitizen Benefit Clarification and Other Technical Amendments Act of 1998, provided that nonqualified aliens who were receiving SSI on August 22, 1996 would remain eligible for SSI as long as all other requirements for eligibility were met (*e.g.*, income and resources, etc.). Section 416.1618 of the Code of Federal Regulations requires nonqualified aliens to give SSA certain evidence which proves that they are lawfully admitted to the United States, in order to qualify for SSI benefits. PRUCOL aliens must present evidence of their status at the time of application for SSI benefits and periodically thereafter. The respondents are nonqualified aliens who apply for or receive SSI benefits.

Number of Respondents: 9,000.

Frequency of Response: Annually.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 750 hours.

SSA is also providing notice that it will submit this information collection (OMB No. 0960–0451) for approval under the normal OMB clearance process within 60 days from the date of this notice. Therefore, comments received within 60 days will be considered in SSA's request for extension of the OMB approval.

(SSA Address)

Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235.

(OMB Address)

Office of Management and Budget, OIRA, Attn: Lori Schack, Desk Officer for SSA, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, DC 20503.

Dated: September 9, 1999.

Frederick W. Brickenkamp,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 99–24102 Filed 9–15–99; 8:45 am]

BILLING CODE 4190–29–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG 1999–5717]

Information Collection by Agency Under Review by the Office of Management and Budget (OMB)

AGENCY: Coast Guard, DOT.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this request for comments announces that the Coast Guard has forwarded the Information Collection Reports (ICRs) abstracted below to OMB for review and comment. Our ICRs describe the information that we seek to collect from the public. Review and comment by OMB ensure that we impose only paperwork burdens commensurate with our performance of duties.

DATES: Please submit comments on or before October 18, 1999.

ADDRESSES: Please send comments to both (1) the Docket Management System (DMS), U.S. Department of Transportation (DOT), room PL–401, 400 Seventh Street S.W., Washington, DC 20590–0001, and (2) the Office of Information and Regulatory Affairs (OIRA) Office of Management and Budget (OMB), 725 17th Street N.W., Washington, DC 20503, to the attention of the Desk Officer for the USCG.

Copies of the complete ICRs are available for inspection and copying in public docket USCG–1999–5717 of the Docket Management Facility between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays; for inspection and printing on the internet at *http://dms.dot.gov;* and for inspection from the Commandant (G–SII–2), U.S. Coast Guard, room 6106, 2100 Second Street S.W., Washington, DC, between 10 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For questions on this document, call Barbara Davis, Office of Information Management U.S. Coast Guard at 202–267–2326. For questions on this docket, call Dorothy Walker, Chief of Dockets, Department of Transportation at 202–366–9329.

SUPPLEMENTARY INFORMATION:

Regulatory History

This request constitutes the 30-day notice required by OMB. The Coast Guard has already published [64 FR 32089 (June 15, 1999)] the 60-day notice required by OMB. That request elicited no comments.

Request for Comments

The Coast Guard invites comments on the proposed collections of information to determine whether the collections are necessary for the proper performance of the functions of the Department. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collections; (2) the accuracy of the Department's estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of the collections; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology.

Comments, to DMS or OIRA, must contain the OMB Control Numbers of all ICRs addressed. Comments to DMS must contain the docket number of this request, USCG 1999–5717. Comments to OIRA are best assured of having their full effect if OIRA receives them 30 or fewer days after the publication of this request.

Information Collection Requests

Title: (A) Report of MARPOL 73/78 Oil, Noxious Liquid Substance (NLS) and Garbage Discharge, (B) Application for Equivalent, Exemptions and Alternatives, (C) Voluntary Reports of Pollution Sightings.

OMB Control Number: 2115–0556.

Type of Request: Extension of currently approved collection.

Affected Public: Vessel owners and operators for (A) and (B) and the public for (C).

Form(s): N/A.

Abstract: Coast Guard needs the information in this report to ensure compliance with pollution prevention standards and to respond and investigate pollution incidents.

Annual Estimated Burden Hours: The estimated burden is 15 hours annually.

Title: Private Aids to Navigation Application and Application for Class 1 Private Aids to Navigation on Artificial Islands and Fixed Structures (CG–4143).

OMB Control Number: 2115–0038.

Type of Request: Extension of currently approved collection.

Affected Public: Owners of Private Aids to Navigation.

Form(s): CG–2254 & CG–4143.

Abstract: The collection of information requires respondents to provide the Coast Guard vital information about private aids to navigation on two applications (CG–2554 and CG–4143).

Annual Estimated Burden Hours: The estimated burden is 3,073 hours annually.

Title: Bridge Permit Application Guide.

OMB Control Number: 2115–0050.

Type of Request: Extension of currently approved collection.

Affected Public: Public and private owners of bridges over navigable waters of the United States.

Form(s): N/A.

Abstract: The collection of information is a bridge permit request submitted as an application for Coast Guard's approval of proposed bridge projects. Applicants will submit to the Coast Guard a letter of application with letter size drawings (plans) and maps showing the proposed bridge project and its location.

Annual Estimated Burden Hours: The estimated burden is 2,800 hours annually.

Title: Electrical Equipment and Fire Protection Materials/Systems—46 CFR Subchapter Q.

OMB Control Number: 2115–0121.

Type of Request: Extension of currently approved collection.

Affected Public: Electrical equipment and fire protection material/system manufacturers.

Form(s): N/A.

Abstract: Summary: Coast Guard needs the information in this report to ensure compliance with U.S. regulations for the design and construction of certain electrical equipment and fire protection materials/systems.

Annual Estimated Burden Hours: The estimated burden is 268 hours annually.

Title: Defect/Noncompliance Report and Campaign Update Report.

OMB Control Number: 2115–0035.

Type of Request: Extension of currently approved collection.

Affected Public: Manufacturers of recreational boats, inboard engines, outboard motors, and sterndrive units.

Form(s): CG–4917 and CG–49218.

Abstract: Coast Guard needs this information to ensure compliance with requirements for defect notification applicable to manufacturers of recreational boats, inboard engines, outboard motors, and sterndrive units.

Annual Estimated Burden Hours: The estimated burden is 312 hours annually.

Title: Application for Vessel Inspection and Waiver.

OMB Control Number: 2115–0007.

Type of Request: Extension of currently approved collection.

Affected Public: Owner, operator, agent, or master of vessel.

Form(s): CG–2633 and CG–3752.

Abstract: The collection of information requires owners, operators, agents, or masters of vessels to apply in writing to Coast Guard before conducting the inspection for certification, or when, in the interest of national defense, one of these desires a waiver from the requirements of navigation and vessel inspection.

Annual Estimated Burden Hours: The estimated burden is 1,504 hours annually.

Title: Course Approvals for Merchant Marine Training Schools.

OMB Control Number: 2115–0111.

Affected Public: Merchant marine training schools.

Form(s): N/A.

Abstract: Coast Guard needs this information to ensure that merchant marine training schools meet minimal statutory requirements. The information is used to approve the curriculum, facility and faculty for these schools.

Annual Estimated Burden Hours: The estimated burden is 19,026 hours annually.

Title: Ships' Stores Certification for Hazardous Materials Aboard Ships.

OMB Control Number: 2115–0139.

Type of Request: Extension of currently approved collection.

Affected Public: Suppliers and manufacturers of hazardous products used on ships.

Form(s): N/A.

Abstract: Coast Guard needs this information to ensure that personnel aboard ships are made aware of the proper usage and stowage instructions for certain hazardous materials.

Title: Licensing and Manning Requirements for Towing Vessels.

OMB Control Number: 2115–0623.

Type of Request: Extension of currently approved collection.

Affected Public: Mariners licensed to operate towing vessels, prospective towing-vessel officers, and companies employing these mariners.

Form(s): N/A.

Abstract: The Coast Guard has requirements for licensing individuals that operates towing vessels. The requirements ensure that towing vessels operating in the navigable waters of the U.S. are under the control of licensed officers who meet certain qualification and training standards.

Annual Estimated Burden Hours: The estimated burden is 1,590 hours annually.

Dated: September 9, 1999.

G.N. Naccara,

Rear Admiral, U.S. Coast Guard, Director of Information and Technology.

[FR Doc. 99–24099 Filed 9–15–99; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of currently approved collections. the ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on July 14, 1999, [FR 64, page 38071].

DATES: Comments must be submitted on or before October 18, 1999. A comment to OMB is most effective if OMB received it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Judy Street on (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: FAA Flight Standards Service Year 2000 Readiness.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0640.

Forms(s) N/A

Affected Public: Estimated 8031 air carriers/operators, repair stations, and training facilities.

Abstract: The information collected from this questionnaire will be used by the FAA to assess the year 2000 readiness of air carriers/operators, and repair stations and training facilities. (This is a request for a short term extension to go out only to the non-respondents of the first mailing.)

Estimated Annual Burden Hours: 6,023 burden hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW, Washington, DC 20503, Attention: FAA Desk Officer.

Comments Are Invited On

Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automatted collection techniques or other forms of information technology.

Issued in Washington, DC, on September 10, 1999.

Steve Hopkins,

Manager, Standards and Information Division, APF–100.

[FR Doc. 99–24190 Filed 9–15–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Air Carrier and General Aviation Maintenance Issues

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of meeting.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this notice to advise the public of a meeting of the FAA Aviation Rulemaking Advisory Committee to discuss Air Carrier and General Aviation Maintenance Issues.

DATES: The meeting will be held on October 5, 1999, from 9:00 a.m. to 1:00 p.m. Arrange for presentations by September 28, 1999.

ADDRESSES: The meeting will be held at the Helicopter Association International, 1635 Prince Street, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: Carolina E. Forrester, Federal Aviation Administrator, Office of Rulemaking (ARM–206), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–9690; fax (202) 267–5075.

SUPPLEMENTARY INFORMATION: Pursuant to § 10(a)(2) of the Federal Avisory Committee Act (Pub. L. 92–463; 5 U.S.C. App II), notice is hereby given of a meeting of the Aviation Rulemaking Avisory Committee to be held on October 5, 1999, from 9:00 a.m. to 1:00 p.m. at the Helicopter Association International, 1635 Prince Street, Alexandria, VA 22314. The agenda will include:

1. Opening remarks;

2. Committee Administration;

3. Status report from the General Aviation Maintenance Working Group;

4. Status report from the Clarification of Major/Minor Repairs or Alternations Working Group;

5. A discussion of future meeting dates, locations, activities, and plans.

Attendance is open to the interested public, but will be limited to the space available. The public must make arrangements by September 28, 1999, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 25 copies to the Executive Director or by bringing the copies to the meeting. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT**.

If you are in need of assistance or require a reasonable accommodation for this event, please contact the person listed under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Washington, DC, on September 10, 1999.

Carol E. Giles,

Acting Assistant Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 99–24191 Filed 9–15–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Cincinnati/Northern Kentucky International Airport, Covington, KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Cincinnati/Northern Kentucky International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before October 18, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Memphis Airports District Office, 3385 Airways Boulevard, Suite 302, Memphis Tennessee 38116–3841.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Robert F. Holscher, Director of Aviation of the Kenton County Airport board at the following address: Kenton County Airport Board, Second Floor, Terminal 1, Cincinnati/Northern Kentucky International Airport, 2939 Terminal Drive, Herbron, Kentucky 41048.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Kenton County Airport Board under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Jerry O. Bowers, Program Manager, Memphis Airports District Office, 3385 Airways Boulevard, Suite 302, Memphis, Tennessee 38116–3841; (901) 544–3495. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Cincinnati/Northern Kentucky International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On September 8, 1999, the FAA determined that the application to impose and use the revenue from a PFC submitted by Kenton County Airport Board was substantially complete within the requirements of section 158.25 of part 158. the FA will approve or disapprove the application, in whole or in part, no later than December 27, 1999.

The following is a brief overview of the application.

PFC Application No.: 99–05–C–00–CVG.

Level of the proposed FPC: $3.00.

Proposed charge effective date: March 1, 2000.

Proposed charge expiration date: August 1, 2000.

Total estimated PFC revenue: $15,050,000.

Brief description of proposed project(s) to impose and use a PFC: Replacement of Security Identification Display Area (SIDA) Perimeter Fence; Reconstruct Taxiway K–2, Taxiway M–2, and Runway 27 Threshold and Construct Taxiway K–3; Crossfield Taxiway N–Phase 2 Construction; FAR part 107 Security System Replacement; Terminal Area Master Plan; Replacement of Two (2) ARFF Vehicles; Deicing System Enhancements, Increase Storage Capacity; Snow Removal Equipment for Runway 36R Large Hold Pad and Deicing Recovery Systems; Replacement of Snowbroom (Sweeper); Terminal 1 & 2 Apron Rehabilitation.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs:

1. FAR Part 121 supplemental operators at the Airport without an operating agreement with the Board and enplane less than 1500 passengers per year.

2. FAR Part 135 on-demand air taxis, both fixed wing and rotary.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Kenton County Airport Board.

Issued in Memphis, Tennessee on September 8, 1999.

LaVerne F. Reid,

Manager, Memphis Airports District Office, Southern Region.

[FR Doc. 99–24192 Filed 9–15–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. MC–F–20954]

Global Passenger Services, L.L.C., et al.—Control—Gongaware Tours, Inc., et al.

AGENCY: Surface Transportation Board.

ACTION: Notice Tentatively Approving Finance Application.

SUMMARY: Global Passenger Services, L.L.C. (Global or applicant), a noncarrier, filed an application under 49 U.S.C. 14303 to: (i) acquire control of nine motor passenger carriers through indirect stock ownership and (ii) merge or consolidate some or all of them with existing affiliates in the future. Persons wishing to oppose the application must follow the rules under 49 CFR part 1182, subpart B. The Board has tentatively approved the transactions. If no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments are due by November 1, 1999. Applicant may reply by November 16, 1999. If no comments are received by November 1, 1999, this approval is effective on that date.

ADDRESSES: Send an original and 10 copies of any comments referring to STB Docket No. MC–F–20954 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, send one copy of any comments to applicant's representative: Mark J. Andrews, Barnes and Thornburg, 1401 I Street, N.W., Suite 500, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 565–1600 [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: Global, a Delaware limited liability company, states that it currently controls 17 motor passenger carriers [1] and holds a majority stock control of Student Transportation of America, Inc. (STA) and Travelways, Inc. (Travelways). STA and Travelways are Delaware corporations that control subsidiaries holding interstate authority as motor passenger carriers. Through this application, Global seeks authority to acquire control of nine additional interstate passenger carriers: three would become wholly owned subsidiaries of STA, and six would

[1] *See Global Passenger Services, L.L.C.—Control—Bortner Bus Company, et al.*, STB Docket No. MC–F–20954 (STB served July 17, 1998) (*Bortner*).

become wholly owned subsidiaries of Travelways.[2]

The carriers to be controlled by STA are:

Gongaware Tours, Inc. (Gongaware), a Pennsylvania corporation, which holds federally-issued operating authority in MC–166233 to provide charter and special operations between points in the United States except Hawaii, and Pennsylvania intrastate authority (PUC No. A–79466), and which conducts limited charter and tour services incidental to a school transportation operation based in central Pennsylvania;

Hamilton Motor Coaches (Hamilton), a New Jersey corporation, which holds federally-issued operating authority in MC–8130 to provide charter and special operations between points in the United States, except Hawaii, and which primarily provides vacation charters and organized tours to and from New Jersey; and

North Bend Bus Lines, Inc. (North Bend), an Oregon corporation, which holds federally-issued operating authority in MC–215564 to provide charter and special operations between points in the United States, except Hawaii, and intrastate authority in Oregon (PUC No. 4124), and which operates school transportation services within Oregon.

The carriers to be acquired by Travelways are:

Perkiomen Valley Bus Company (Perkiomen), a Pennsylvania corporation, which holds federally-issued operating authority in MC–83791 to provide charter and special operations and contract-carrier services between points in the United States, except Hawaii, and regular-route service between Pennsburg, PA, and New York, NY, and Philadelphia, PA; which holds intrastate authority in Pennsylvania (PUC No. A–16420, Folder No. 9); and which primarily operates vacation charters and organized tours within eastern Pennsylvania;

Shoup Buses, Inc. d/b/a Cardinal Charters & Tours (Shoup), an Indiana corporation, which holds federally-issued operating authority in MC–70384 to provide charter and special operations and contract carrier service between points in the United States, except Hawaii, and intrastate authority in Indiana (PSCI Certificate No. 5224–A,2), Michigan (MDOT Certificate No. IA–3) and Ohio (PUCO Permit No. 66209), and which operates group charters and organized tours in Illinois, Indiana, Michigan, Ohio, and Wisconsin;

Travelways of Nevada, Inc. (Travelways-NV),[3] a Nevada corporation, which holds federally-issued operating authority in MC–162053 to provide charter and special operations authority between points in the United States, except Hawaii, and Nevada intrastate authority under TSA Certificate No. 2021, and which conducts casino tours and other charter operations within Nevada;

Travelways of New York, Inc. (Travelways-NY),[4] a New York corporation, which holds federally-issued operating authority in MC–181064 to provide charter and special operations between New York City on one hand and, on the other, points in the United States, except Alaska and Hawaii; which holds New York intrastate authority in NYDOT Case No. 30468; and which operates convention shuttles and organized tours within New York City and its immediate vicinity;

Tri-State Coach Lines, Inc. (Tri-State), an Illinois corporation, which holds federally-issued operating authority in MC–129038 to provide regular-route and special-operations authority between O'Hare and Midway airports at Chicago, IL, and surrounding points in Illinois and Indiana, and regular route service between points in southern Indiana and Kentucky, and which operates scheduled and on-call airport shuttle services in Illinois and Indiana; and

United Limo, Inc. d/b/a Indiana Motor Bus Company (United), an Indiana corporation, which holds federally-issued operating authority in MC–150365 to provide charter and special operations between points in the United States, except Hawaii, and regular route service between points in Illinois, Indiana, Michigan and Wisconsin; which holds Indiana intrastate authority under PSCI Certificate No. 14299–A,2; and which principally provides group charters and scheduled and on-call airport shuttle services in Illinois, Indiana, Michigan, and Wisconsin.

Applicant states that shares of Gongaware, Hamilton, Perkiomen, Shoup, Tri-State and United have been placed in independent voting trusts under the guidelines of 49 CFR part 1013. Assertedly, the respective trustees will convey the shares of the respective carriers to STA or Travelways on the effective date of the Board's approval in this proceeding. Applicant further states that when it acquired the stock of North Bend, Travelways-NV, and Travelways-NY, it relied on written representations by the sellers that these carriers held no federal operating authority as motor passenger carriers. Global indicates that, when it learned that these carriers had federally-issued authority, it filed this control application to rectify the situation.[5]

Global further states that it is engaging in a series of intra-company, corporate family transactions that will consolidate and simplify its corporate structure, without significantly affecting its current operations or employment levels. According to applicant, the transactions involve transfers of operating authority and name changes, consolidations, internal stock transfers, and future surrender of unneeded federal authorities. The application contains a detailed description of these intra-company transactions.

Applicant claims that the intra-company transactions are not subject to Board jurisdiction. Global asserts that it has received approval from the Federal Highway Administration (FHWA) for the transfers of federal regulated authority from 10 carriers to non-regulated entities and for changes of names of several carrier subsidiaries. Applicant asserts further that Board approval is not necessary for the mergers of its non-regulated subsidiaries with other subsidiaries whose status as holders of federally-issued operating authority will not change. The transfer of stock from one affiliate to California Travelways, Inc. (CA Travelways) is assertedly of no jurisdictional significance, Global says, citing *Transcontinental Bus System, Inc.—Control—American*, 87 M.C.C. 796, 798–99 (1961). Finally, applicant intends to surrender unneeded authority for affiliates who are engaged in non-regulated operations after the Board authorizes this transaction.

Our jurisdiction, however, does extend to those aspects of the intra-company transactions that are covered under section 14303. As a result of intra-company transactions, STA will be the transferee of authority currently held by George Ku, Inc. in MC–31422 and will control: Goffstown Truck Center, Inc. (MC–191957) (Goffstown); Rick Bus Company (MC–140403); Santa Barbara Transportation Corp. (MC–198757); STA of Connecticut, Inc. (MC–336635); STA of Pennsylvania, Inc.

[2] Global also seeks authority for the possible future merger of some or all of the carriers with its existing affiliates.

[3] Travelways-NV was formerly known as Adventure Charters & Tours, Inc.

[4] Travelways-NY was formerly known as Personal Transit, Inc.

[5] Global indicates that North Bend, Travelways-NV, and Travelways-NY were identified as non-regulated carriers on the corporate family diagram in its application in *Bortner*.

(MC–251473); Student Transportation of America, L.L.C. (MC–304399); and Student Transportation of Canada, Ltd. (MC–111191). In addition, STA will control Gongaware, Hamilton, and North Bend.

Travelways will control: Boardwalk Financial Services, Inc. (MC–231149); CA Travelways (MC–182176); Golden Touch Transportation, Inc. (MC–235493); Pennsylvania Travelways, Inc. (MC–167547) (PA Travelways); PROTRAV Services, Inc. (MC–227448); Travelways of Florida Charter Busing, Inc. (MC–172787); Travelways of Missouri, Inc. (MC–217893); Travelways of Pittsburgh, Inc. (MC–52479); and Travelways of Tennessee, Inc. (MC–263038). In addition, Travelways will control: Travelways-NV, Travelways-NY, Shoup, Perkiomen, Tri-State, and United.

Applicant states that the intra-company transactions will reduce the number of subsidiaries in its corporate family by 40%, enabling it to reduce administrative operating expenses. Global states further that the transactions will enable it to use ''Travelways'' and ''STA'' as brand names for its leisure transportation and school transportation businesses.

Global asserts that the proposed transactions are consistent with the statutory public-interest criteria relating to service adequacy, financial reasonableness and employee interests. Applicant claims that its control of the carriers will produce substantial benefits, including interest cost savings from restructuring of debt and reduced operating costs from its enhanced volume purchasing power. Applicant also claims that the carriers it acquires will benefit from the lower insurance premiums it has negotiated and from volume discounts for equipment and fuel. Applicant also avers that the proposed transactions will improve the efficiency of all acquired carriers, by providing centralized services to support decentralized operational and marketing managers.[6] In addition, Global states that the proposed transactions will facilitate vehicle sharing arrangements between acquired entities, so as to ensure maximum utilization and efficient operation of equipment. According to applicant, the involved transactions offer ongoing benefits for employees of acquired carriers not only because of the efficiencies described above, but also because Global's policy is to honor all collective bargaining agreements of acquired carriers.

Applicant further states that the proposed transactions will not reduce competition in the regulated bus industry or competitive options available to the traveling public. Applicant asserts that each of its current passenger carrier affiliates and each carrier to be acquired faces substantial competition from other bus companies and transportation modes. Applicant notes that its current operations focus on two passenger service sectors: school transportation and leisure transportation. School transportation is largely exempt from regulation by the FHWA and the Board under 49 U.S.C. 10526(a)(1), while leisure transportation is regulated as charter and special operations.

Applicant states that its acquisition will not significantly affect its school transportation services. The only carrier being acquired providing school transportation service is North Bend, and it operates strictly within Oregon. North Bend's operations do not overlap geographically with those of any of Global's other affiliates.

Global states further that the control transactions will expand the geographical area covered by leisure transportation operations, but will not increase its share of any local market.[7] In addition, applicant states that its proposed control of Tri-State and United will allow it to make its first significant entry into a third service sector: intercity airport shuttle operations.

Applicant estimates that its leisure transportation operations account for approximately 0.6% of a nationwide market that generates annual sales of approximately $25 billion. Moreover, applicant maintains that its proposed additional control of the carriers whose stock has been placed in voting trusts will increase that market share by less than two-tenths of a percentage point.

Applicant estimates that the nationwide market for intercity airport shuttle services amounts to approximately $5 billion per year, and that its proposed acquisition of Tri-State and United will increase its nationwide share of this market from essentially zero to slightly more than 0.1%. Tri-State and United, which were commonly owned, serve airports in Chicago, Indianapolis, and Milwaukee, and have a market share ranging between 10 and 50%. Applicant notes that intercity airport shuttles are subject to intense intermodal competition from car rental agencies and private automobiles.

Global certifies that: (1) None of the carriers to be acquired or any of its current affiliates has received a safety fitness rating of less than satisfactory, with one exception that it is attempting to rectify;[8] (2) all carriers maintain sufficient liability insurance; (3) none of the involved carriers has been or is either domiciled in Mexico or owned or controlled by persons of that country; and (4) approval of the proposed transactions will not significantly affect either the quality of the human environment or the conservation of energy resources. Applicant also asks the Board to approve applicant's proposed control of intrastate operations in Indiana, Michigan, Ohio, Oregon, Nevada, New York, and Pennsylvania, pursuant to the preemptive provisions of 49 U.S.C. 14303(f). Additional information may be obtained from applicant's representative.

Under 49 U.S.C. 14303(b), the Board must approve and authorize transactions it finds consistent with the public interest, taking into account at least: (1) the effect of the transactions on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees.

Although this application is difficult to follow, it is essentially complete, and our rules require that we tentatively approve complete applications in the **Federal Register** notice providing for public comment. Therefore, we tentatively find that the proposed transactions, including control of intrastate operations pursuant to 49 U.S.C. 14303(f), and corporate restructuring are consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding will be deemed vacated and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application.[9] If no timely comments are

[6] Centralized support services will be provided in such areas as legal affairs, accounting, purchasing, safety management, equipment maintenance, driver training, human resources and environmental compliance.

[7] Applicant notes that there is geographic overlap between the leisure travel services provided by Hamilton and Perkiomen with those of PA Travelways. Applicant states that PA Travelways concentrates on charter transportation for large corporate clients, while Hamilton and Perkiomen package and operate vacation tours for the general public.

[8] According to applicant, Goffstown, received a Conditional safety rating in 1987, long before that carrier was acquired. Applicant indicates that, while the seller had represented that the problems identified by the FHWA had been corrected, the seller had not requested that the rating be changed (apparently because the seller was unfamiliar with such procedures). Applicant states that it has requested the FHWA to schedule a reinspection.

[9] Under revised 49 CFR 1182.6(c), a procedural schedule will not be issued if we are able to dispose

Continued

filed by the expiration of the comment period, this decision will take effect automatically and will be the final Board action.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

This decision will not significantly affect the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Global's above-described control of the indicated carriers and corporate restructuring are approved and authorized, subject to the timely filing of opposing comments.

2. If timely opposing comments are filed, the findings made in this decision will be deemed vacated.

3. This decision will be effective on November 1, 1999, unless timely opposing comments are filed.

4. A copy of this notice will be served on (1) the U.S. Department of Transportation, Office of Motor Carriers—HIA 30, 400 Virginia Avenue, S.W., Suite 600, Washington, DC 20024; (2) the U.S. Department of Transportation, Office of the General Counsel, 400 7th Street, S.W., Washington, DC 20590; and (3) the U.S. Department of Justice, Antitrust Division, 10th Street and Pennsylvania Avenue, N.W., Washington, DC 20530.

Decided: September 10, 1999.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 99–24177 Filed 9–15–99; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33799]

Riverport Railroad, L.L.C.—Lease and Operation Exemption—Jo-Davies/Carrol County Local Re-Development Authority

Riverport Railroad, L.L.C., a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to lease from the Jo-Davies/Carrol County Local Re-Development Authority and operate approximately 50 miles of rail lines. The lines are located in the former Savanna Army Ammo Depot near Savanna, IL, adjacent to the main line of The Burlington Northern and Santa Fe Railway Company (BNSF), at BNSF milepost 156.9, and consist of two former classification tracks, a loop track, and several stub tracks.

The transaction is scheduled to be consummated on or after September 10, 1999.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding 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. 33799, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Karl Morell, Esq., Ball Janik LLP, 1455 F Street, N.W., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: September 9, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–24079 Filed 9–15–99; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33792]

Nobles Rock Railroad, Inc.—Modified Rail Certificate

On August 20, 1999, Nobles Rock Railroad, Inc. (NRR) filed a notice for a modified certificate of public convenience and necessity under 49 CFR 1150, Subpart C, *Modified Certificate of Public Convenience and Necessity*, to operate a rail line extending from milepost 378.5 west of Mitchell, SD, to milepost 517.5 at Murdo, SD, a total distance of approximately 139 miles.

The involved line represents a portion of the former Chicago, Milwaukee, St. Paul and Pacific Railroad Company's (Milwaukee Road) line between Mitchell and Rapid City, SD. The State of South Dakota acquired the line following an order of abandonment by the United States District Court for the Northern District of Illinois (Eastern Division) in *In the Matter of Chicago, Milwaukee, St. Paul and Pacific Railroad Company*, No. 77–B–8999, Order Nos. 342 (item R) and 342A (paragraph 1) (dated June 9, 1980). The State, in turn, leased a segment (from Mitchell to Kadoka, SD) to the MRC Regional Railroad Authority (MRCA).[1] MRCA then subleased this segment to the Dakota Southern Railway Company (DSRC). DSRC has, subject to approval by the State and MRCA, agreed to sublease the west of Mitchell-Murdo segment to NRR.[2]

The line will connect at milepost 378.5 west of Mitchell with a line of railroad operated by DSRC. NRR will also interline with The Burlington Northern and Santa Fe Railway Company (BNSF) at Mitchell and will interchange traffic with DSRC at Titterton Siding, SD, and with BNSF at Mitchell.[3] The sublease between NRR and DSRC does not include the line segments from Murdo to Kadoka or from west of Mitchell to Mitchell; these two segments will continue to be governed by the existing lease between DSRC and MRCA.

The rail segment qualifies for a modified certificate of public convenience and necessity. *See Common Carrier Status of States, State Agencies and Instrumentalities and Political Subdivisions*, Finance Docket No. 28990F (ICC served July 16, 1981).

NRR indicates that no subsidy is involved and that there are no preconditions for shippers to meet in order to receive rail service.

This notice will be served on the Association of American Railroads (Car Service Division) as agent for all railroads subscribing to the car-service and car-hire agreement: Association of American Railroads, 50 F Street, NW, Washington, DC 20001; and on the American Short Line and Regional Railroad Association: American Short Line and Regional Railroad Association, 1120 G Street, NW, Suite 520, Washington, DC 20005.

Decided: September 8, 1999.

---

of opposition to the application on the basis of comments and the reply.

[1] MRCA is a quasi-public entity entrusted by the State to oversee freight operations on the line.

[2] NRR was scheduled to commence operations over the line on August 23, 1999, or thereafter. An executed copy of the sublease agreement between NRR and DSRC was filed with the Board on September 8, 1999. The sublease agreement provides that NRR may operate over the line through July 31, 2000. The sublease also provides that NRR's operations will automatically be renewed for successive one-year terms commencing August 1, 2000, absent written notice of cancellation of the agreement by either NRR or DSRC.

[3] To reach a connection with BNSF at Mitchell, NRR will obtain from DSRC the right to operate over an approximately 4.6-mile line from milepost 378.5 west of Mitchell, to milepost 373.9 at Mitchell, solely for the purposes of interchanging traffic and railroad equipment with BNSF.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–23907 Filed 9–15–99; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–6 (Sub–No. 385X)]

The Burlington Northern and Santa Fe Railway Company—Abandonment Exemption—in Greene County, MO

The Burlington Northern and Santa Fe Railway Company (BNSF) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 5.82-mile line of its railroad between milepost 189.22 near Springfield and milepost 183.40 near Willard, in Greene County, MO. The line traverses United States Postal Service Zip Codes 65781 and 65803.

BNSF has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment— Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on October 16, 1999, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by September 27, 1999. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 6, 1999, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Sarah Whitley Bailiff, Senior General Attorney, The Burlington Northern and Santa Fe Railway Company, 3107 Lou Menk Drive, Fort Worth, TX 76131–2830.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

BNSF has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by September 21, 1999. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), BNSF shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by BNSF's filing of a notice of consummation by September 16, 2000, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: September 9, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–24080 Filed 9–15–99; 8:45 am]

BILLING CODE 4915–00–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Fiscal Service

Financial Management Service; Proposed Collection of Information: Minority Bank Deposit Certification Form for Admission

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Financial Management Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection. By this notice, the Financial Management Service solicits comments concerning the form ''Minority Bank Deposit Certification Form for Admission.''.

DATES: Written comments should be received on or before November 15, 1999.

ADDRESSES: Direct all written comments to Financial Management Service, Programs Branch, Room 144, 3700 East-West Highway, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to the Cash Management Policy and Planning Division, 401–14th Street, S.W., Washington, D.C. 20227, (202) 874–6657.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995, (44 U.S.C. 3506(c)(2)(A)), the Financial Management Service solicits comments on the collection of information described below.

Title: Minority Bank Deposit Certification Form for Admission.

OMB Number: 1510–0048.

Form Number: FMS–3144.

Abstract: This form is used by financial institutions to apply for participation in Minority Bank Deposit Program. Institutions approved for acceptance in the program are entitled to special assistance and guidance from Federal agencies, State and local governments, and private sector organizations.

Current Actions: Extension of currently approved collection.

Type of Review: Regular.

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 170.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 85.

Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Dated: September 8, 1999.

Bettsy Lane,

Assistant Commissioner.

[FR Doc. 99–24100 Filed 9–15–99; 8:45 am]

BILLING CODE 4810–35–M

UNITED STATES INFORMATION AGENCY

Civic Education Curriculum Development and Teacher Training Program for Secondary Schools in Georgia; Notice: Request for Proposals

SUMMARY: The Advising, Teaching and Specialized Programs Division, of the Bureau of Educational and Cultural Affairs in the United States Information Agency announces an open competition for a Civic Education Curriculum Development and Teacher Training Program for Secondary Schools in the Republic of Georgia. For applicants' information, on October 1, 1999 the Bureau will become part of the U.S. Department of State without affecting the content of this announcement or the nature of the program described. At that time, the Advising, Teaching and Specialized Programs Division will be renamed the Office of Global Educational Programs. Public and private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501c may submit proposals to cooperate with the Bureau in the administration of a three-year project to support the development and implementation of new curriculum units for fifth through ninth grade civic education courses in the Republic of Georgia. The grant awards up to $500,000 to facilitate the project. The grantee will work with Gaia, a Georgian non-profit organization involved in in-service teacher training programs in human rights and civic education in Georgia. The Georgian and U.S. partner organizations will coordinate with the Ministry of Education and his appointees in Georgia and the public diplomacy section at the U.S. Embassy in Tbilisi. The program will comprise four phases of activity: (1) Selection of a small curriculum development team of Georgian educators and preliminary consultations in Tbilisi; (2) a three-month U.S.-based curriculum development workshop in which the team will produce draft curriculum units; (3) follow-up consultations in Georgia to assist in the review and field-testing of the draft curricular materials and in the training of a larger group of Georgian practitioners; (4) cooperation with Gaia in the further review and dissemination of the draft materials as needed, and to provide broader training of Georgian teachers and administrators for utilization of the revised curriculum units in Georgian classrooms.

The Bureau solicits detailed proposals from U.S. educational institutions and public and private non-profit organizations to develop and administer this project. Grantee organizations will consult regularly with the Bureau and with the public diplomacy section at the U.S. Embassy in Tbilisi with regard to participant selection, program implementation, direction, and assessment. Proposals should demonstrate an understanding of the issues confronting education in Georgia as well as expertise in civic education and curriculum development.

The funding authority for the program cited above is provided through the Freedom Support Act. Programs and projects must conform with Bureau requirements and guidelines outlined in the Solicitation Package. The Bureau of Educational and Cultural Affairs' programs and projects are subject to availability of funds.

Program Information

Overview: The goals of the project are to assist Gaia in Tbilisi, Georgia, to develop up-to-date curriculum units to be taught at the fifth through ninth grade levels, and to assist in training teachers for the implementation of these units. The rationale for this project is that improving citizenship education at the secondary school level will better prepare Georgian students to participate actively in building a pluralistic, democratic society and will promote democratic relations among members of the school community, including students, teachers, school administrators, and parents. Applicants may suggest topics to be developed by the curriculum team in their proposals; however, final determination of appropriate topics will be made by the curriculum development team and Gaia in cooperation with the grantee organization during the first phase of the project

Guidelines

Program Planning and Implementation

Grants should begin on or around February 1, 2000, with Phase I of the project, in which a curriculum development team of six practitioners (e.g., classroom teachers, curriculum specialists, and the project director of Gaia, who will serve as the Georgian project director for this grant) will be chosen by a selection committee in Georgia comprised of Gaia staff, local civic education specialists, members of the U.S. grantee organization and the public diplomacy section of the U.S. Embassy in Tbilisi. A Ministry of Education official may be invited to serve as a liaison between the project directorate and the Georgian government. In Phase I, the team will undertake preliminary work in Tbilisi over a period of 3–6 months. Members of the curriculum development team, in consultation with a specialist from the grantee organization and the Georgian Project Director, will familiarize themselves with civics curricula and teaching materials used in the U.S., and will select the topics to be explored in the draft curriculum units.

In Phase II, members of the curriculum development team will spend approximately three months in a highly structured U.S.-based workshop to be sponsored and organized by the U.S. grantee organization, and will attend focused curriculum seminars, observe relevant aspects of the U.S. educational system, and draft teacher and student materials for the curriculum units in consultation with U.S. specialists. The grantee organization will be responsible for introducing the Georgian team to leading U.S. civic educators with expertise that is pertinent to the topics to be explored,

and to a broad range of relevant resources. The workshop schedule should incorporate significant time for both individual and group work on drafting materials as well as intensive training on specific approaches to the teaching of civic education topics. In addition, the workshop should include field experiences which are relevant to the materials being produced (such as visits to schools, matching the Georgian educators with U.S. mentor teachers, and attendance at professional association meetings).

In Phase III, the curriculum development team will work in Georgia with Georgian teacher trainers, Gaia staff members, U.S. specialists from the grantee organization, and other Georgian organizations to provide introductory training for a larger group of practitioners in methods for testing and utilizing the draft curriculum units in the civics classrooms. The grantee organization will cooperate with the curriculum development team and Georgian educators to design and implement a pilot-test program for select secondary schools in Georgia. Revision of the draft curricular materials based on the results of field test will be completed by the grantee organization and the Georgian curriculum development team.

Phase IV activities will consist of further review of the curricular materials by the U.S. and Georgian teams, the printing and publication of the materials, and the development of a self-sustaining teacher-training program in the use of the civic education materials.

Visa/Insurance/Tax Requirements

U.S. lecturers and consultants participating in the project must be U.S. citizens. Programs must comply with J–1 visa regulations. Please refer to Program Specific Guidelines (POGI) in the Solicitation Package for further information. Administration of the program must be in compliance with reporting and withholding regulations for federal, state, and local taxes as applicable. Recipient organizations should demonstrate tax regulation adherence in the proposal narrative and budget.

Budget Guidelines

Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000.

Applicants must submit a comprehensive budget for the entire program. Awards may not exceed $500,000. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification. The summary and detailed program and administrative budgets should be accompanied by a narrative which provides a brief rationale for each line item. The total administrative costs funded by the Bureau must be limited and reasonable.

Allowable costs for the program include the following:

(1) Administrative Costs, including salaries and benefits, of grantee organization.

(2) Program Costs, including general program costs and program costs for each Georgian participant in the U.S.-based curriculum development seminar. Also included are program costs associated with the field-testing of materials in Georgia and with the initial training of Georgian teachers. Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

Announcement Title and Number

All correspondence with the Bureau concerning this RFP should reference the above title and number E/ASU–99–21.

For Further Information, Contact

The Specialized Programs Branch, E/ASU (as of October 1, 1999, the Humphrey Fellowships and Institutional Linkages Branch, ECA/ASU), Room 349, U.S. Department of State, 301 4th Street, SW, Washington, DC 20547, tel. 202–619–6492 and fax 202–401–1433, or emathews@usia.gov to request a Solicitation Package. The Solicitation Package contains detailed award criteria, required application forms, specific budget instructions, and standard guidelines for proposal preparation. Please specify Bureau Program Officer Erin Mathews on all other inquiries and correspondence.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

To Download a Solicitation Package Via Internet

The entire Solicitation Package may be downloaded from the Bureau's website at http://e.usia.gov/education/rfps. Please read all information before downloading.

Deadline for Proposals

All proposal copies must be received at the Bureau of Educational and Cultural Affairs by 5 p.m. Washington, DC time on Wednesday, December 15, 1999. Faxed documents will not be accepted at any time. Documents postmarked the due date but received on a later date will not be accepted. Each applicant must ensure that the proposals are received by the above deadline.

Applicants must follow all instructions in the Solicitation Package. The original and 10 copies of the application should be sent to: U.S. Department of State, Bureau of Educational and Cultural Affairs, Ref.: *E/ASU–00–09*, Office of Grants Management, ECA/EX/PM, Room 336, 301 4th Street, SW., Washington, DC 20547.

Applicants must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal on a 3.5″ diskette, formatted for DOS. These documents must be provided in ASCII text (DOS) format with a maximum line length of 65 characters. The Bureau will transmit these files electronically to the public diplomacy section at the US Embassy for its review, with the goal of reducing the time it takes to get Embassy comments for the Bureau's grants review process.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the ''Support for Diversity'' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy, 'the Bureau' shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Proposals should reflect advancement of this goal in their

program contents, to the full extent deemed feasible.

Year 2000 Compliance Requirement (Y2K Requirement)

The Year 2000 (Y2K) issue is a broad operational and accounting problem that could potentially prohibit organizations from processing information in accordance with Federal management and program specific requirements including data exchange with the Bureau. The inability to process information in accordance with Federal requirements could result in grantees' being required to return funds that have not been accounted for properly.

The Bureau therefore requires all organizations use Y2K complaint systems including hardware, software, and firmware. Systems must accurately process data and dates (calculating, comparing and sequencing) both before and after the beginning of the year 2000 and correctly adjust for leap years.

Additional information addressing the Y2K issue may be found at the General Services Administration's Office of Information Technology website at http://www.itpolicy.gsa.gov.

Review Process

The Bureau will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the U.S. Department of State's Office of the Senior Coordinator for the Newly Independent States and the public diplomacy section overseas, where appropriate. Eligible proposals will be forwarded to panels of Bureau officers for advisory review. Proposals may also be reviewed by the Department of State, Office of the Legal Adviser or by other Bureau elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs.

Final technical authority for assistance awards (grants or cooperative agreements) resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. Quality of the program idea: Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission, and responsiveness to the objectives and guidelines stated in this solicitation. Proposals should demonstrate substantive expertise in civic education.

2. Program planning: Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above.

3. Ability to achieve program objectives: Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.

4. Multiplier effect/impact: Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages.

5. Support of Diversity: Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

6. Institutional Capacity and Record: Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals. Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by the grants staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

7. Follow-on Activities: Proposals should provide a plan for continued follow-on activity (without Bureau support) ensuring that Bureau supported programs are not isolated events.

8. Project Evaluation: Proposals should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives is recommended. Successful applicants will be expected to submit intermediate program and financial reports after each project component is concluded or quarterly, whichever is less frequent.

9. Cost-effectiveness/Cost-sharing: The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through the Freedom of Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1993 (Freedom Support Act). The terms and conditions published in this RFP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Department of State procedures.

Dated: September 9, 1999.

William P. Kiehl,

Acting Deputy Associate Director for Educational and Cultural Affairs.

[FR Doc. 99–24076 Filed 9–15–99; 8:45 am]

BILLING CODE 8230–01–M

UNITED STATES INFORMATION AGENCY

NIS College and University Partnerships Program; Request for Proposals

SUMMARY: The Advising, Teaching, and Specialized Programs Division of the Bureau of Educational and Cultural Affairs announces an open competition for an assistance award program. For applicants' information, on October 1, 1999 the Bureau will become part of the U.S. Department of State without affecting the content of this announcement or the nature of the program described. At the time, the Advising, Teaching, and Specialized Programs Division will be renamed the Office of Global Educational Programs. Accredited, post-secondary educational institutions meeting the provisions described in IRS regulation 26 CFR 1.501(c) may apply to pursue institutional or departmental objectives in international partnerships with counterpart institutions from the New Independent States for the purpose of supporting, through teaching, scholarship, and professional outreach from the partner institutions, the transition of the New Independent States to democratic systems based on market economies, and of strengthening mutual understanding and cooperation between the United States and the New Independent States. Eligible fields are education or educational administration; the social, political or economic sciences; law; business; public administration; or communications. Within these fields, themes of special interest may be described in additional detail in the section on ''Country Eligibility.''

In general, underlying the specific objectives of projects funded by this program should be the goal of fostering freedom and democracy through a deepened mutual understanding of fundamental issues and practical applications in the encouragement of civil society, economic growth and prosperity, or the free flow of information. Creative, innovative strategies to address these underlying concerns in the pursuit of clearly defined institutional goals are encouraged. The extension of understanding about these issues through outreach from academic institutions to larger communities of citizens and practitioners is also encouraged.

The Bureau supports institutional linkages in higher education with partners from the New Independent States of the former Soviet Union through the NIS College and University Partnerships Program, for which this Request for Proposals invites applications for funding in FY2000. The Bureau also anticipates issuing a separate and additional Request for Proposals this Fall for a partnership program for community colleges interested in cooperating with institutions in Russia or Ukraine. Eligible community colleges may apply for grants under either or both of the above competitions, but the Bureau will not give multiple awards for duplicate partnerships under these competitions. The Bureau also supports institutional linkages in higher education with partners worldwide through the College and University Affiliations Program; the College and University Affiliations Program was described in a previous announcement and has a deadline of November 15, 1999. Applicants interested in the Bureau's College and University Affiliations Program should contact the Bureau's Specialized Programs Branch at (202) 619–5289. In addition, the United States Agency for International Development (USAID) supports the Sustaining Partnerships into the Next Century (SPAN) program, which supports organizational and institutional partnerships, including university partnerships in fields other than those covered by the NISCUPP program, in the Russian Federation. Applicants interested in USAID's SPAN program should contact IREX at (202) 628–8188.

In the NIS College and University Partnerships Program, partner institutions may pursue specific institutional goals with support from the Bureau of Educational and Cultural Affairs through exchanges of teachers, administrators or, in limited circumstances, students for any appropriate combination of teaching, consultation, research, and outreach, for periods ranging from one week (for planning visits) to an academic year. The Bureau's support may be used to defray the costs of the exchange visits as well as the costs up to a maximum of 20 percent of the total grant of their administration at any partner institution, including administrative salaries but excluding indirect costs. Although grants will be issued to eligible U.S. colleges and universities, adequate provision for the administrative costs of the project at all partner institutions is encouraged. Administrative salary support may be included for project directors and administrative assistants within the 20 percent maximum that may be allocated to administrative costs, but the Bureau will not fund salaries, stipends, or honoraria for U.S. program participants, except in the case of advanced graduate students working in the NIS for periods of over 2 months who would otherwise be eligible for U.S. teaching assignments. (See the section of this document on ''U.S. Partner and Participant Eligibility'' and the section of the POGI on ''Allowable costs''.) The costs of exchange visits of foreign students and U.S. graduate student teaching or research assistants who are working under the supervision of a faculty participant or project director toward the achievement of project objectives are eligible for support. Other students may participate in the project, but not with the Bureau's support for the costs of their visits. With the Bureau's support, institutions may reinforce the activities of exchange participants through the establishment and maintenance of Internet and/or electronic mail communication facilities as well as through interactive technology or non-technology-based distance-learning programs. Applicants may propose other project activities not specifically anticipated in this solicitation if the activities reinforce exchange activities and their impact.

Proposals must be submitted by the U.S. institutional partner and must include a letter of commitment from the foreign partner(s). While the benefits of the project to each of the participating institutions may differ significantly in nature and scope, proposals should outline well-reasoned strategies leading to specific, demonstrable changes (for example, new courses, new research or teaching capacities or methodologies, new programs or revised curricula) that are anticipated for each participating department or for the institution as a whole as a result of the project. The strategy for achieving project goals may include exchange visits in either or both directions, but no single formula is anticipated for the duration, sequence, or number of these visits. However, visits of one semester or more for participants from each of the institutional partners are encouraged. Although strong budgetary and programmatic emphasis may be given to visits in one direction over another, the benefits of these visits to the sending as well as the receiving sides should be clearly explained in terms of their contributions to the departmental or institutional objectives which the project is designed to achieve.

In addition to demonstrating the capacity of each participating institution to contribute to its partner(s), proposals should also explain how this cooperation will enable each of the

institutions to address its own needs. Accordingly, applicants are encouraged to describe the needs as well as the capabilities of each participating department. Effective proposals will explain the anticipated cooperation in ways that demonstrate that the institutions proposed for participation in the partnership clearly understand one another and are committed to support one another in project implementation. If the proposed partnership would occur within the context of a previous or on-going project, the proposal should explain how the request for Bureau funding would build upon the pre-existing relationship or complement concurrent projects and cooperation.

The commitment of all partner institutions to the proposed project should be reflected in the cost-sharing which they offer in the context of their respective institutional capacities.

To provide adequate time to meet institutional goals, the program awards grants for periods of approximately three years. The maximum award in the FY2000 competition will be $300,000. Request for amounts smaller than the maximum are eligible. Grants awarded to organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000. Grants are subject to the availability of funds for Fiscal year 2000.

Overall grant-making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program cited above is provided through the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (Freedom Support Act).

Projects must conform with the Bureau's requirements and guidelines outlined in the solicitation package for this RFP, which can be obtained by following the instructions given in the section below entitled ''For Further Information.'' The ''Project Objectives, Goals, and Implementation'' (hereafter, POGI) and the ''Proposal Submission Instructions'' (hereafter, PSI), which contain additional guidelines, are included in the Solicitation Package. Proposals that do not follow RFP requirements and the guidelines appearing in the POGI and PSI may be excluded from consideration due to technical ineligibility.

Announcement Title and Number

All communications with the Bureau concerning this RFP should refer to the NIS College and University Partnerships Program and reference number E/ASU–00–03.

Deadline for Proposals

All copies must be received at the Bureau of Educational and Cultural affairs by 5 p.m. Washington, DC time on Wednesday, January 19, 2000. Faxed documents will not be accepted at any time, nor will documents postmarked on Wednesday, January 19, 2000 but received on a later date. It is the responsibility of each applicant to ensure compliance with the deadline.

Approximate program dates: Grants should begin on or about August 15, 2000.

Duration: Approximately August 15, 2000—August 14, 2003.

For Further Information, Contact

The Specialized Programs Branch, E/ASU [as of October 1, 1999, the Institutional Linkages Branch, ECA/ASU], room 349, 301 4th Street, SW., Washington, DC 20547, phone (202) 619–5289; fax: (202) 401–1433; e-mail affiliat@usia.gov to request a Solicitation Package containing more detailed award criteria; all application forms; and guidelines for preparing proposals, including specific criteria for preparation of the proposal budget. Please specify Bureau Program Officer Jonathan Cebra (telephone: 202–619–4126, e-mail: jcebra@usia.gov) on all inquiries and correspondences regarding partnerships with institutions in Armenia, Azerbaijan, Belarus, Georgia, Moldova, or Ukraine.

To Download a Solicitation Package Via Internet

The entire Solicitation Package may be downloaded from the Bureau's website at http://e.usia.gov/education/rfps. Please read all information before downloading.

Interested applicants should read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFP deadline has passed, Bureau staff may not discuss this competition in any way with applicants until the Bureau proposal review process has been completed.

Submissions

Applicants must follow all instructions given in the Solicitation Package. The original and 10 copies of the application should be sent to: U.S. Department of State, Bureau of Educational and Cultural Affairs, Ref.: E/ASU–00–03, Office of Grants Management, ECA/EX/PM, Room 336, 301 4th Street, SW, Washington, DC 20547.

Applicants must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal on a 3.5″diskette, formatted for DOS. This material must be provided in ASCII text (DOS) format with a maximum line length of 65 characters. The Bureau will transmit these files electronically to the public diplomacy sections at US Embassies for their review, with the goal of reducing the time it takes to get Embassy comments for the Bureau's grants review process.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in programs administration and in program content. Please refer to the review criteria under the 'Support for diversity' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy'', the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Proposals should account for advancement of this goal in their program contents, to the full extent deemed feasible.

Year 2000 Compliance Requirement (Y2K Requirement)

The Year 2000 (Y2K) issue is a broad operational and accounting problem that could potentially prohibit

organizations from processing information in accordance with Federal management and program specific requirements including data exchange with the Bureau. The inability to process information in accordance with Federal requirements could result in grantees' being required to return funds that have not been accounted for properly.

The Bureau therefore requires all organizations use Y2K compliant systems including hardware, software, and firmware. Systems must accurately process data and dates (calculating, comparing and sequencing) both before and after the beginning of the year 2000 and correctly adjust for leap years.

Additional information addressing the Y2K issue may be found at the General Services Administration's Office of Information Technology website at http://www.itpolicy.gsa.gov.

SUPPLEMENTARY INFORMATION:

Guidelines

The NIS College and University Partnership Program is limited to the following academic fields:

(1) Law;

(2) Business/accounting/trade;

(3) Education/continuing education/educational administration;

(4) Public administration/public policy analysis;

(5) Journalism/communications; and

(6) Social, political, or economic sciences.

Proposals must focus on curriculum, faculty, and staff development at the NIS partner institution(s) in one or more of these eligible disciplines. Administrative reform at the foreign partner should also be a project component. Projects should involve the development of new academic programs or the building and/or restructuring of an existing program or programs, and should promote higher education's role in the transition to market economies and open democratic systems. Feasibility studies to plan partnerships will not be considered.

Whenever feasible, participants should make their training and personnel resources, as well as results of their collaborative research, available to government, NGOs, and business.

Participating institutions should exchange faculty and/or staff members for teaching/lecturing and consulting. At least once during the grant period, one U.S. participant should be in residence at the foreign partner institution for one semester to serve in a coordinating role. (Exception: proposals for partnerships with institutions in Tajikistan should not include travel by U.S. participants to Tajikistan.)

U.S. institutions are responsible for the submission of proposals and should collaborate with their foreign partners in planning and preparing proposals. U.S. and foreign partner institutions are encouraged to consult about the proposed project with program office staff in Washington, DC.

U.S. Partner and Participant Eligibility

In the United States, participation in the program is open to accredited two- and four-year colleges and universities, including graduate or professional schools. Applications from consortia of U.S. colleges and universities are eligible. Secondary U.S. partners may include relevant non-governmental organizations, non-profit service or professional organizations. If a lead U.S. institution in a consortium is responsible for submitting an application on behalf of a consortium, the application must document the lead school's stated authority to represent the consortium. With the exception of outside evaluators on contract with the U.S. institution, participants representing the U.S. institution(s) who are traveling under Bureau grant funds must be faculty, staff, or advanced graduate students from the participating institution(s) and must be U.S. citizens.

Foreign Partner and Participant Eligibility

In other countries, participation is open to recognized, degree-granting institutions of post-secondary education. Secondary foreign partners may include relevant governmental and non-governmental organizations, non-profit service or professional organizations. Participants representing the foreign institutions must be faculty, staff or advanced students of the primary or secondary partner institution, and be citizens, nationals, or permanent residents of the country of the foreign partner, and be qualified to hold a valid passport and U.S. J–1 visa.

Foreign partners from the following countries are eligible:

Armenia;

Azerbaijan;

Belarus—foreign partners must be independent institutions; state universities are not eligible;

Georgia;

Kazakstan;

Kyrgyzstan;

Moldova;

Russia—preference will be given to proposals which designate partner institutions outside of Moscow and St. Petersburg; proposals for partnerships with institutions located in Moscow or St. Petersburg should clearly indicate how those partnerships will have impact on other regions. The Bureau anticipates issuing a separate request for proposals in the Fall for a partnership in the field of public administration with Moscow State University. Proposals which designate a partner institution in the Sakhalin Region are encouraged.

Tajikistan—in consideration of the State Department Warning advising U.S. citizens to defer travel to Tajikistan, proposals should not include travel by U.S. participants to Tajikistan;

Turkmenistan;

Ukraine—proposals for partnership with institutions located in the Kharkiv region are encouraged;

Uzbekistan.

Partnerships including a secondary foreign partner from a non-NIS country are eligible; however, with the exception noted below, the Bureau will not cover overseas non-NIS partner institution costs.

Central European Partners

The Bureau encourages proposals which build upon established collaboration between U.S. institutions and partners in Central and Eastern Europe in order to support faculty and curriculum development in the NIS and to promote regional cooperation. Within the context of this partnership agreement and under the guidance of the U.S. partner institution, funds may be budgeted for the exchange of faculty between NIS institutions and institutions of higher learning in Central and Eastern Europe (applicants planning to submit proposals for trilateral partnerships with a partner from Central and Eastern Europe are encouraged to contact the program office).

Review Process

The Bureau will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be forwarded to independent reviewers and to Bureau and U.S. Embassy officers for advisory review.

The independent reviewers, who will be professional, scholarly, or educational experts with appropriate regional and thematic knowledge, will provide recommendations and assessments for consideration by the Bureau. The Bureau will consider for funding only those proposals which are

recommended for further consideration by the independent reviewers.

Proposals will also be reviewed by Bureau officers as well as by the U.S. Department of State's Office of the Senior Coordinator for the Newly Independent States and the public diplomacy sections of U.S. Embassies. Proposals may also be reviewed by the Department of State, Office of the Legal Advisor or by other Bureau elements. Funding decisions will be made at the discretion of the Assistant Secretary of State for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) will reside with a contracts officer with competency of Bureau programs.

Review Criteria

Independent reviewers and State Department officers in Washington, DC., and overseas will use the criteria below to reach funding recommendations and decisions. Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank-ordered or weighted.

1. Quality and Clarity of Program Objectives: Proposed programs should outline clearly formulated objectives for each participating institution that will also contribute to the transition of the New Independent States to market economies and decomcracies and to a deepened mutual understanding of fundamental issues and practical applications in the themes eligible for consideration in this competition.

2. Program planning: Proposals should include appropriate and feasible project plans and a detailed schedule which should include a well-reasoned combination of useful and appropriate teaching, faculty development, curriculum development, and outreach. The various activities should be clearly related to project objectives, but need not be equally emphasized within the proposal. Proposals should clearly demonstrate how the partnership will meet the program's objectives and plan.

3. Impact of Program Objectives: Proposal objectives should have sustainable consequences for the participating institutions and the societies and communities which these institutions serve.

4. Support of Diversity: Proposals should demonstrate substantive support of the Bureau's policy on diversity by outlining relevant aspects of the institutional profile of each participating institution together with the relevancy of issues of diversity to program objectives and implementation.

5. Institutional Capacity and Commitment: Proposals should demonstrate commitment of institutional resources adequate and appropriate to achieve program goals. Proposals should demonstrate significant understanding at each institution of its own needs and capacities and of the needs and capacities of its proposed partner(s), together with a strong commitment, during and after the period of grant activity, to cooperate with one anther in the mutual pursuit of institutional objectives. Relevant factors include: the financial and political stability of partner institutions and the availably of a critical mass of faculty willing and able to participate. Proposals which include multiple quarter- or semester-length stays will be more competitive. Proposals should provide evidence of relevant and successful prior interactions between institutions and an indication of collaborative program planning. The Bureau will consider the past performance of prior grant recipients and all reviews will consider the demonstrated potential of new applicants. Reviewers will also consider the quality of exchange participants' academic credentials, skills, and experience relative to the goals and activities of the project plan (e.g. language skills).

6. Project Evaluation: Proposals should include a plan and methodology for evaluating the project's degree of success in meeting program objectives. The plan should include an updated assessment of the current status of each department at the time of program inception; on-going formative evaluation to allow for prompt corrective action; and summative evaluation of the degree of achievement of project objectives together with recommendations for further activities and projects to build upon project achievements.

7. Cost-effectiveness: Administrative costs should be reasonable and appropriate with cost-sharing provided by all participating institutions within the context of their respective capacities and as a reflection of their commitment to cooperation with one anther in pursuing project objectives.

Ineligibility

A proposal will be deemed technically ineligible if:

(1) It does not adhere to the guidelines established herein and in the Solicitation Package;

(2) It is not received by the deadline;

(3) It is not submitted by the U.S. partner;

(4) One of the partner institutions is ineligible;

(5) The academic discipline(s) is/are not listed as eligible in the RFP, herein;

(6) The amount requested of the Bureau exceeds $300,000 for the three-year project.

Please refer to program-specific guidelines (POGI) in the Solicitation Package for further details.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: September 8, 1999.

William P. Kiehl,

Acting Deputy Associate Director for Educational and Cultural Affairs.

[FR Doc. 99–24077 Filed 9–15–99; 8:45 am]

BILLING CODE 8230–01–M

Corrections

Federal Register

Vol. 64, No. 179

Thursday, September 16, 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.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 354

[Docket No. 98–073–1]

User Fees; Agricultural Quarantine and Inspection Services

Correction

In proposed rule document 99–20113 beginning on page 43103 in the issue of Monday, August 9, 1999, make the following correction(s):

1. On page 43109, in the third table labeled, ''AQI USER FEE CALCULATIONS, FY 2002'', on the line ''Commercial aircraft'', under the column ''Raw fee'', ''6.504'' should read ''65.04''.

2. On the same page, in the same table, on the same line, under the column ''Rounded fee'', ''6.525'' should read ''65.25''.

[FR Doc. C9–20113 Filed 9–15–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–99–25]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

Correction

In notice document 99–21040 beginning on page 44253 in the issue of Friday, August 13, 1999, make the following correction:

On page 44254, in the second column, in the fifth line, ''29468'' should read, ''29648''.

[FR Doc. C9–21040 Filed 9–15–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–37]

Realignment of Federal Airway; Rochester, MN

Correction

In rule document 99–23155 appearing on page 48527 in the issue of Tuesday, September 7, 1999, the docket line should appear as set forth above.

[FR Doc. C9–23155 Filed 9–15–99; 8:45 am]

BILLING CODE 1505–01–D

federal register

Thursday
September 16, 1999

Part II

National Aeronautics and Space Administration

14 CFR Parts 1260 and 1274

NASA Grants and Cooperative Agreements; Proposed Rule

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Parts 1260 and 1274

NASA Grants and Cooperative Agreements

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: This proposed rule revises NASA's grant and cooperative agreement regulations in order to clarify and amplify administrative requirements. Revisions have been made to reduce administrative requirements on grant and cooperative agreement recipients and ensure that uniform policies are followed by NASA centers.

DATES: Comments should be submitted on or before November 15, 1999.

ADDRESSES: Interested parties should submit written comments to Jeff Lupis, NASA Headquarters, Office of Procurement, Analysis Division (Code HC), Washington, DC 20546. Comments may also be submitted by e-mail to jlupis@hq.nasa.gov.

FOR FURTHER INFORMATION CONTACT: Jeff Lupis, NASA Headquarters, Code HC, Washington, DC 20546, telephone: (202) 358–0462; e-mail: jlupis@hq.nasa.gov.

SUPPLEMENTARY INFORMATION:

A. Background

A comprehensive revision is being made to NASA grant and cooperative agreement policy codified at 14 CFR 1260, Grants and Cooperative Agreements, and 14 CFR 1274, Grants and Cooperative Agreements with Commercial Firms. The revision has been initiated by NASA as part of re-engineering the process for awarding and administering grants and cooperative agreements. Changes are chiefly aimed at reducing paperwork requirements or clarifying pre-established policies. Three new policies being adopted by NASA relating to titling of equipment, awarding grants to commercial organizations, and vendor registration in the DoD Central Contractor Registration (CCR) System are policies already in use by other agencies. A synopsis of some of the more significant changes being adopted under this revision are: incorporation of a standard grant and cooperative agreement cover page; a new grant numbering system; expanded guidance on appropriate use of grant awards; clarification on participation by foreign organizations; reduction in the lead time goal for awarding grants; streamlined grant award documentation; clarification of grant administration responsibilities; a new policy allowing the award of grants to commercial firms; a new policy that (except for exceptional circumstances) vests title to acquired equipment with the grant recipient as ''exempt'' property, and a new policy requiring CCR registration prior to award of a grant or cooperative agreement.

B. Regulatory Flexibility Act

An initial Regulatory Flexibility Analysis has not been prepared because the proposed changes are 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.* The revisions made under this proposed rule are largely limited to administrative changes to the grant and cooperative agreement award and administration process, other changes (*e.g.* vesting of title to property to grant recipients) will not have a significant economic impact. Also, an estimated two thirds of NASA vendors are already registered in the CCR System.

C. Paperwork Reduction Act

This proposed rule includes a new requirement for collection of information from grant and cooperative agreement recipients for CCR registration. This collection of information requires NASA to obtain approval from the Office of Management and Budget under 44 U.S.C. 3501, *et seq.* The required approval will be requested.

List of Subjects in 14 CFR Parts 1260 and 1274

Grant Programs—Science and Technology.

Tom Luedtke,

Associate Administrator for Procurement.

Accordingly, 14 CFR Chapter V is proposed to be amended as follows:

1. Part 1260 is revised to read as follows:

PART 1260—GRANTS AND COOPERATIVE AGREEMENTS

Subpart A—General

Sec.
1260.1 Authority.
1260.2 Purpose.
1260.3 Definitions.
1260.4 Applicability.
1260.5 Amendment.
1260.6 Publication.
1260.7 Deviations.

Pre-Award Requirements

1260.10 Proposals.
1260.11 Evaluation and selection.
1260.12 Choice of award instrument.
1260.13 Award procedures.
1260.14 Limitations.
1260.15 Format and numbering.
1260.16 Distribution.

Provisions

1260.20 Provisions.
1260.21 Compliance with OMB Circular A–110.
1260.22 Technical publications and reports.
1260.23 Extensions.
1260.24 Termination and enforcement.
1260.25 Change in principal investigator or scope.
1260.26 Financial management.
1260.27 Equipment and other property.
1260.28 Patent rights.
1260.29 Invention reporting and rights.
1260.30 Rights in data.
1260.31 National security.
1260.32 Nondiscrimination.
1260.33 Subcontracts.
1260.34 Clean air and water.
1260.35 Investigative requirements.
1260.36 Travel and transportation.
1260.37 Safety.
1260.38 Drug-Free Workplace.

Special Conditions

1260.50 Special conditions.
1260.51 Cooperative agreement special condition.
1260.52 Multiple year grant or cooperative agreement.
1260.53 Incremental funding.
1260.54 Cost sharing.
1260.55 Reports substitution.
1260.56 Withholding.
1260.57 New technology
1260.58 Designation of new technology representative and patent representative.
1260.59 Choice of law.
1260.60 Public information.
1260.61 Allocation of risk/liability.
1260.62 Payment—to foreign organizations.
1260.63 Customs clearance and visas.
1260.64 Taxes.
1260.65 Exchange of technical data and goods.
1260.66 Listing of reportable equipment and other property.
1260.67 Equipment and other property under grants with commercial firms.
1260.68 Invoices and payments under grants with commercial firms.
1260.69 Electronic funds transfer payment methods.

Post-Award Requirements

1260.70 Delegation of administration.
1260.71 Supplements and renewals.
1260.72 Adherence to original budget estimates.
1260.73 Transfers, novations, and change of name agreements.
1260.74 Property use, disposition, and vesting of title.
1260.75 Summary of report requirements.
1260.76 Termination and enforcement.
1260.77 Closeout procedures.

Appendix to Subpart A to Part 1260—Listing of Exhibits

Subpart B—Uniform Administrative Requirements for Grants and Cooperative Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations

General

1260.101 Purpose.
1260.102 Definitions.
1260.103 Effect on other issuances.
1260.104 Deviations.
1260.105 Subawards.

Pre-Award Requirements

1260.110 Purpose.
1260.111 Pre-award policies.
1260.112 Forms for applying for Federal assistance.
1260.113 Debarment and suspension.
1260.114 Special award conditions.
1260.115 Metric system of measurement.
1260.116 Resource Conservation and Recovery Act (RCRA).
1260.117 Certifications and representations.

Post-Award Requirements

Financial and Program Management

1260.120 Purpose of financial and program management.
1260.121 Standards for financial management systems.
1260.122 Payment.
1260.123 Cost sharing or matching.
1260.124 Program income.
1260.125 Revision of budget and program plans.
1260.126 Non-Federal audits.
1260.127 Allowable costs.
1260.128 Period of availability of funds.

Property Standards

1260.130 Purpose of property standards.
1260.131 Insurance coverage.
1260.132 Real property.
1260.133 Federally-owned and exempt property.
1260.134 Equipment.
1260.135 Supplies and other expendable property.
1260.136 Intangible property.
1260.137 Property trust relationship.

Procurement Standards

1260.140 Purpose of procurement standards.
1260.141 Recipient responsibilities.
1260.142 Codes of conduct.
1260.143 Competition.
1260.144 Procurement procedures.
1260.145 Cost and price analysis.
1260.146 Procurement records.
1260.147 Contract administration.
1260.148 Contract provisions.

Reports and Records

1260.150 Purpose of reports and records.
1260.151 Monitoring and reporting program performance.
1260.152 Financial reporting.
1260.153 Retention and access requirements for records.

Termination and Enforcement

1260.160 Purpose of termination and enforcement.
1260.161 Termination.
1260.162 Enforcement.

After-the-Award Requirements

1260.170 Purpose.
1260.171 Closeout procedures.
1260.172 Subsequent adjustments and continuing responsibilities.
1260.173 Collections of amounts due.

Appendix A to Subpart B of Part 1260—Contract Provisions

Authority: 42 U.S.C. 2473(c)(1), Pub. L. 97–258, 96 Stat. 1003 (31 U.S.C. 6301 *et seq.*), and OMB Circular A–110.

Subpart A—General

§ 1260.1 Authority.

(a) The National Aeronautics and Space Administration (NASA) awards grants and cooperative agreements under the authority of 42 U.S.C. 2473(c)(5), the National Aeronautics and Space Act. This part 1260 is issued under the authority of 42 U.S.C. 2473(c)(1), Pub. L. 97–258, 96 Stat. 1003 (31 U.S.C. 6301 *et seq.*), and OMB Circular A–110.

(b) The Office of Management and Budget (OMB) approved information collection under the Paperwork Reduction Act and assigned OMB control numbers 2700–0047, Property Management and Control; 2700–0048, Patents; and 2700–0049, Financial Management and Control.

§ 1260.2 Purpose.

(a) This subpart A of the NASA Grant and Cooperative Agreement Handbook (also subpart A of 14 CFR part 1260), provides supplemental NASA policies that clarify and amplify government-wide regulations for awarding and administering grants and cooperative agreements with educational and non-profit organizations. The government-wide regulations that this subpart supplements are set forth in OMB Circular A–110 ''Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.'' (NASA has adopted OMB Circular A–110 as subpart B of this part 1260.)

(b) As required by the Office of Management and Budget (OMB), NASA has also adopted the standards set forth in OMB Circular No. A–133, Audits of States, Local Governments, and Non-Profit Organizations.

§ 1260.3 Definitions.

(a) The following definitions are a supplement to the subpart B definitions set forth at § 1260.102. Additional definitions applicable to specific categories of grants and cooperative agreements are set forth at 14 CFR 1273.3 and 14 CFR 1274.102.

(b) Throughout subpart A to this part 1260, the term ''grant'' includes ''cooperative agreement'' unless otherwise indicated.

Administrative grant officer means a Federal employee delegated responsibility for grant administration; *e.g.*, a NASA grant officer who has retained grant administration responsibilities, or an Office of Naval Research (ONR) grant officer delegated grant administration by a NASA grant officer.

Amendment means any document used to effect modifications to grants and cooperative agreements. Amendments may be issued unilaterally at the discretion of the grant officer.

Commercial firm means any corporation, trust or other organization which is organized primarily for profit.

Effective date means the date work can begin, which could be earlier or later than the date of signature on a basic award or modification. Expenditures made prior to award of a grant are incurred at the recipient's risk.

Expiration date means the date of completion specified in the grant, after which expenditures may not be charged against the grant except to satisfy obligations to pay allowable costs committed on or before that date.

Historically Black Colleges and Universities means institutions determined by the Secretary of Education to meet the requirements of 34 CFR 608.2 and listed therein.

Minority educational institution means an institution determined by the Secretary of Education to meet the requirements of 34 CFR 637.4.

Non-profit organization means an organization that qualifies for the exemption from taxation under section 501 of the Internal Revenue Code of 1954, as amended, 26 U.S.C. 501.

Progress report means a concise statement of work accomplished during the report period (see §§ 1260.22 and 1260.75(b)(3)).

Recipient acquired equipment means equipment purchased or fabricated with grant funds by a recipient for the performance of work under its grant.

Small business concern means a concern, including its affiliates, which is independently owned and operated, not dominant in the field of operation in which it is bidding, and qualifies as a small business under the criteria and size standards in 13 CFR part 121.

Small disadvantaged business concern means a small business concern owned and controlled by individuals

who are both socially and economically disadvantaged and meets the criteria set forth at 13 CFR part 24.

Summary of research means a document summarizing the results of the entire project, which includes bibliographies, abstracts, and lists of other media in which the research was discussed.

Women-owned small business concern means a small business concern that is at least 51 percent owned by women who are U.S. citizens and who also control and operate the business (15 U.S.C. 637(d)).

§ 1260.4 Applicability.

(a) Subparts A and B of this part 1260 establish policies and procedures for grants and cooperative agreements awarded by NASA to institutions of higher education, hospitals, and other non-profit organizations.

(b) Subject to the special considerations in this paragraph, subparts A and B of this part 1260 are also applicable to NASA grants and cooperative agreements awarded to commercial firms which do not involve cost sharing. For grants and cooperative agreements with commercial organizations which involve resource contributions by the Recipient, see 14 CFR part 1274.

(1) The allowability of costs incurred by commercial firms is determined in accordance with the provisions of the Federal Acquisition Regulation (FAR) at 48 CFR part 31.

(2) NASA does not allow for payment of profit or fee to commercial firms under grant awards.

(3) When applying the policies set forth under § 1260.74, the grant officer shall vest title to any equipment purchased under the grant with the Government. The special condition at § 1260.67, Equipment and Other Property Under Grants With Commercial Firms, shall be incorporated into all grants with commercial firms in place of the provision at § 1260.27, Equipment and Other Property.

(4) Due to differing NASA patent policies applicable to large businesses, special conditions at § 1260.57, New Technology, and § 1260.58, Designation of New Technology Representative and Patent Representative, shall be incorporated into all grants with commercial firms other than those with small businesses, in place of the provision at § 1260.29, Patent Rights.

(5) Payments under grants with commercial firms will be made based on incurred costs. NASA Form 272 is not required. Commercial firms will be required to submit invoices on a no more than quarterly basis. The special condition at § 1260.68, Invoices and Payments Under Grants With Commercial Firms, shall be incorporated into all grants with commercial firms in place of the provision at § 1260.26, Financial Management.

(6) Payments will be made to commercial firms via electronic funds transfer. The special condition at § 1260.69, Electronic Funds Transfer Payment Method, shall be incorporated into all grants with commercial firms.

(7) Delegation of grant administration functions consistent with the policies set forth at § 1260.70 (*i.e.*, property administration and closeout are to be delegated) will be made to the cognizant field office of the Defense Contract Management Command instead of to the Office of Naval Research. Delegations will be made using NASA Form 1674, Letter of Delegation, for the Administration of Grants and Cooperative Agreements (Exhibit F to subpart A of this part 1260, available at the address given in Exhibit F). Cognizant offices for performing administration under individual grants are set forth in the ''DoD Directory of Contract Administration Services Components,'' which is available on the internet at: http://www.dcmc.hq.dla.mil/casbook/casbook.htm.

§ 1260.5 Amendment.

This part 1260 will be amended by publication of changes in the **Federal Register**. Changes will be issued as Grant Notices and incorporated into the official version of the handbook located at the internet web site.

§ 1260.6 Publication.

The official site for accessing the NASA Grant and Cooperative Agreement Handbook, including current Grant Notices, is on the internet at: http://ec.msfc.nasa.gov/hq/grcover.htm

§ 1260.7 Deviations.

(a) A deviation is required for any of the following:

(1) When a prescribed provision (but not a special condition) set forth verbatim in this part 1260 is modified or omitted.

(2) When a provision is set forth in this part 1260, but not for use verbatim, and the Center substitutes a provision which is inconsistent with the intent, principle, and substance of the provision.

(3) When a form prescribed by this part 1260 is altered or another form is used in its place.

(4) When limitations, imposed by this handbook upon the use of a grant provision, form, procedure, or any other grant action, are changed.

(5) When a form is created for recipient use that constitutes a ''Collection of Information'' within the meaning of the Paperwork Reduction Act (44 U.S.C. 35) and its implementation in 5 CFR part 1320.

(b) Requests for authority to deviate from this part 1260 shall be submitted to the Office of Procurement, NASA Headquarters, Procurement Operations Division (HS). Requests, signed by the procurement officer, shall contain:

(1) A full description of the deviation, the circumstances in which it will be used, and identification of the requirement from which a deviation is sought;

(2) The rationale for the request, pertinent background information, and the intended effect of the deviation;

(3) The name of the recipient, identification of the grant affected, and the dollar value;

(4) A statement as to whether the deviation has been re quested previously, and, if so, details of that request; and

(5) A copy of legal counsel's concurrence or comments.

(c) Where it is necessary to obtain a deviation on OMB Circular A–110 (subpart B of this part 1260), Code HS will process all necessary documents in accordance with 1260.104.

Pre-Award Requirements

§ 1260.10 Proposals.

(a) Consistent with 31 U.S.C. 6301(3), NASA's policy is to use competitive procedures to award grants whenever possible. A grant can result from:

(1) A proposal submitted in response to a Broad Agency Announcement (BAA) such as a NASA Research Announcement (NRA) or an Announcement of Opportunity (AO), a Cooperative Agreement Notice (CAN), an Agencywide program announcement such as the Graduate Student Research Program, or other forms of announcements approved by the Associate Administrator for Procurement (HS). NRA's are described in the NASA FAR Supplement (NFS) 48 CFR 1835.016. AO's are described in 48 CFR part 1872.

(2) An Unsolicited Proposal for new and innovative ideas. Guidance on the submission of unsolicited proposals is contained in the Federal Acquisition Regulation (FAR) 48 CFR subpart 15.6 and (NFS) 48 CFR subpart 1815.6. The synopsis requirement in FAR part 5, however, does not apply to the grant process. Contact with NASA technical personnel prior to proposal submission

is encouraged to determine if preparation of a proposal is warranted. These discussions should be limited to understanding NASA research needs and do not jeopardize the unsolicited status of any subsequently submitted proposal.

(b) The proposal shall contain a detailed narrative description of the work to be undertaken, including the objectives of the project and the applicant's plan for carrying it out.

(1) All proposals shall include budget data as prescribed in the Budget Summary (Exhibit A to subpart A of this part 1260, available at the address given in Exhibit A). Narrative detail must support the proposed budget as required in Exhibit A.

(i) The recipient institution is responsible for ensuring that costs charged are allowable, allocable, and reasonable under the applicable cost principles governed by OMB Circular No. A–21 or A–122. For other details see 1260.127.

(ii) Subject to applicable cost principles, facilities and administrative cost rates are negotiated between recipients and the cognizant agencies assigned under OMB Circular No. A–21. NASA is required to apply the applicable negotiated rate for all grants awarded to the recipient.

(iii) NASA may accept cost sharing when voluntarily offered. For further guidance see 1260.123. For grants and cooperative agreements with commercial organizations that involve costs sharing, see 14 CFR part 1274. The amount of cost sharing will not be a factor in determining whether to select a proposal for award. However, recipients may be requested to secure nonfederal matching funds equal to the program portion of training and education grants. In accordance with NASA policy to foster continuity of research, multiple year grant proposals are encouraged, where appropriate, for a period generally up to three years. Proposals for multiple year grants shall describe the entire research project and include a complete budget for year one and separate estimates for each subsequent year.

(2) A Taxpayer Identification Number (TIN) must be included with the address listed on the proposal. If an award is made, advance payments cannot be made without a TIN (31 U.S.C. 7702(c)(1)).

(3) Prior to implementation of the Integrated Financial Management (IFM) System at each center, all grant and cooperative agreement recipients are required to register in the Department of Defense (DoD) Central Contractor Registeration (CCR) database. Registration is required in order to obtain a Commercial and Government Entity (CAGE) code, which will be used as a grant and cooperative agreement identification number for the new system. The grant officer shall verify that the prospective awardee is registered in the CCR database using the DUNS number or, if applicable, the DUNS+4 number, via the Internet at *http://ccr.edi.disa.mil/ccr/cgi-bin/status.pl* or by calling toll free: 800–841–4431, commercial: 696–961–5757.

(c)(1) Grant officers are required to ensure that all necessary certifications, disclosures, and assurances have been obtained prior to awarding a grant or cooperative agreement.

(2) Each new proposal shall include a certification for debarment and suspension under the requirements of 14 CFR 1265.510 and 1260.117.

(3) Each new proposal for an award exceeding $100,000 shall include a certification, and a disclosure form (SF LLL) if required, on Lobbying under the requirements of 14 CFR 1271.110 and 1260.117.

(4) Unless a copy is on file at the NASA center, recipients must furnish an assurance on NASA Form (NF) 1206 on compliance with Civil Rights statutes specified in 14 CFR parts 1250 through 1253.

§ 1260.11 Evaluation and selection.

(a) Technical evaluation of proposals will be conducted by the cognizant NASA technical office and may be based on peer reviews.

(b) Under NRA's, AO's, other BAA's, and CAN's, the selecting official will furnish documentation requested by the grant officer, (including a copy of the NRA, selection statement, and peer review evaluation if requested), to confirm that the award is being made as a result of a selection under a NRA, AO, other BAA, or CAN. The technical office will forward to the grant office a completed award package, including a funded procurement request, technical evaluation of the proposed budget, and other support documentation, at least 29 days prior to the requested award date, or before the expiration of the funded period in the case of the renewal of an existing effort.

(c) If a proposal is not selected, the proposer will be notified by the selecting official in accordance with the procedures set forth in the NRA, AO, CAN, or BAA.

(d) Unsolicited proposals will be evaluated in accordance with the following procedure:

(1) Evaluations of unsolicited proposals to be awarded as grants or cooperative agreements will be conducted using the same criteria used for reviewing unsolicited proposals to be awarded as contracts, as set forth at FAR subpart 15.6 and (NFS) 48 CFR subpart 1815.6. Normally, unsolicited proposals are accepted to perform discrete projects with defined anticipated outcomes and completion dates. An unsolicited proposal that results in a grant or cooperative agreement with no defined end date, and which requires subsequent submission of follow-on unsolicited proposals to ensure continuation of the effort, should be closely reviewed to ensure that it meets the FAR definition for a valid unsolicited proposal.

(2) An unsolicited proposal recommended for acceptance shall be supported by a Justification for Acceptance of an Unsolicited Proposal (JAUP) prepared by the cognizant technical office. The JAUP shall be submitted for the approval of the grant officer after review and concurrence at a level above the technical officer. However, this review and concurrence is not required for technical officers at a division chief or higher level. The grant officer's signature on the award document will indicate approval of the JAUP.

(3) NASA will notify in writing organizations that submit unsolicited proposals that will not be funded. Method of notification is at the discretion of the grant officer. Proposals will be returned only when requested. Agency procedures for handling unsolicited proposals are specified at (NFS) 48 CFR 1815.606.

(e) For awards made non-competitively, written justifications for equipment or travel will be submitted by the technical office for grant officer approval when more than half of the proposed budget is for equipment or travel and associated indirect cost. The justification shall describe the extent to which the equipment or travel is necessary. The grant officer's signature on the award will indicate approval of the justification.

(f) The evaluation of the proposal budget will conform to the following procedure:

(1) The technical officer will review the proposer's estimated cost for conformance to program requirements and fund availability. The results of this review shall be recorded in Column B of the proposed Budget Summary Form (Exhibit A to subpart A of this part 1260, available at the address given in Exhibit A). New budgets are not required when the program office recommended funding is within twenty percent (20 percent) of the proposed amount, provided specific proposed

objectives have not been added or deleted. However, when funding decreases in equipment and/or subcontracts are involved, the cognizant program office is required to identify the cost element(s) affected by the change in funding level.

(2) The grant officer will review the budget, and any changes made by the technical officer, to identify any item which may be unallowable under the cost principles, or which appears unreasonable or unnecessary. The grant officer will complete Column C of the Budget Summary after discussing significant changes with the recipient and/or technical office. Requests for details from the recipient should be limited.

(3) The grant officer will address requests for direct charge of equipment in the negotiation summary, and state whether the purchase is approved as a direct cost.

(g) 42 U.S.C. 2459d prohibits NASA from funding any grant for longer than one year if the effect is to provide a guaranteed customer base for new commercial space hardware or services. The only exception would be if an Appropriations Act specifies the new commercial space hardware or services to be used.

(h) NASA reserves the right to either fully fund or incrementally fund grants based on fiscal law and program considerations. Grants with anticipated annual funding exceeding $50,000 may be funded for less than the amount stated in the proposal.

(1) The grant officer will determine the number of incremental funding actions that will be allowed.

(2) The special condition at § 1260.53, Incremental Funding, will be included in the grant.

(i) Proposals for efforts that involve printing, binding, and duplicating in excess of 25,000 pages are subject to the Government Printing and Binding Regulations, No. 26, February 1990, S. Pub. 101–9, U.S. Government Printing Office, Washington, DC 20402, published by the Congressional Joint Committee on Printing. The technical office will refer such proposals to the Installation Central Printing Management Officer (ICPMO). The grant officer will be advised in writing of the results of the ICPMO review.

(j) The provision at § 1260.30, Rights in Data, is adequate only for grants for basic or applied research where the principal purpose (or only expected NASA involvement) is the publication or dissemination of the results, such as in journals or NASA publications (see § 1260.22). Rights in data for other types of grants and cooperative agreements should be developed with Center Patent Counsel on a case-by-case basis.

(k) By acceptance of a grant (containing the provision at § 1260.34) the recipient agrees that it is in compliance with the Clean Air and Federal Water Pollution Control Acts. The Administrator may approve exemptions from this prohibition under certain circumstances under Executive Order 11738. Requests for exemptions or renewals thereof shall be made to the Office of Procurement, NASA Headquarters, Program Operations Division (Code HS), Washington, DC 20546.

(l) Requests for acquisition of property may be made by a recipient either as part of the original budget proposal or subsequent to award. Comprehensive guidance on evaluating requests for acquisition of property, vesting of title, and administration issues, is set forth at § 1260.74.

§ 1260.12 Choice of award instrument.

(a) This section and § 1260.111 provide guidance on the appropriate choice of award instruments consistent with 31 U.S.C. 6301 to 6308. Throughout § 1260.12, the term ''grant'' does not include ''cooperative agreements.''

(b)(1) A procurement contract is a mutually binding legal relationship obligating the seller to furnish supplies or services (including construction), and the buyer pays for them.

(2) The principal purpose of a procurement contract is to acquire, for NASA's direct use or benefit, a well-defined, specific effort clearly required for the accomplishment of a scheduled NASA mission or project.

(3) If it is determined that a procurement contract is the appropriate type of funding instrument to meet NASA's purposes, the procurement shall be conducted under the FAR and the NFS (48 CFR chapter 18).

(4) If an action is to be awarded for a dollar amount below the simplified acquisition threshold, the action may be completed by a contracting officer as a purchase order. The purchase order must be properly modified to include necessary language pertaining to data rights, key personnel requirements, and any other necessary requirements as determined by the contracting officer.

(c) A grant shall be used as the legal instrument to reflect a relationship between NASA and a recipient whenever the principal purpose is the transfer of anything of value to the recipient to accomplish a public purpose of support or stimulation authorized by Federal statute. Grants are distinguished from cooperative agreements in that substantial involvement is not expected between NASA and the recipient when carrying out the activity. Grants are distinguished from contracts in that grants provide financial assistance to the recipient to conduct a fairly autonomous program; contracts entail acquisition. Various types of NASA grants contain different provisions and conditions as described in §§ 1260.20 and 1260.50. The major types of grants and cooperative agreements are defined as follows. Grants and cooperative agreements to carry out other authorized purposes should be used to the extent appropriate, and must be in compliance with OMB Circular A–110.

(1) Research grant. A research grant shall be used to accomplish a NASA objective through stimulating or supporting the acquisition of knowledge or understanding of the subject or phenomena under study, or attempting to determine and exploit the potential of scientific discoveries or improvements in technology, materials, processes, methods, devices, or techniques and advance the state of the art. The recipient will bear prime responsibility for the conduct of research, and exercises judgment and original thought toward attaining the scientific goals within broad parameters of the research areas proposed and the resources provided;

(2) Education grant. An education grant is an agreement that provides funds to an educational institution or other nonprofit organizations within one or more of the following areas:

(i) Capturing student interest and/or improving student performance in science, mathematics, technology, or related fields;

(ii) Enhancing the skill, knowledge, or ability of teachers or faculty members in science, mathematics, or technology;

(iii) Supporting national educational reform movements;

(iv) Conducting pilot programs or research to increase participation and/or to enhance performance in science, mathematics, or technology education at all levels; and

(v) Developing instructional materials (*e.g.*, teacher guides, printed publications, computer software, and videotapes) or networked information services for education;

(3) Training grant. A training grant is an agreement that provides funds primarily for scholarships, fellowships, or stipends to students, teachers, and/or faculty.

(i) NASA training grants are awarded to colleges, universities, or other non-profit organizations; not to individual students, teachers, or faculty members.

It is the responsibility of the institution receiving the grant to approve the faculty, teachers, and/or students who will participate in the specific program, in cooperation with NASA. If a student, teacher, or faculty member ceases to participate in the program for any reason, the institution, with prior NASA approval, may appoint another student, teacher, or faculty member to complete the remaining portion of the grant period. Replacement students, teachers, and/or faculty electing to apply for the following program year are not automatically entitled to an award and are subject to the evaluation/selection procedures administered to new applicants. Any participant receiving support under a NASA training grant may not concurrently hold another Federal fellowship or traineeship.

(ii) No applicant shall be denied consideration or appointment on the grounds of race, creed, color, national origin, age, sex, or disability.

(iii) Students and faculty receiving direct support under a NASA training grant must be U.S. citizens, except for those supported by the NASA Earth System Science Fellowship Program, the Graduate Student Fellowship in Global Change Research Program, and the GLOBE Program.

(iv) Duration of the award is program specific. Refer to program policies and procedures for details. Renewal is contingent upon a successful performance evaluation as prescribed by the program, concurrence by the NASA technical officer, and the availability of funds.

(v) No substantial involvement is expected between NASA and the recipient. A student or faculty member receiving support under a NASA training grant does not incur any formal obligation to the Government.

(vi) The use of training grant funds to acquire equipment, or to acquire or construct facilities will not be permitted. Government furnished equipment will not be provided.

(vii) An Administrative Report must be submitted under the guidelines described by the specific program policies and procedures.

(4) Facilities grant. A facilities grant is used to provide for the acquisition, construction, use, maintenance, and disposition of facilities. Facilities, as used in this section, means property used for production, maintenance, research, development, or testing. Prior approval by the Associate Administrator of Procurement is required before proceeding with a facilities grant. To obtain prior approval, a package will be forwarded to the Director, Program Operations Division (HS), during the planning phase of the grant, that includes pertinent background information, details on Congressional Authorization, dollar value, and name of the recipient. Other information, such as a copy of the proposed facility grant award document, is not required. It is unlikely an award will be approved unless specifically authorized by Congress. A review by legal counsel to assure legal sufficiency is also required.

(d) Cooperative agreement. A cooperative agreement shall be used as the legal instrument reflecting a relationship between NASA and a recipient whenever the principal purpose is the transfer of anything of value to the recipient to accomplish a public purpose of support or stimulation authorized by Federal statute, and substantial involvement is anticipated between NASA and the recipient during performance of the contemplated activity (31 U.S.C. 6305). Characteristics inherent in a cooperative agreement include those that apply to a grant, plus the following:

(1) Substantial NASA involvement in and contribution to the technical aspects of the effort are necessary for its accomplishment. This could involve an active NASA role in collaborative relations, access to a NASA site or equipment, or sharing NASA facilities and personnel. For example, a university investigator could work for a substantial amount of time at a NASA Center, a NASA investigator could work at a university, or when the collaboration is such that a jointly authored report or education curriculum product is appropriate;

(2) The project, conducted as proposed, would not be possible without extensive NASA-recipient technical collaboration;

(3) The nature of the collaboration shall be clearly defined and specified in the special condition at § 1260.51.

(e)(1) Grants and cooperative agreements with foreign organizations. Grants and cooperative agreements with foreign organizations provide for research to be performed in whole, or in part, by a foreign organization, with funding being provided by NASA to the foreign organization as reimbursement for the work performed.

(2) It is NASA policy that, in general, research with foreign organizations will not be conducted through grants or cooperative agreements, but instead will be accomplished on a no-exchange-of-funds basis. In these cases, NASA enters into agreements undertaking projects of international scientific collaboration. In rare instances, NASA may enter into an international agreement under which funds will be transferred to a foreign recipient.

(3) Grants and cooperative agreements to foreign organization are made on an exceptional basis only. Awards require the prior approval of the Headquarters Office of External Relations (Code I) and the Headquarters Office of the General Counsel (Code G). Requests to award foreign grants or cooperative agreements are to be coordinated through the Office of Procurement, Program Operations Division (Code HS). Requests for approval shall contain:

(i) The identity of the foreign entity, the country or countries involved, and the purpose of the grant or cooperative agreement.

(ii) The Space Act Agreement(s) or underlying international agreement involved, if any.

(iii) A description of the effort to be undertaken by the entity described in paragraph (e)(3)(i) of this section, including their dollar value.

(iv) The reason why the grant or cooperative agreement requires a placement with a foreign organization.

(v) The reason why the work can not be accomplished on a no exchange of funds basis.

(4) Grants and cooperative agreements to foreign organizations require a review by the Office of General Counsel.

(5) The requirements of this section do not apply to the purchase of supplies or services (excluding research) from non-U.S. sources by U.S. grant or cooperative agreement recipients, when necessary to support research efforts.

(f)(1) The decision whether to use a contract, grant or cooperative agreement as an award instrument must be based on the principal purpose of the relationship. When NASA, within its authority, enters into a transaction where the principal purpose is to accomplish a public purpose of support or stimulation authorized by Federal statute, a grant or a cooperative agreement is the appropriate instrument. Conversely, if the principal purpose of a transaction is to accomplish a NASA requirement, *i.e.*, to produce something for NASA's own use, a procurement contract is the appropriate instrument. Two essential questions must be asked to ensure that a grant or cooperative agreement is the appropriate instrument. The first question is: Will NASA be directly harmed in furthering a specific NASA mission requirement if the effort is not accomplished? The answer to this question must be ''no.'' The second question is: Is the work being performed by the recipient primarily for its own purposes, which NASA is merely supporting with financial or other

assistance? The answer to this question must be ''yes.'' If these criteria are met, then the effort is not a NASA requirement, and can then be considered as to whether it supports or stimulates a public purpose.

(2) In applying the principal purpose test, it must be determined whether the Government is the direct beneficiary or user of the activity. If NASA provides the specifications for the project; or is having the project completed based on its own identified needs; or will directly use the report or result of the project for a scheduled NASA mission, then, in most cases, the principal purpose is to acquire property or services for the direct benefit or use of NASA, and thus, a contractual relationship exists. However, there may be cases where NASA expects to derive some incidental use or benefit from funded activities. In fact, any extramural expenditure that furthers the Agency's goals or mission can be said to be of benefit or use to the Government. But not every expenditure produces for the Government a benefit or use that is direct; *i.e.*, immediate, uninterrupted, or specific. Where an expenditure will produce a benefit or use that is only indirect in nature, a grant or cooperative agreement may be used.

(3) The status of the entity involved is not a primary factor in determining the appropriate award instrument. For example, an entity that operates on a non-profit basis may receive funding through a contract, and is not limited to receiving grants or cooperative agreements. Similarly, a profit-making firm may receive funding through grants, cooperative agreements, or contracts.

(4) NASA offices may be mandated through their missions to support specific scientific, educational, or training programs. The office may be accountable to NASA management, the Administration, or Congress for oversight and proper implementation of the program, may require direct oversight, may be directly accountable for the results of the program and that the work be successfully completed. Whenever the office requesting the grant or cooperative agreement would be directly harmed in performing its mission if an award was not made, a grant or cooperative agreement is not appropriate. Specific examples of situations requiring special scrutiny include—

(i) Education grants that for the administration of a program for which the education office is directly responsible;

(ii) Research or education grants to establish and support university laboratories on a non-competitive basis, with the resulting work of direct benefit to NASA; or

(iii) Training grants that hire university students, on a non-competitive basis, to perform work at a NASA Center in direct support of NASA personnel, and perform work which is required in support of a NASA mission.

(5) A grant may be used to provide funding to an association to hold a conference (among its members and NASA officials) where the benefits flow primarily to the association and its members, not to NASA. The principal purpose will be to advance research or other purposes of the association. Thus, NASA may not direct an association in arranging the conference or in providing other services for NASA's benefit. The conference should be run by the association, not by NASA. Conferences sponsored or initiated by NASA primarily to meet a specific NASA need or obtain information for the direct benefit of NASA must be supported by means of a contract.

§ 1260.13 Award procedures.

(a) Award instruments are classified as follows:

(1) Annual grants are grants awarded for a short term (*e.g.*, on an annual basis).

(2) Multiple year grants support research projects that may span several years.

NASA policy is to make maximum use of multiple year grants. A Multiple Year Grant is generally selected for a period of three years in keeping with NASA's policy calling for research to be peer reviewed at least every three years. Grants with periods of performance in excess of three years may be appropriate when the NASA technical office determines at the inception of the grant that a period of performance in excess of three years is necessary to complete a discrete research effort.

(i) If the decision to provide multiple year funding to a research proposal is made, the special condition at § 1260.52, Multiple Year Grant or Cooperative Agreement, will be included in the award.

(ii) Periods approved under the Multiple Year Grant or Cooperative Agreement special condition at § 1260.52, and funded at the levels specified in the special condition, are not considered to be new awards. Therefore, new proposals, new proposal-related certifications (such as Disclosure of Lobbying Activities, and Debarment and Suspension), new technical evaluations, and new budget proposals are not required, as long as this information for the multiple year period was reviewed and approved as part of the original proposal.

(iii) If NASA program constraints or developments within the research project dictate a reduction in the funding level specified under a Multiple Year Grant period, research may continue at the reduced level under the terms of the provisions; however, the recipient may rebudget under the grant provisions to keep the project within the funding actually provided.

(3) An augmentation to a grant may be issued as a supplement at any time when work is introduced which is outside the scope of the approved proposal or when there is a need for substantial unanticipated funding. Augmentations require the submission of revised budget proposals and technical evaluations covering the additional work. Since augmentations will be performed within the existing period of performance, certifications will not normally be required.

(4) A grant extension may be placed to extend the grant beyond the expiration date, in accordance with the provision at § 1260.23, Extensions, if additional time beyond the established period of performance is required to assure adequate completion of the original scope of work within the available funding.

(5) Grant renewals provide for continuation of research beyond the original scope, period of performance and funding levels; therefore, new proposals, certifications and technical evaluations are required prior to the execution of a grant renewal. Grant renewals will be awarded as new grants. Continued performance within a period specified under the Multiple Year Grant provision does not constitute a renewal. For research originally awarded through a competitive NRA, CAN, or other competitive announcement that has completed its period of performance, peer review of a proposal to continue the research should be accomplished prior to selecting the research grant for renewal. If the effort was originally awarded through an unsolicited proposal, a new justification to accept the unsolicited proposal would be required (however, also see § 1260.12(g)(5)). Multiple year grant special conditions may be incorporated into renewals.

(b) While NASA normally provides full funding support for research grants, alternate methods of grant funding are as follows:

(1) Since NASA grant recipients usually gain no measurable commercial or economic benefit from grants, other than conducting research, cost sharing for research grants is not generally

required. NASA may, however, accept cost sharing when voluntarily offered. Additionally, in instances when the grant officer determines that the recipient will benefit from the research results through sales to non-Federal entities, cost sharing based upon this mutuality of interest will apply. See § 1260.123. When cost sharing is used, the grant officer shall insert a Special Condition substantially as shown in § 1260.54, Cost Sharing. (See 14 CFR part 1274 for grants and cooperative agreements with commercial organizations involving cost sharing.)

(2) NASA may provide partial support for a research project or conference where additional funding is being provided by other Federal agencies. If the grant also involves cost sharing by the recipient, the grant officer will ensure that the recipient's share does not include any Federal funds.

§ 1260.14 Limitations.

(a) NASA does not award grants merely to provide donative assistance no matter how worthy the purpose, but to the extent that appropriations are available to carry out authorized Agency programs. Research in any academic discipline related to NASA interests normally will qualify. However, advice of legal counsel should be sought in unusual situations, or when unusual project activities or organizational attributes are evident.

(b) It is NASA's policy that non-monetary (zero dollar) grants or cooperative agreements shall not be used, except for no-cost extensions.

(c) Loans of Government personal property not associated with a contract, grant, or cooperative agreement under 31 U.S.C. 6301 to 6308, and made under the Space Act of 1958, should be consummated as loan agreements. Also, excess Government research property may be donated to educational institutions and nonprofit organizations pursuant to 15 U.S.C. 3710(I). See § 51260.133(a)(2).

(d) Neither grants nor cooperative agreements shall be used as legal instruments for consulting service arrangements.

§ 1260.15 Format and numbering.

(a) A grant shall be brief, containing only those provisions and special conditions necessary to protect the interests of the Government.

(b) Cover page formats shown in Exhibit B to subpart A of part 1260 shall be used for all NASA grant and cooperative agreement award documents. Provisions for grants with U.S. organizations shall be incorporated by reference, and preprinted checklists may be used (Exhibit C to subpart A of this part 1260). Both special conditions and provisions for grants with foreign organizations will be printed in full text. An acceptance block may be added when the grant officer finds it necessary to require bilateral execution of the grant. Program budgets are not generally attached to the award document. When it is necessary to attach the budget due to revisions to the original proposed budget or other reasons, this information should be suitably marked as confidential, and is not be disclosed outside of the Government without the consent of the grantee.

(c) The Identification Numbering System to be used prior to Integrated Financial Management Project (IFMP) implementation will be applied as follows:

(1) For research, education, and facilities grants, numbering shall conform to (NFS) 48 CFR 1804.7102(a) by including the Center Identification Number, except that a NAG prefix will be used in lieu of the NAS prefix (*e.g.*, NAG5 would be the Goddard prefix designation). They will be sequentially numbered.

(2) Cooperative agreements will use the prefix NCC plus the Center Identification Number. They will be sequentially numbered.

(3) Training grants will use the prefix NGT plus the Center Identification Number. They will be sequentially numbered.

(4) The Catalog of Federal Domestic Assistance (CFDA) Numbers does not apply to NASA grants.

(d) The Identification Numbering System will be revised after IFMP implementation. There will be a phase-in term for Center implementation of the IFMP. For centers using IFMP Performance Purchasing; the following numbering system shall be used:

(1) *Document Type for grants.* For research, education, facilities, and training grants, the document type prefix GR shall be used.

(2) *Document Type for cooperative agreements.* Cooperative agreements will use the prefix CO.

(3) *Agency Identifier.* The Agency identifier NAS shall follow the document number.

(4) Center Smart Codes. The Center identifier shall follow the document type:

Installation	Smart code
Ames Research Center	A
Dryden Flight Research Center	D
Glenn Research Center	C
Goddard Space Flight Center	G
Headquarters	H
Johnson Space Center	J
Kennedy Space Center	K
Langley Research Center	L
Marshall Space Flight Center	M
NASA Management Office-JPL	P
Stennis Space Center	S

(5) Fiscal Year. The fiscal year shall be represented as two digits.

(6) Procurement Code. ''G'' will be used as the procurement code to identify grants. Cooperative Agreements will be identified using ''A'' as the procurement code.

(7) Serial Numbers. Installations shall number grants and cooperative agreements serially by fiscal year. The serial number shall be six digits commencing with ''000001'' and continuing in succession.

(8) As an example of the above set forth methodology, the first two grants awarded by Marshall Space Flight Center in fiscal year 1999 would be GRNASM99G000001 and GRNASM99G000002.

(9) The Catalog of Federal Domestic Assistance (CFDA) Numbers does not apply to NASA grants.

§ 1260.16 Distribution.

(a) Copies of grants and supplements will be provided to—

(1) Payment offices (original copy);

(2) Technical officers;

(3) Administrative grant officers when delegated;

(4) The NASA Center for AeroSpace Information (CASI), Attn: Document Processing Section, 7121 Standard Drive, Hanover, MD 21076; and

(5) Other appropriate offices as determined by the grant officer.

(b) In addition to receipt of grants and supplements, the administrative grant officer will receive a copy of the approved budget.

(c) The file will record the addresses for distribution.

Provisions

§ 1260.20 Provisions.

(a) Research grants, education grants, and cooperative agreements with U.S. educational institutions and nonprofit organizations shall incorporate by reference the provisions set forth in §§ 1260.21 through 1260.38. Training grants shall incorporate by reference the provisions set forth in §§ 1260.21 through 1260.38, except that the grant officer will substitute § 1260.22, Technical Publications and Reports, with reporting requirements as specified by the program office.

(b) Facilities grants provisions will be selected on a case-by-case basis (please refer to § 1260.50).

(c) Research grants awarded to foreign organizations, when approved by Headquarters, will include the following provisions at a minimum: §§ 1260.21, 1260.22, 1260.23, 1260.24, 1260.25, 1260.26, 1260.27, 1260.29, 1260.33, 1260.35, 1260.36 and 1260.37. Additional special conditions will be selected on a case by case basis (please refer to 1260.50). All provisions will be provided in full text. Referenced handbooks, statutes, or other regulations, which the recipient may not have access to, must be made available when requested by the foreign organization.

(d) The provisions set forth at § 1260.21 through 1260.38 do not apply to awards made under the Federal Demonstration Partnership (FDP). FDP awards are subject to the FDP Phase III General Terms and Conditions and the NASA Agency Specific Requirements Modifications to the General Terms and Conditions (Exhibit D to subpart A of this part 1260). Since these documents are provided directly to the FDP institutions, they are not to be attached to FDP grants. However, the grant officer will include a statement similar to the following on FDP grants: ''The Federal Demonstration Partnership General Terms and Conditions and NASA Agency-specific Requirements apply to this award.''

(e) Grants or cooperative agreements awarded by NASA to the Commercial Space Centers under the Space Development and Commercial Research (SDCR) Program require special conditions in addition to those set forth at §§ 1260.21 through 1260.38. SDCR Special Conditions are required to be included in full text for all SDCR Grants and Cooperative Agreements (Exhibit E to subpart A of this part 1260). Changes or additions to these Special Conditions must be approved by the Office of Space Utilization and Product Development (Code UM) prior to the award of the grant. Requests for changes or additions are to be coordinated through the Office of Procurement, Program Operations Division (Code HS).

(f) Grants and cooperative agreements awarded by NASA to commercial organizations where cost sharing is not required shall incorporate the provisions set forth at §§ 1260.21 through 1260.38, modified as set forth under § 1260.4(b).

(g) Grants and cooperative agreements not specifically classified elsewhere in this section, but that are awarded for other authorized purposes, shall include provisions selected on a case-by-case basis.

(h) Whenever the word ''grant'' appears in §§ 1260.21 through 1260.38, it shall be deemed to include, as appropriate, the term ''cooperative agreement.''

§ 1260.21 Compliance with OMB Circular A–110.

Compliance With OMB Circular A–110 (Date)

This grant or cooperative agreement is subject to the requirements set forth in OMB Circular A–110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations. Recipients are required to comply with the requirements of A–110, as adopted by NASA as subpart B of part 1260 of title 14 of the Code of Federal Regulations. Specific provisions set forth in this award document are provided to supplement and clarify, not replace, the Circular, except in circumstances where a waiver from Circular requirements has been obtained by NASA.

[End of provision]

§ 1260.22 Technical publications and reports.

(This provision describes standard reporting requirements that should be applied in most circumstances. The requirements set forth under this provision may be modified by the grant officer based on specific report needs for the grant or cooperative agreement, provided that reporting requirements do not conflict with § 1260.151. Any special reporting requirements will be set forth as a special condition in the award document.)

Technical Publications and Reports (Date)

(a) NASA encourages the widest practicable dissemination of research results at any time during the course of the investigation. All information disseminated as a result of the grant shall contain a statement which acknowledges NASA's support and identifies the grant by number (*e.g.,* ''The material is based upon work supported by NASA under award No(s) GRNASM99G000001, etc.'').

(b) Reports shall be in the English language, informal in nature, and ordinarily not exceed three pages (not counting bibliographies, abstracts, and lists of other media). The recipient shall submit the following reports:

(1) A Progress Report for all but the final year of the grant. Each report is due 60 days before the anniversary date of the grant and shall briefly describe what was accomplished during the reporting period as outlined in § 1260.151(d). A special condition specifying more frequent reporting may be required.

(2) A Summary of Research (or Educational Activity Report in the case of Education Grants) is due within 90 days after the expiration date of the grant, regardless of whether or not support is continued under another grant. This report shall be a comprehensive summary of significant accomplishments during the duration of the grant.

(c) Progress Reports, Summaries of Research, and Educational Activity Reports shall include the following on the first page:

(1) Title of the grant.

(2) Type of report.

(3) Name of the principal investigator.

(4) Period covered by the report.

(5) Name and address of the recipient's institution.

(6) Grant number.

(d) Progress Reports, Summaries of Research, and Educational Activity Reports shall be distributed as follows:

(1) The original report, in both hard copy and electronic format, to the Technical Officer.

(2) One copy to the NASA Grant Officer, with a notice to the Administrative Grant Officer, (when administration of the grant has been delegated to ONR), that a report was sent.

(e) For Summaries of Research and published reports, one microreproducible copy shall also be sent to the NASA Center for AeroSpace Information (CASI), Attn: Document Processing Section, 7121 Standard Drive, Hanover, MD 21076.

[End of provision]

§ 1260.23 Extensions.

Extensions (Date)

(a) It is NASA policy to provide maximum possible continuity in funding grant-supported research and educational activities, therefore, grants may be extended for additional periods of time when necessary to complete work that was part of the original award. NASA generally only approves such extensions within funds already made available. Any extension that would require additional funding must be supported by a proposal submitted at least three months in advance of the expiration date of the grant.

(b) In accordance with § 1260.125(e)(2), Recipients may extend the expiration date of a grant if additional time beyond the established expiration date is required to assure adequate completion of the original scope of work within the funds already made available. For this purpose, the recipient may make a one-time no-cost extension, not to exceed 12 months, prior to the established expiration date. Written notification of such an extension request, with the supporting reasons, must be received by the NASA Grant Officer at least ten days prior to the expiration of the award. A copy of the extension request must also be forwarded to cognizant Office of Naval Research office. NASA reserves the right to disapprove the extension if the requirements set forth at § 1260.125(e)(2) are not met.

(c) Requests for approval for all other no-cost extensions must be submitted in writing to the NASA Grant Officer. Copies are to be forwarded to the cognizant Office of Naval Research office.

[End of provision]

§ 1260.24 Termination and enforcement.

Termination and Enforcement (Date)

As a clarification to the termination and enforcement conditions of this award specified in §§ 1260.160 through 1260.162, although NASA's policy is to consult with the recipient, NASA reserves the right to suspend or terminate the award without prior notice when it believes such action is necessary to protect the interest of the Government.

[End of provision]

§ 1260.25 Change in principal investigator or scope.

Change in Principal Investigator or Scope (Date)

The following guidance is provided as an amplification to prior approval requirements set forth at § 1260.125(c):

(a) The Recipient shall obtain the approval of the NASA Grant Officer for a change of the principal investigator, or for a significant absence of the Principal Investigator from the project, defined as a three month absence from the program or a 25 percent reduction in time devoted to the project. Significantly reduced availability of the services of the principal investigator(s) named in the grant instrument could be grounds for termination, unless alternative arrangements are made and approved in writing by the Grant Officer.

(b) Prior written approval is required from NASA if there is to be a significant change in the objective or scope.

[End of provision]

§ 1260.26 Financial management.

Financial Management (Date)

(a) Advance payments by electronic funds transfer will be made by the Financial Management Office of the NASA Center which issued the grant in accordance with procedures provided to the recipient. The recipient shall submit Federal Cash Transaction Reports (SF 272) to the aforementioned office and to the Administrative Grant Officer (if NASA has delegated administration) within 15 working days following the end of each Federal fiscal quarter, containing current estimates of the cash requirements for each of the four months following the quarter being reported. The final SF 272 is due within 90 days after the expiration date of the grant. The final SF 272 shall be submitted to the Financial Management Office, with copies sent to the NASA Grant Officer, and to the Administrative Grant Officer when the Office of Naval Research (ONR) has been delegated grant closeout responsibilities.

(b) Unless otherwise directed by the Grant Officer, any unexpended balance of funds which remains at the end of any funding period, except the final funding period of the grant, shall be carried over to the next funding period, and may be used to defray costs of any funding period of the grant. This includes allowing the carry over of funds to the second and subsequent years of a multiple year grant. This provision also applies to subcontractors performing substantive work under the grant. For grant renewals, the estimated amount of unexpended funds shall be identified in the grant budget section of the recipient's renewal proposal. NASA reserves the right to remove unexpended balances from grants when insufficient efforts have been made by the grantee to liquidate funding balances in a timely fashion.

[End of provision]

§ 1260.27 Equipment and other property.

Equipment and Other Property (Date)

(a) On an exceptional basis, NASA permits acquisition of special purpose and general purpose equipment specifically required for use exclusively for research activities.

(1) Acquisition of special purpose or general purpose equipment costing in excess of $5,000 (unless a lower threshold has been established by the recipient) and not included in the approved proposal budget, requires the prior approval of the NASA Grant Officer. Requests to the NASA Grant Officer for the acquisition of equipment shall be supported by written documentation setting forth the description, purpose, and acquisition value of the equipment, and including a written certification that the equipment will be used exclusively for research, activities. (A change in the model number of a prior approved piece of equipment does not require re-submission for that item.)

(2) NASA may elect to take title to items of special purpose or general purpose equipment after it is no longer necessary for performance of the grant. The recipient will be advised of the Government's intention to take title in writing if the item is approved for recipient purchase. Generally, the notification is made through inclusion of the special condition at 1260.66, Listing of Reportable Equipment and Other Property. If the Government does not exercise its right to take title to property acquired by the recipient with grant funds at the time the acquisition is approved, the property will be considered exempt according to 1260.133(b). When property is classified as exempt, the recipient shall hold title without further obligation to the Federal Government, including reporting of the equipment.

(3) Special purpose or general purpose equipment acquired by the recipient with grant funds, valued under $5,000 (unless a lower threshold is established by the recipient) are classified as ''supplies,'' do not require the prior approval of the NASA Grant Officer, shall vest in the recipient, and will be considered ''exempt'' in accordance with 1260.133(b).

(4) Grant funds may be expended for the acquisition of land or interests therein or for the acquisition and construction of facilities *only* under a facilities grant, as defined in 1260.12(g).

(b) The recipient shall submit an annual Inventory Report, to be received no later than October 31 of each year, which lists all reportable (non-exempt equipment and/or Federally owned property) in its custody as of September 30. Negative responses for annual Inventory Reports (when there is no reportable equipment) are not required. A Final Inventory Report of Federally Owned Property, including equipment where title was taken by the Government, will be submitted by the recipient no later than 60 days after the expiration date of the grant. Negative responses for Final Inventory Reports are required.

(1) All reports will include the information listed in paragraph (f)(1) of 1260.134, Equipment. No specific report form or format is required, provided that all necessary information set forth at 1260.134(f)(1) is provided.

(2) The original of each report shall be submitted to the Center Deputy Chief Financial Officer, Finance (DCFO(F)). Copies shall be furnished to the Center Industrial Property Officer and to ONR.

[End of provision]

§ 1260.28 Patent rights.

Patent Rights (Date)

As stated at 1260.136, this award is subject to the provisions of 37 CFR 401.3(a) which requires use of the standard clause set out at 37 CFR 401.14 ''Patent Rights (Small Business Firms and Nonprofit Organizations)'' and the following:

(a) Where the term ''contract'' or ''contractor'' is used in the ''Patent Rights'' clause, the term shall be replaced by the term ''grant'' or ''recipient,'' respectively.

(b) In each instance where the term ''Federal Agency,'' ''agency,'' or ''funding Federal agency'' is used in the ''Patent Rights'' clause, the term shall be replaced by the term ''NASA.''

(c) The NASA regulation applicable to paragraph (e) of the ''Patent Rights'' clause is at 37 CFR part 404, Licensing of Government-owned Inventions.

(d) The following item is added to the end of paragraph (f) of the ''Patent Rights'' clause: ''(5) The recipient shall include a list of any Subject Inventions required to be disclosed during the preceding year in the performance report, technical report, or renewal proposal. A complete list (or a negative statement) for the entire award period shall be included in the summary of research.''

(e) The term ''subcontract'' in paragraph (g) of the ''Patent Rights'' clause shall include purchase orders.

(f) The NASA implementing regulation for paragraph (g)(2) of the ''Patent Rights'' clause is at 48 CFR 1827.304–4(a)(i)(B).

(g) The following requirement constitutes paragraph (l) of the ''Patent Rights'' clause:

''(l) Communications. A copy of all submissions or requests required by this clause, plus a copy of any reports, manuscripts, publications or similar material bearing on patent matters, shall be sent to the Center Patent Counsel and the NASA Grant Officer in addition to any other submission requirements in the grant provisions. If any reports contain information describing a ''subject invention'' for which the recipient has elected or may elect to retain title, NASA will use reasonable efforts to delay public release by NASA or publication by NASA in a NASA technical series until an application filing date has been established, provided that the recipient identify the information and the ''subject invention'' to which it relates at the time of submittal. If required by the NASA Grant Officer, the recipient shall

provide the filing date, serial number and title, a copy of the patent application, and a patent number and issue date for any ''subject invention'' in any country in which the recipient has applied for patents.''

(h) NASA Inventions. NASA will use reasonable efforts to report inventions made by NASA employees as a consequence of, or which bear a direct relation to, the performance of specified NASA activities under this agreement and, upon timely request, will use reasonable efforts to grant the recipient an exclusive, or partially exclusive, revocable, royalty-bearing license, subject to the retention of a royalty-free right of the Government to practice or have practiced the invention by or on behalf of the Government.

(i) In the event NASA contractors are tasked to perform work in support of specified activities under a cooperative agreement and inventions are made by contractor employees, the recipient will normally retain title to its employee inventions in accordance with 35 U.S.C. 202, 14 CFR part 1245, and Executive Order 12591. In the event the recipient decides not to pursue rights to title in any such invention and NASA obtains title to such inventions, NASA will use reasonable efforts to report such inventions and, upon timely request, will use reasonable efforts to grant the recipient an exclusive, or partially exclusive, revocable, royalty-bearing license, subject to the retention of a royalty-free right of the Government to practice or have practiced the invention by or on behalf of the Government.

[End of provision]

§ 1260.29 Invention reporting and rights.

(The grant officer may revise the language under paragraph (d) of this provision to modify each party's rights based on the particular circumstances of the program and/or the recipient's need to protect specific proprietary information. Any modification to the standard language set forth under the provision requires the concurrence of the Center's Patent Counsel and the provision be printed in full text.)

Invention Reporting and Rights (Date)

(a) As used in this provision:

(1) The term ''invention'' means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code, or any novel variety of plant which is or may be protected under the Plant Variety Protection Act (7 U.S.C. 2321 *et seq.*).

(2) The term ''made'' when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(b) The recipient shall report promptly to the grant officer each invention made in the performance of work under this grant. The report of such invention shall—

(1) Identify the inventor(s) by full name; and

(2) Include such full and complete technical information concerning the invention as is necessary to enable an understanding of the nature and operation thereof.

(c) Reporting shall be made on NASA Form 1679 Disclosure of Invention and New Technology (Including Software).

(d) The recipient hereby grants to the Government of the United States of America, as represented by the Administrator of the National Aeronautics and Space Administration, the full rights, title, and interest in and to each such invention throughout the world.

§ 1260.30 Rights in data.

(The grant officer may revise the language under this provision to modify each party's rights based on the particular circumstances of the program and/or the recipients need to protect specific proprietary information. Any modification to the standard language set forth under the provision requires the concurrence of the Center's Patent Counsel and that the provision be printed in full text.)

Rights in Data (Date)

(a) Fully Funded Efforts.

(1) ''Data'' means recorded information, regardless of form, the media on which it may be recorded, or the method of recording. The term includes, but is not limited to, data of a scientific or technical nature, computer software and documentation thereof, and data comprising commercial and financial information.

(2) The recipient grants to the Federal Government, a royalty-free, nonexclusive and irrevocable license to use, reproduce, distribute (including distribution by transmission) to the public, perform publicly, prepare derivative works, and display publicly, data in whole or in part and in any manner for Federal purposes and to have or permit others to do so for Federal purposes only.

(3) In order that the Federal Government may exercise its license rights in data, the Federal Government, upon request to the recipient, shall have the right to review and/or obtain delivery of data resulting from the performance of work under this grant, and authorize others to receive data to use for Federal purposes.

(b) Cost Sharing and/or Matching Efforts. When the recipient cost shares with the Government on the effort, the following is added:

''(5) In the event data first produced by recipient in carrying out recipient's responsibilities under an agreement is furnished to NASA, and recipient considers such data to embody trade secrets or to comprise commercial or financial information which is privileged or confidential, and such data is so identified with a suitable notice or legend, the data will be maintained in confidence and disclosed and used by the Government and its contractors (under suitable protective conditions) only for experimental, evaluation, research and development purposes, by or on behalf of the Government for an agreed to period of time, and thereafter for Federal purposes as defined in § 1260.30(a)(2).''

(c) *Add the following paragraph in Cooperative Agreements.*

''(#) As to data first produced by NASA in carrying out NASA's responsibilities under a cooperative agreement and which data would embody trade secrets or would comprise commercial or financial information that is privileged or confidential if it has been obtained from the recipient, such data will be marked with an appropriate legend and maintained in confidence for 5 years (unless a shorter period has been agreed to between the Government and recipient) after development of the information, with the express understanding that during the aforesaid period such data may be disclosed and used (under suitable protective conditions) by or on behalf of the Government for Government purposes only, and thereafter for any purpose whatsoever without restriction on disclosure and use. Recipient agrees not to disclose such data to any third party without NASA's written approval until the aforementioned restricted period expires.''

[End of provision]

§ 1260.31 National security.

National Security (Date)

Normally, NASA grants do not involve classified information. However, if it is known in advance that a grant involves classified information or if the work on the grant is likely to develop classified information, individuals performing on the grant who will have access to the information must obtain the appropriate security clearance in advance of performing on the grant, in accordance with NASA Policy Guidance (NPG) 1620.1 Security Procedures and Guidelines. When access to classified information is not originally anticipated in the performance of a grant, but such information is subsequently sought or potentially developed by the grant recipient, the NASA Grant Officer who issued the grant shall be notified immediately, and prior to work under the grant proceeding, to implement the appropriate clearance requirements.

[End of provision]

§ 1260.32 Nondiscrimination.

Nondiscrimination (Date)

(a) To the extent provided by law and any applicable agency regulations, this award and any program assisted thereby are subject to the provisions of Title VI of the Civil Rights Act of 1964 (Public Law 88–352), Title IX of the Education amendments of 1972 (Public Law 92–318, 20 U.S.C. 1681 *et seq.*), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), the Age Discrimination Act of 1975 (Public Law 94–135), the implementing regulations issued pursuant thereto by NASA, and the assurance of compliance which the recipient has filed with NASA.

(b) The recipient shall obtain from each organization that applies or serves as a subrecipient, contractor or subcontractor under this award (for other than the provision of commercially available supplies, materials, equipment, or general support services) an assurance of compliance as required by NASA regulations.

(c) Work on NASA grants is subject to the provisions of Title VI of the Civil Rights Act

of 1964 (Public Law 88–352; 42 U.S.C. 2000d–l), Title IX of the Education Amendments of 1972 (20 U.S.C. 1680 *et seq.*), Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), the Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*), and the NASA implementing regulations (14 CFR parts 1250, 1251, 1252, and 1253).

[End of provision]

§ 1260.33 Subcontracts.

Subcontracts (Date)

(a) Recipients shall notify NASA when a subcontract award will be made that falls within the thresholds established at § 1260.144(e). When pre-award review of a subcontract is requested by the NASA Grant Officer in accordance with § 1260.144(e), the following specific documents will be made available to the NASA Grant Officer. (The Grant Officer can request additional documents):

(1) A copy of the proposed subcontract.

(2) The basis for subcontractor selection.

(3) Justification for lack of competition when competitive bids or offers are not obtained.

(4) The subcontract budget and basis for subcontract cost or price.

(b) The recipient (with the exception of foreign organizations) shall utilize small business concerns, small disadvantaged business concerns, Historically Black Colleges and Universities, minority educational institutions, and women-owned small business concerns as subcontractors to the maximum extent practicable.

[End of provision]

§ 1260.34 Clean air and water.

Clean Air and Water (Date)

(Applicable only if the award exceeds $100,000, or a facility to be used has been the subject of a conviction under the Clean Air Act (42 U.S.C. 1857c–8(c)(1) or the Federal Water Pollution Control Act (33 U.S.C. 1319(c)), and is listed by EPA, or if the award is not otherwise exempt). The recipient agrees to the following:

(a) Comply with applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended (42 U.S.C. 7401 *et seq.*) and of the Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*).

(b) Ensure that no portion of the work under this award will be performed in a facility listed on the Environmental Protection Agency (EPA) List of Violating Facilities on the date that this award was effective unless and until the EPA eliminates the name of such facility or facilities from such listings.

(c) Use its best efforts to comply with clean air standards and clean water standards at the facility in which the award is being performed.

(d) Insert the substance of the provisions of this clause into any nonexempt subaward or contract under the award.

(e) Report violations to NASA or to EPA.

[End of provision]

§ 1260.35 Investigative requirements.

Investigative Requirements (Date)

(a) As requested by NASA, the recipient of each grant, and any other individuals to perform on the grant, agree to provide sufficient personal/biographical information necessary to conduct an investigation of the individual's background. The purpose of the investigation is to allow access to a NASA Center, or to NASA information, for performance of this grant. The recipient acknowledges that NASA reserves the right to perform security checks, and to deny or restrict access to a NASA Center, facility, computer system, or technical information as appropriate.

(b) All visit requests must be submitted in a timely manner in accordance with instructions provided by the Center(s) to be visited.

[End of provision]

§ 1260.36 Travel and transportation.

Travel and Transportation (Date)

(a) The Fly American Act, 49 U.S.C. 1517, requires the recipient to use U.S. flag air carriers for international air transportation of personnel and property to the extent that service by those carriers is available.

(b) Department of Transportation regulations, 49 CFR part 173, govern recipient shipment of hazardous materials and other items.

[End of provision]

§ 1260.37 Safety.

Safety (Date)

(a) The recipient shall act responsibly in matters of safety and shall take all reasonable safety measures in performing under this grant or cooperative agreement. The recipient shall comply with all applicable federal, state, and local laws relating to safety. The recipient shall maintain a record of, and will notify the NASA Grant Officer of any accident involving death, disabling injury or substantial loss of property. The recipient will advise NASA of hazards that come to its attention as a result of the work performed through routine status reports furnished in compliance with this grant or cooperative agreement.

(b) Where the work under this grant or cooperative agreement involves flight hardware, the hazardous aspects, if any, of such hardware will be identified, in writing, by the recipient. Compliance with this provision by subcontractors shall be the responsibility of the recipient.

[End of provision]

§ 1260.38 Drug-free workplace.

Drug-Free Workplace (Date)

(a) Definitions. As used in this provision—

Controlled substance means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in regulation at 21 CFR 1308.11 through 1308.15.

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.

Drug-free workplace means the site(s) for the performance of work done by the Recipient in connection with a specific grant or cooperative agreement at which employees of the Recipient are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

Employee means an employee of a Recipient directly engaged in the performance of work under a Government grant or cooperative agreement. ''Directly engaged'' is defined to include all direct cost employees and any other Recipient employee who has other than a minimal impact or involvement in performance of the grant or cooperative agreement.

Individual means a proposer/recipient that has no more than one employee including the proposer/recipient.

(b) The Recipient, if other than an individual, shall—within 30 days after award (unless a longer period is agreed to in writing), or as soon as possible for grants and cooperative agreements of less than 30 days performance duration—

(1) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Recipient's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(2) Establish an ongoing drug-free awareness program to inform such employees about—

(i) The dangers of drug abuse in the workplace;

(ii) The Recipient's policy of maintaining a drug-free workplace;

(iii) Any available drug counseling, rehabilitation, and employee assistance programs; and

(iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(3) Provide all employees engaged in performance of the grant or cooperative agreement with a copy of the statement required by paragraph (b)(1) of this provision;

(4) Notify such employees in writing in the statement required by paragraph (b)(1) of this provision that, as a condition of continued employment on the grant or cooperative agreement, the employee will—

(i) Abide by the terms of the statement; and

(ii) Notify the employer in writing of the employee's conviction under a criminal drug statute for a violation occurring in the workplace no later than 5 days after such conviction;

(5) Notify the Grant Officer in writing within 10 days after receiving notice under paragraph (b)(4)(ii) of this provision, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;

(6) Within 30 days after receiving notice under paragraph (b)(4)(ii) of this provision of

a conviction, take one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace:

(i) Taking appropriate personnel action against such employee, up to and including termination; or

(ii) Require such employee to satisfactorily participate 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; and

(7) Make a good faith effort to maintain a drug-free workplace through implementation of paragraphs (b)(1) though (b)(6) of this provision.

(c) The Recipient, if an individual, agrees by acceptance of the grant or cooperative agreement, not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance during performance.

(d) In addition to other remedies available to the Government, the Recipient's failure to comply with the requirements of paragraph (b) or (c) of this provision may render the Recipient subject to suspension of payments, termination of the grant or cooperative agreement, and suspension or debarment.

[End of provision]

Special Conditions

§ 1260.50 Special conditions.

(a) In addition to the provisions set forth in §§ 1260.21 through 1260.38, NASA grants and cooperative agreements are subject to special conditions, which either are not applicable to all awards or are temporary in nature. Examples are found in §§ 1260.51 through 1260.69, but NASA may impose other conditions as discussed in § 1260.114 or as the requirements dictate. Deviations are not required for changes made to special conditions.

(b) Special conditions will be printed in full text.

(c) In facilities grants, special conditions will be selected on a case-by-case basis. As appropriate, the requirements of the following sections will apply: § 1260.123(c), Cost Sharing or Matching; § 1260.125(h), Revision of Budget and Program Plans; and § 1260.132, Real Property.

(d) Research grants with foreign organizations will include special conditions at §§ 1260.59 through 1260.61, modified as necessary, when not covered under a Memorandum of Agreement (MOA). In addition, other special conditions (e.g., §§ 1260.62 through 1260.65) will be written with the aid of legal counsel, and added when necessary.

§ 1260.51 Cooperative agreement special condition.

Cooperative Agreement Special Condition (Date)

(a) This award is a cooperative agreement as it is anticipated there will be substantial NASA involvement during performance of the effort. NASA and the recipient mutually agree to the following statement of anticipated cooperative interactions which may occur during the performance of this effort:

(*Reference the approved proposal that contains a detailed description of the work and insert a concise statement of the exact nature of the cooperative interactions that deals with existing facts and not contingencies.*)

(b) The terms ''grant'' and ''recipient'' mean ''cooperative agreement'' and ''recipient of cooperative agreement,'' respectively, wherever the terms appear in provisions and special conditions included in this agreement.

(c) NASA's ability to participate and perform its collaborative effort under this cooperative agreement is subject to the availability of appropriated funds and nothing in this cooperative agreement commits the United States Congress to appropriate funds therefor.

§ 1260.52 Multiple year grant or cooperative agreement.

Multiple Year Grant or Cooperative Agreement (Date)

This is a multiple year grant or cooperative agreement. Contingent on the availability of funds, scientific progress of the project, and continued relevance to NASA programs, NASA anticipates continuing support at approximately the following levels:

Second year $_____, Anticipated funding date _____.

Third year $_____, Anticipated funding date _____. (Periods may be added or omitted, as applicable)

§ 1260.53 Incremental funding.

Incremental Funding (Date)

(a) Only $_____ of the amount indicated on the face of this award is available for payment and allotted to this award. NASA contemplates making additional allotments of funds during performance of this effort. It is anticipated that these funds will be obligated as appropriated funds become available without any action required by the recipient. The recipient will be given written notification by the NASA Grant Officer.

(b) The recipient agrees to perform work up to the point at which the total amount paid or payable by the Government approximates but does not exceed the total amount actually allotted to this grant or cooperative agreement. NASA is not obligated to reimburse the recipient for the expenditure of amounts in excess of the total funds allotted by NASA to this grant or cooperative agreement. The recipient is not authorized to continue performance beyond the amount allotted to this award.

§ 1260.54 Cost sharing.

Cost Sharing (Date)

(a) NASA and the recipient will share in providing the resources necessary to perform the agreement. NASA funding and non-cash contributions (personnel, equipment, facilities, etc.) and the dollar value of the recipient's cash and/or non-cash contribution will be on a ____ percent NASA; ____ percent recipient basis.

(b) The funding and non-cash contributions by both parties is represented by the following dollar amounts:

Government Share _____

Recipient Share _____

Total Amount _____

(c) Criteria and procedures for the allowability and allocability of cash and non-cash contributions shall be governed by § 1260.123, Cost Sharing or Matching. The applicable Federal cost principles are cited in § 1260.127.

(d) The recipient's share shall not be charged to the Government under this agreement or under any other contract, grant, or cooperative agreement.

§ 1260.55 Reports substitution.

Reports Substitution (Date)

Technical Reports may be substituted for the required Performance Reports. The title page of such reports shall clearly indicate that the substitution has been made and will show the period covered by the originally required Performance Report.

§ 1260.56 Withholding.

Withholding (Date)

If a recipient fails to comply with the terms and conditions of this grant or cooperative agreement, including reporting requirements, NASA may withhold advance payments under this award, and may also withhold future awards to the recipient, pending correction of the deficiency by the recipient. If advance payments are withheld, the Grant Officer will notify the NASA Financial Management Office when payments may resume.

§ 1260.57 New technology.

New Technology (Date)

(a) Definitions.

Administrator, as used in this special condition, means the Administrator of the National Aeronautics and Space Administration (NASA) or duly authorized representative.

Grant, as used in this special condition, means any actual or proposed grant, cooperative agreement, understanding, or other arrangement, and includes any assignment, substitution of parties, or subcontract executed or entered into thereunder.

Made, as used in this special condition, means conception or first actual reduction to practice; provided, that in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act, 7 U.S.C. 2401(d)) must also occur during the period of grant performance.

Nonprofit organization, as used in this special condition, means a domestic university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)), or any domestic nonprofit scientific or educational organization qualified under a State nonprofit organization statute.

Practical application, as used in this special condition, means to manufacture, in the case of a composition or product; to practice, in the case of a process or method; or to operate, in case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

Reportable item, as used in this special condition, means any invention, discovery, improvement, or innovation of the grantee, whether or not patentable or otherwise protectable under Title 35 of the United States Code, made in the performance of any work under any NASA grant or in the performance of any work that is reimbursable under any provision in any NASA grant providing for reimbursement of costs incurred before the effective date of the grant. Reportable items include, but are not limited to, new processes, machines, manufactures, and compositions of matter, and improvements to, or new applications of, existing processes, machines, manufactures, and compositions of matter. Reportable items also include new computer programs, and improvements to, or new applications of, existing computer programs, whether or not copyrightable or otherwise protectable under Title 17 of the United States Code.

Small business firm, as used in this special condition, means a domestic small business concern as defined at 15 U.S.C. 632 and implementing regulations (see 13 CFR 121.401 through 121.413) of the Administrator of the Small Business Administration.

Subject invention, as used in this special condition, means any reportable item which is or may be patentable or otherwise protectible under Title 35 of the United States Code, or any novel variety of plant that is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321 *et seq.*).

(b) Allocation of principal rights.

(1) Presumption of title.

(i) Any reportable item that the Administrator considers to be a subject invention shall be presumed to have been made in the manner specified in paragraph (1) or (2) of section 305(a) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457(a)) (hereinafter called ''the Act''), and that presumption shall be conclusive unless at the time of reporting the reportable item the Recipient submits to the Grant Officer a written statement, containing supporting details, demonstrating that the reportable item was not made in the manner specified in paragraph (1) or (2) of section 305(a) of the Act.

(ii) Regardless of whether title to a given subject invention would otherwise be subject to an advance waiver or is the subject of a petition for waiver, the Recipient may nevertheless file the statement described in paragraph (b)(1)(i) of this special condition. The Administrator will review the information furnished by the Recipient in any such statement and any other available information relating to the circumstances surrounding the making of the subject invention and will notify the Recipient whether the Administrator has determined that the subject invention was made in the manner specified in paragraph (1) or (2) of section 305(a) of the Act.

(2) Property rights in subject inventions. Each subject invention for which the presumption of paragraph (b)(1)(i) of this special condition is conclusive or for which there has been a determination that it was made in the manner specified in paragraph (1) or (2) of section 305(a) of the Act shall be the exclusive property of the United States as represented by NASA unless the Administrator waives all or any part of the rights of the United States, as provided in paragraph (b)(3) of this special condition.

(3) Waiver of rights.

(i) Section 305(f) of the Act provides for the promulgation of regulations by which the Administrator may waive the rights of the United States with respect to any invention or class of inventions made or that may be made under conditions specified in paragraph (1) or (2) of section 305(a) of the Act. The promulgated NASA Patent Waiver Regulations, 14 CFR part 1245, subpart 1, have adopted the Presidential Memorandum on Government Patent Policy of February 18, 1983, as a guide in acting on petitions (requests) for such waiver of rights.

(ii) As provided in 14 CFR part 1245, subpart 1, Recipients may petition, either prior to execution of the grant or within 30 days after execution of the grant, for advance waiver of rights to any or all of the inventions that may be made under a grant. If such a petition is not submitted, or if after submission it is denied, the Recipient (or an employee inventor of the Recipient) may petition for waiver of rights to an identified subject invention within eight months of first disclosure of the invention in accordance with paragraph (e)(2) of this special condition, or within such longer period as may be authorized in accordance with 14 CFR 1245.105.

(c) Minimum rights reserved by the Government.

(1) With respect to each subject invention for which a waiver of rights is applicable in accordance with 14 CFR part 1245, subpart 1, the Government reserves—

(i) An irrevocable, nonexclusive, nontransferable, royalty-free license for the practice of such invention throughout the world by or on behalf of the United States or any foreign government in accordance with any treaty or agreement with the United States; and

(ii) Such other rights as stated in 14 CFR 1245.107.

(2) Nothing contained in this paragraph (c) shall be considered to grant to the Government any rights with respect to any invention other than a subject invention.

(d) Minimum rights to the Recipient.

(1) The Recipient is hereby granted a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a subject invention and any resulting patent in which the Government acquires title, unless the Recipient fails to disclose the subject invention within the times specified in paragraph (e)(2) of this special condition. The Recipient's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the Recipient is a party and includes the right to grant sublicenses of the same scope to the extent the Recipient was legally obligated to do so at the time the grant was awarded. The license is transferable only with the approval of the Administrator except when transferred to the successor of that part of the Recipient's business to which the invention pertains.

(2) The Recipient's domestic license may be revoked or modified by the Administrator to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with 37 CFR part 404, Licensing of Government Owned Inventions. This license will not be revoked in that field of use or the geographical areas in which the Recipient has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the Administrator to the extent the Recipient, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, the Recipient will be provided a written notice of the Administrator's intention to revoke or modify the license, and the Recipient will be allowed 30 days (or such other time as may be authorized by the Administrator for good cause shown by the Recipient) after the notice to show cause why the license should not be revoked or modified. The Recipient has the right to appeal to the Administrator any decision concerning the revocation or modification of its license.

(e) Invention identification, disclosures, and reports.

(1) The Recipient shall establish and maintain active and effective procedures to assure that reportable items are promptly identified and disclosed to Recipient personnel responsible for the administration of this New Technology special condition within six months of conception and/or first actual reduction to practice, whichever occurs first in the performance of work under this grant. These procedures shall include the maintenance of laboratory notebooks or equivalent records and other records as are reasonably necessary to document the conception and/or the first actual reduction to practice of the reportable items, and records that show that the procedures for identifying and disclosing reportable items are followed. Upon request, the Recipient shall furnish the Grant Officer a description of such procedures for evaluation and for determination as to their effectiveness.

(2) The Recipient will disclose each reportable item to the Grant Officer within

two months after the inventor discloses it in writing to Recipient personnel responsible for the administration of this New Technology special condition or, if earlier, within six months after the Recipient becomes aware that a reportable item has been made, but in any event for subject inventions before any on sale, public use, or publication of such invention known to the Recipient. The disclosure to the agency shall be in the form of a written report and shall identify the grant under which the reportable item was made and the inventor(s) or innovator(s). It shall be sufficiently complete in technical detail to convey a clear understanding, to the extent known at the time of the disclosure, of the nature, purpose, operation, and physical, chemical, biological, or electrical characteristics of the reportable item. The disclosure shall also identify any publication, on sale, or public use of any subject invention and whether a manuscript describing such invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the agency, the Recipient will promptly notify the agency of the acceptance of any manuscript describing a subject invention for publication or of any on sale or public use planned by the Recipient for such invention.

(3) The Recipient shall furnish the Grant Officer the following:

(i) Interim reports every 12 months (or such longer period as may be specified by the Grant Officer) from the date of the grant, listing reportable items during that period, and certifying that all reportable items have been disclosed (or that there are no such inventions) and that the procedures required by paragraph (e)(1) of this special condition have been followed.

(ii) A final report, within 3 months after completion of the grant work, listing all reportable items or certifying that there were no such reportable items, and listing all subcontracts at any tier containing a patent rights clause or certifying that there were no such subcontracts.

(4) The Recipient agrees, upon written request of the Grant Officer, to furnish additional technical and other information available to the Recipient as is necessary for the preparation of a patent application on a subject invention and for the prosecution of the patent application, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions.

(5) The Recipient agrees, subject to FAR 27.302(j), that the Government may duplicate and disclose subject invention disclosures and all other reports and papers furnished or required to be furnished pursuant to this special condition.

(f) Examination of records relating to inventions.

(1) The Grant Officer or any authorized representative shall, until 3 years after final payment under this grant, have the right to examine any books (including laboratory notebooks), records, and documents of the Recipient relating to the conception or first actual reduction to practice of inventions in the same field of technology as the work under this grant to determine whether—

(i) Any such inventions are subject inventions;

(ii) The Recipient has established and maintained the procedures required by paragraph (e)(1) of this special condition; and

(iii) The Recipient and its inventors have complied with the procedures.

(2) If the Grant Officer learns of an unreported Recipient grantee invention that the Grant Officer believes may be a subject invention, the Recipient may be required to disclose the invention to the agency for a determination of ownership rights.

(3) Any examination of records under this paragraph will be subject to appropriate conditions to protect the confidentiality of the information involved.

(g) Withholding of payment (this paragraph does not apply to subcontracts).

(1) Any time before final payment under this grant, the Grant Officer may, in the Government's interest, withhold payment until a reserve not exceeding $50,000 or 5 percent of the amount of this grant, whichever is less, shall have been set aside if, in the Grant Officer's opinion, the Recipient fails to—

(i) Establish, maintain, and follow effective procedures for identifying and disclosing reportable items pursuant to paragraph (e)(1) of this special condition;

(ii) Disclose any reportable items pursuant to paragraph (e)(2) of this special condition;

(iii) Deliver acceptable interim reports pursuant to paragraph (e)(3)(i) of this special condition; or

(iv) Provide the information regarding subcontracts pursuant to paragraph (h)(4) of this special condition.

(2) Such reserve or balance shall be withheld until the Grant Officer has determined that the Recipient has rectified whatever deficiencies exist and has delivered all reports, disclosures, and other information required by the grant.

(3) Final payment under the grant shall not be made before the Recipient delivers to the Grant Officer all disclosures of reportable items required by paragraph (e)(2) of this special condition, and an acceptable final report pursuant to paragraph (e)(3)(ii) of this special condition.

(4) The Grant Officer may decrease or increase the sums withheld up to the maximum authorized in paragraph (g)(1) of this special condition. No amount shall be withheld under this paragraph while the amount specified by this paragraph is being withheld under other provisions of the grant. The withholding of any amount or the subsequent payment thereof shall not be construed as a waiver of any Government rights.

(h) Subcontracts.

(1) Unless otherwise authorized or directed by the Grant Officer, the Recipient shall—

(i) Include the clause at NASA FAR Supplement (NFS) 1852.227–70, New Technology, (suitably modified to identify the parties) in any subcontract hereunder (regardless of tier) with other than a small business firm or nonprofit organization for the performance of experimental, developmental, or research work; and

(ii) Include the clause at FAR 52.227–11 (suitably modified to identify the parties) in any subcontract hereunder (regardless of tier) with a small business firm or nonprofit organization for the performance of experimental, developmental, or research work.

(2) In the event of a refusal by a prospective subcontractor to accept such a clause the Recipient—

(i) Shall promptly submit a written notice to the Grant Officer setting forth the subcontractor's reasons for such refusal and other pertinent information that may expedite disposition of the matter; and

(ii) Shall not proceed with such subcontract without the written authorization of the Grant Officer.

(3) In the case of subcontracts at any tier, the agency, subcontractor, and Recipient agree that the mutual obligations of the parties created by this special condition constitute a contract between the subcontractor and NASA with respect to those matters covered by this grant.

(4) The Recipient shall promptly notify the Grant Officer in writing upon the award of any subcontract at any tier containing a patent rights clause by identifying the subcontractor, the applicable patent rights clause, the work to be performed under the subcontract, and the dates of award and estimated completion. Upon request of the Grant Officer, the Recipient shall furnish a copy of such subcontract, and, no more frequently than annually, a listing of the subcontracts that have been awarded.

(5) The subcontractor will retain all rights provided for the Recipient in paragraph (h)(1)(i) or (ii) of this special condition, whichever is included in the subcontract, and the Recipient will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(i) Preference for United States industry. Unless provided otherwise, no Recipient that receives title to any subject invention and no assignee of any such Recipient shall grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement may be waived by the Administrator upon a showing by the Recipient or assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

§ 1260.58 Designation of new technology representative and patent representative.

Designation of New Technology Representative and Patent Representative (Date)

(a) For purposes of administration of the special condition of this grant entitled ''New Technology,'' the following named representatives are hereby designated by the Grant Officer to administer such special condition:

Title	Office code	Address (including zip code)
New Technology Representative Patent Representative		

(b) Reports of reportable items, and disclosure of subject inventions, interim reports, final reports, utilization reports, and other reports required by the special condition, as well as any correspondence with respect to such matters, should be directed to the New Technology Representative unless transmitted in response to correspondence or request from the Patent Representative. Inquires or requests regarding disposition of rights, election of rights, or related matters should be directed to the Patent Representative. This special condition shall be included in any subcontract hereunder requiring a ''New Technology'' provision or ''Patent Rights—Retention by the Contractor (Short Form)'' clause, unless otherwise authorized or directed by the Grant Officer. The respective responsibilities and authorities of the above-named representatives are set forth in 1827.305–370 of the NASA FAR Supplement.

§ 1260.59 Choice of law.

Choice of Law (Date)

The rights and obligations of the parties to the grant (or cooperative agreement) shall be ascertainable by recourse to the laws of the United States of America. However, it is understood that the laws of the recipient's country will generally apply to recipient activities within that country.

§ 1260.60 Public information.

Public Information (Date)

Information regarding this grant (including a copy of this award document) may be released by the recipient without restriction. However, technical information relating to work performed under this grant where there was a NASA contribution should be released by the recipient only after consultation with the NASA Technical Officer.

§ 1260.61 Allocation of risk/liability.

Allocation of Risk/Liability (Date)

(a) With respect to activities undertaken under this agreement, the recipient agrees not to make any claim against NASA or the U.S. Government with respect to the injury or death of its employees or its contractors and subcontractor employees, or to the loss of its property or that of its contractors and subcontractors, whether such injury, death, damage or loss arises through negligence or otherwise, except in the case of willful misconduct.

(b) In addition, the recipient agrees to indemnify and hold the U.S. Government and its contractors and subcontractors harmless from any third party claim, judgment, or cost arising from the injury to or death of any person, or for damage to or loss of any property, arising as a result of its possession or use of any U.S. Government property.

§ 1260.62 Payment—to foreign organizations.

Payment—To Foreign Organizations

(For grants or cooperative agreements with foreign organizations, this clause will be developed on a case-by-case basis.)

§ 1260.63 Customs clearance and visas.

Customs Clearance and Visas

(For grants or cooperative agreements with foreign organizations, this clause will be developed on a case-by-case basis.)

§ 1260.64 Taxes.

Taxes

(For grants or cooperative agreements with foreign organizations, this clause will be developed on a case-by-case basis.)

§ 1260.65 Exchange of technical data and goods.

Exchange of Technical Data and Goods

(For grants or cooperative agreements with foreign organizations, this clause will be developed on a case-by-case basis.)

§ 1260.66 Listing of reportable equipment and other property.

Listing of Reportable Equipment and Other Property (Date)

(a) Title to federally-owned property provided to the recipient remains vested in the Federal Government, and shall be managed in accordance with 1260.133. The following items of federally-owned property are being provided to the recipient for use in performance of the work under this grant or cooperative agreement:

{List property or state ''not applicable.''}

(b) The following specific items of equipment acquired by the recipient have been identified by NASA for transfer of title to the Government when no longer required for performance under this grant or cooperative agreement. This equipment will be managed in accordance with § 1260.134, and shall be transferred to NASA or NASA's designee in accordance with the procedures set forth at § 1260.134(g):

{List property or state ''not applicable.''}

§ 1260.67 Equipment and other property under grants with commercial firms.

Equipment and Other Property Under Grants With Commercial Firms (Date)

(a) This grant permits acquisition of special purpose equipment required for the conduct of research. Acquisition of special purpose equipment costing in excess of $5,000 and not included in the approved proposal budget requires the prior approval of the Grant Officer unless the item is merely a different model of an item shown in the approved proposal budget.

(b) Recipients may not purchase, as a direct cost to the grant, items of general purpose equipment, examples of which include but are not limited to office equipment and furnishings, air conditioning equipment, reproduction and printing equipment, motor vehicles, and automatic data processing equipment. If the Recipient requests an exception, the Recipient shall submit a written request for Grant Officer approval, prior to purchase by the Recipient, stating why the Recipient cannot charge the general purpose equipment to indirect costs.

(c) Under no circumstances shall grant funds be used to acquire land or any interest therein, to acquire or construct facilities (as defined in 48 CFR (FAR) 45.301), or to procure passenger carrying vehicles.

(d) The Government shall have title to equipment and other personal property acquired with Government funds. Such property shall be disposed of pursuant to 48 CFR (FAR) 45.603.

(e) Title to Government furnished equipment (including equipment, title to which has been transferred to the Government prior to completion of the work) will remain with the Government.

(f) The Recipient shall establish and maintain property management standards for Government property and otherwise manage such property as set forth in 48 CFR (FAR) 45.5 and 48 CFR (NFS) 1845.5.

(g) Recipients shall submit annually a NASA Form 1018, NASA Property in the Custody of Contractors, in accordance with the instructions on the form, the provisions of 48 CFR (NFS) 1845.71 and any supplemental instructions that may be issued by NASA for the current reporting period. The original NF 1018 shall be submitted to the center Deputy Chief Financial Officer, Finance, with three copies sent concurrently to the center Industrial Property Officer. The annual reporting period shall be from October 1 of each year through September 30 of the following year. The report shall be submitted in time to be received by October 31. Negative reports (i.e. no reportable property) are required. The information contained in the reports is entered into the NASA accounting system to reflect current asset values for agency financial statement purposes. Therefore, it is essential that required reports be received no later than October 31. A final report is required within 30 days after expiration of the agreement.

(h) The requirements set forth in this special condition supercedes grant provision § 1260.27, Equipment and Other Property.

§ 1260.68 Invoices and payments under grants with commercial firms.

Invoices and Payments Under Grants With Commercial Firms (Date)

(a) Invoices for payment of actual incurred costs shall be submitted by the recipient no more frequently than on a quarterly basis.

(b) Invoices shall be submitted by the recipient to the following offices:

(1) The original invoice shall be sent directly to the payment office designated on the grant cover page.

(2) Copies of the invoice shall be sent to the NASA Technical Officer and NASA Grant Officer.

(c) All invoices shall reference the grant number.

(d) The final invoice shall be marked ''Final'' and shall be submitted within 90 days of the expiration of the grant.

(e) The requirements set forth in this special condition supercedes grant provision § 1260.26, Financial Management.

§ 1260.69 Electronic funds transfer payment methods.

Electronic Funds Transfer Payment Methods (Date)

Payments under this grant will be made by the Government by electronic funds transfer through the Treasury Fedline Payment System (FEDLINE) or the Automated Clearing House (ACH), at the option of the Government. After award, but no later than 14 days before an invoice is submitted, the Recipient shall designate a financial institution for receipt of electronic funds transfer payments, and shall submit this designation to the Grant Officer or other Government official, as directed.

(a) For payment through FEDLINE, the Recipient shall provide the following information:

(1) Name, address, and telegraphic abbreviation of the financial institution receiving payment.

(2) The American Bankers Association 9-digit identifying number for wire transfers of the financing institution receiving payment if the institution has access to the Federal Reserve Communication System.

(3) Payee's account number at the financial institution where funds are to be transferred.

(4) If the financial institution does not have access to the Federal Reserve Communications System, name, address, and telegraphic abbreviation of the correspondent financial institution through which the financial institution receiving payment obtains wire transfer activity. Provide the telegraphic abbreviation and American Bankers Association identifying number for the correspondent institution.

(b) For payment through ACH, the Recipient shall provide the following information:

(1) Routing transit number of the financial institution receiving payment (same as American Bankers Association identifying number used for FEDLINE).

(2) Number of account to which funds are to be deposited.

(3) Type of depositor account (''C'' for checking, ''S'' for savings).

(4) If the Recipient is a new enrollee to the ACH system, a ''Payment Information Form,'' SF 3881, must be completed before payment can be processed.

(c) In the event the Recipient, during the performance of this grant, elects to designate a different financial institution for the receipt of any payment made using electronic funds transfer procedures, notification of such change and the required information specified above must be received by the appropriate Government official 30 days prior to the date such change is to become effective.

(d) The documents furnishing the information required in this clause must be dated and contain the signature, title, and telephone number of the Recipient official authorized to provide it, as well as the Recipient's name and contract number.

(e) Failure to properly designate a financial institution or to provide appropriate payee bank account information may delay payments of amounts otherwise properly due.

(f) The requirements set forth in this special condition supercedes grant provision 1260.26, Financial Management.

Post-Award Requirements

§ 1260.70 Delegation of administration.

(a) Property administration and closeout of NASA grants and cooperative agreements will be delegated to the Office of Naval Research (ONR). Exceptions to this policy are:

(1) Training grants will not be delegated.

(2) Grants of short duration (9 months or less) or low dollar value ($50k or less) will normally not be delegated.

(3) Grant officers may waive specific administration requirements in exceptional circumstances for individual grants. Exceptions to delegation must be justified and approved in writing by the grant officer, and made part of the file.

(4) Waiver of delegation of property administration or closeout to be instituted by a center as a standard practice constitutes a deviation to this handbook, and requires approval in accordance with 1260.7.

(b) Delegations will be made by use of NF 1674 (Exhibit F to subpart A of this part 1260). The NF 1674, the award document, and the approved budget will be sent to ONR in a single package (electronically, when possible).

(c) Upon acceptance of a delegation, ONR agrees to the following:

(1) On a monthly basis, ONR will provide each center a Report of Accepted Delegations listing each grant or cooperative agreement accepted for administration, with pertinent information including the ONR point of contacts name, phone number, and e-mail address.

(2) On a monthly basis, ONR will electronically send to each Center Commercial Technology Office a listing of New Technology Reports it has received.

(3) On a quarterly basis, ONR will provide the cognizant grant officers a ''List of Delinquent Recipients'' that failed to provide timely interim or final reports.

(4) Property administration should always be delegated, even if it is not anticipated that property will be provided by the government or acquired by the recipient. ONR shall follow DoD property administration policies and procedures, plus the following NASA requirements:

(i) The recipient shall maintain property records and manage nonexpendable personal property in accordance with 14 CFR 1260.134. During Property Control System Analyses (PCSA), ONR will check the recipient's understanding and test compliance of property management requirements, including the accuracy of recipient property reports. ONR will provide one copy of each PCSA Report to the appropriate NASA center industrial property officer.

(ii) ONR will investigate and notify NASA as appropriate for any unauthorized property acquisitions by the recipient. See the provision at 1260.27.

(iii) ONR will notify the cognizant grant officer and industrial policy officer when property is lost, damaged or destroyed.

(iv) Under no circumstances will Government property be disposed without instructions from NASA.

(v) Prior to disposition, except when returned to NASA or reutilized on other NASA programs, ONR will ensure all NASA identifications are removed or obliterated from property, and hard drives of computers are cleared of sensitive or NASA owned/licensed software/data.

§ 1260.71 Supplements and renewals.

(a) A NASA grant officer can unilaterally make minor or administrative changes to a grant; e.g., Reports Substitution (§ 1260.55) and Withholding (§ 1260.56).

(b) To ensure timely completion and closeout of grants, renewal proposals to continue the same effort at the same institution that are accepted for award by NASA will be awarded as new grants versus continuation of the existing grant.

(1) When work under a grant is to be continued through an extension, or through a renewal of the work under a new grant, the continuation effort should be instituted concurrent with the original expiration date. When possible, the period of performance should be continuous with the prior grant period of performance. The extension or a renewal of a grant (see § 1260.13(a)) beyond the original expiration date is a unilateral decision by NASA based upon availability of funds, continued research relevance, and progress made by the recipient.

(2) To insure uninterrupted programs, the technical office should forward to the grant office a completed award package, including a funded procurement request, technical evaluation of the proposed budget, and other support documentation, at least 29 days before the expiration of the funded period. .

(c) Requests by the recipient to have a grant modified must be in writing to the grant officer. Prior approvals and changes are detailed in § 1260.125.

(d) A no-cost extension can be issued by the recipient as detailed in paragraph (b) of the provision at § 1260.23, Extensions, and § 1260.125(e). NASA reserves the right to disapprove the extension request if the requirements set forth at § 1260.125(e)(2) are not met, including if the extension request is not received ten days prior to the grant expiration date.

(e) When two or more actions are completed on a single supplement, the supplement will reflect the effective date of the earliest action.

§ 1260.72 Adherence to original budget estimates.

(a) Although NASA assumes no responsibility for budget overruns, the recipient may spend grant funds without strict adherence to individual allocations within the proposed budgets, except that recipients must comply with prior approval requirements for property and subcontracts as provided in § 1260.27 and § 1260.33.

(b) The revision of budgets and program plans are covered in § 1260.125.

§ 1260.73 Transfers, novations, and change of name agreements.

(a) When the principal investigator changes organizational affiliation and desires support for the research at a new location, (*i.e.*, for the grant to be transferred), the grant officer should first consult with the institution that originally received the grant to ascertain whether an acceptable replacement principal investigator can be substituted to complete the research effort. The final decision on whether an acceptable replacement is available, or that the research effort should follow the original principal investigator to the new location, is at the discretion of the NASA technical Officer. If the decision is made to transfer the grant, the grant at the original institution must be terminated, and a new proposal must be submitted to NASA via the appropriate officials of the new institution. Although such a proposal will be reviewed in the normal manner, every effort will be made to expedite a decision. Regardless of the action taken on the new proposal, final reports on the original grant, describing the scientific progress and expenditure to date, will be required.

(b) Novation and change of name agreements are administrative actions requiring the involvement of the grant officer. Novations are legal instruments under which obligations of an organization, (including the performance of grants), are assumed by a new organization arising out of a transfer of assets, usually as a result of a merger or acquisition by the new organization. Change of name agreements are legal instruments executed by an organization and NASA that recognizes the legal change of name of the organization without disturbing the original rights or obligations of the parties. Procedures for completing novation and change of name agreements are set forth at FAR subpart 42.12. All novation agreements and change of name agreements of the recipient, prior to execution, shall be reviewed by legal counsel for legal sufficiency. It is recommended that the cognizant ONR office be contacted to determine responsibilities to complete novation or change of name agreements.

§ 1260.74 Property use, disposition, and vesting of title.

(a) Approval for acquisition of property shall conform to the following procedures:

(1) Grant recipients should supply their own equipment and property to satisfy research requirements. Providing existing government equipment or property, or allowing acquisition of property by a grant recipient, should only be allowed in exceptional circumstances.

(2) In accordance with OMB Circulars A–21 and A–122, prior approval of property acquisitions is required for special purpose equipment with a unit cost over $5,000, general purpose equipment with a unit cost over $5,000, (unless a lower threshold has been established by the recipient), or coherent systems (as defined in 1260.74(e)) with a value of over $5,000. The NASA grant officer will retain authority for approving the expenditure of grant funds for the acquisition of such equipment. Requests by grant recipients for the acquisition of equipment shall be supported by written documentation setting forth the description, purpose, and acquisition value of the equipment, and include a written certification that the equipment will be used exclusively for research. (A change in the model number of a prior approved piece of equipment does not require re-submission for that item.) NASA grant officers shall not approve the expenditure of grant funds for the acquisition of equipment unless the recipient's justification for the equipment demonstrates that the equipment will be used exclusively for research activities.

(b) Vesting of title to property acquired by the recipient shall conform to the following procedures:

(1) When a request for the acquisition of property has been approved, the NASA grant officer, in consultation with the technical officer, will determine whether NASA has an interest to retain title to the acquired property for use in future agency programs beyond the current grant effort. If NASA elects to take title to the equipment when no longer required for performance of the grant, NASA will notify the recipient in writing as part of the approval for acquiring the item. Generally, the notification is made through inclusion of the special condition at 1260.66, Listing of Reportable Equipment and Other Property. If the item was requested as part of the original budget, the award must specify NASA's intention to take title.

(2) Unless there is clear rationale to retain title, as a general policy NASA encourages titling property to recipients as ''exempt'' when acquired by institutions of higher education, hospitals, and other non-profit organizations whose primary purpose is the conduct of scientific research. Unless NASA retains its rights to take title at the time of approval, equipment purchased with grant funds will be vested in the recipient as ''exempt'' equipment as set forth at 1260.133(b). The recipient shall have no further obligation or accountability to the Federal Government for the use or disposition of ''exempt'' property, including reporting requirements.

(3) If NASA elects to take title to recipient acquired property, the property will be subject to 1260.132(b)(3).

(4) Government titled property will be subject to the provisions for other Federally owned property as stated in 1260.133.

(c) Equipment with a unit price of $5,000 or less (unless a lower threshold has been established by the recipient) is properly classified as ''supplies,'' is not subject to transfer to the Agency, and will be titled to the recipient in accordance with 1260.135.

(d) Title to Federally-owned property remains with the Government, and is subject to the following additional requirements:

(1) In accordance with Public Law 94–519, NASA will not acquire property from other agencies for use on NASA grants.

(2) Government property provided to a grant recipient for use under a grant will be identified through inclusion of the special condition at § 1260.66,

Listing of Reportable Equipment and Other Property.

(3) When Federally-owned property is reported excess by a recipient, the administrative grant officer will report the equipment to the center industrial property officer, who will consult with the technical officer concerning property disposition.

(4) NASA policy encourages the donation of existing, excess NASA property to nonprofit organizations whose primary purpose is the conduct of scientific research.

(e) When two or more components are fabricated into a single coherent system in such a way that the components lose their separate identities, and their separation would render the system useless for its original purpose, the components will be considered as integral parts of a single system. If such a system includes recipient-owned components, the property will be considered to be exempt. The requirement for agreement regarding NASA's retention of its option to take title shall further apply where it is expected that one or more recipient-acquired components costing $5,000 or less will be fabricated into a single coherent system costing in excess of $5,000. However, an item that is used ancillary to a system, without loss of its separate identity and usefulness, will be considered as a separate item and not as an integral component of the system.

(f) Property administration and plant clearance for all grants and cooperative agreements will be delegated to the appropriate ONR office.

(g) NASA grant officers will provide copies of property related grant documentation to the center industrial property officer and to the Office of Naval Research (at time of award or modification) when the NASA program office elects to retain title to an existing item of Government property, to furnish the property to the recipient in lieu of donation, or to take title to property acquired by the recipient. When NASA acquires title to items of recipient acquired equipment or when NASA transfers an item of Government property to a recipient as Federally owned property, the NASA grant officer shall notify the cognizant NASA center financial management officer, the industrial property officer and Office of Naval Research to ensure proper entries in financial and property accounting records.

§ 1260.75 Summary of report requirements.

(a) Report responsibilities of the grant officer are set forth as follows:

(1) The grant officer is responsible for submitting the Individual Procurement Action Report (NF 507) for all grant and cooperative agreement actions.

(2) The Committee on Academic Science and Engineering (CASE) Report (NF 1356), for grants and cooperative agreements awarded to educational institutions, is submitted by the program office with the basic award procurement request and completed by the grant officer. The grant officer should initiate an amendment to the NF 1356 whenever the principal investigator or the technical officer changes.

(b) Intermediate report responsibilities of the recipient are as follows:

(1) The Federal Cash Transactions Report (SF 272) shall be submitted by the recipient, in accordance with § 1260.26(a), as a condition of receiving advance payments. Instructions and answers to payment questions will be provided by the Financial Management Office of the Center that issued the grant. (see § 1260.152.)

(2) The annual Inventory Report of Federally Owned Property in Custody of the Recipient will be submitted by the recipient as required by § 1260.27(e). The listing shall include information specified in § 1260.134(f) together with beginning and ending dollar value totals for the reporting period. Negative reports (*i.e.,* where no property has been acquired or provided, or where all acquired property has been titled to the recipient as exempt) are not required. Please note that any property acquired by the recipient and not titled to the recipient as exempt, must be reported, even when titled to the recipient as non-exempt property in accordance with the procedures set forth at § 1260.134.

(3) A Progress Report shall be submitted in accordance with §§ 1260.22 and 1260.151. Recipients are not required to submit more than the original and two copies. At the request of the technical officer, technical reports can be submitted as new findings are made rather than on a predetermined time schedule, by use of the special condition at § 1260.55, entitled ''Reports Substitution.''

(4) An Educational Activity Report is required annually for education grants in accordance with § 1260.22. The report is due 60 days prior to the anniversary date of the grant or cooperative agreement.

(5) A Report of Joint NASA/Recipient Inventions is required for all grants and cooperative agreements, as applicable, in accordance with § 1260.28.

(6) A Disclosure of Subject Invention is required for all grants and cooperative agreements, as applicable, in accordance with § 1260.28. The reporting of the invention shall be made within two months after the inventor discloses it to the recipient, and will be reported on NASA Form 1679 Disclosure of Invention and New Technology (Including Software) in accordance with the procedures set forth under § 1260.28.

(7) An Election of Title to a Subject Invention is required for all grants and cooperative agreements, as applicable, in accordance with § 1260.28. The notice is due within 1 year after disclosure of the subject invention if a statutory bar exists, otherwise within 2 years.

(8) A Listing of Subject Inventions is required for all grants and cooperative agreement, in accordance with § 1260.28. The listing is due annually.

(9) A Notification of Decision to Forego Patent Protection is required for all grants and cooperative agreements, as applicable, in accordance with § 1260.28. The notification is due 30 days before the expiration of the response period.

(10) A Utilization of Subject Invention Report is required for all grants and cooperative agreements, as applicable, in accordance with § 1260.28. The report is due annually.

(11) A Notice of Proposed Transfer of Technology is required for all grants and cooperative agreements, as applicable, in accordance with § 1260.30. The notice is required prior to transferring technology to a foreign firm or institution.

(12) An Annual NASA Form 1018, NASA Property in the Custody of Contractors, is required for all grants and cooperative agreements with commercial organizations. The reports are due October 31st of each year. Negative reports (*i.e.,* no reportable property) are required.

(c) Final report responsibilities of the recipient are as follows:

(1) A Subject Inventions Final Report is required for all grants and cooperative agreements, as applicable, in accordance with § 1260.28. The report is due within 90 days after the expiration of the grant or cooperative agreement.

(2) A properly certified Final Federal Cash Transactions Report, SF 272, is required from the recipient for each grant, in accordance with §§ 1260.26(a) and 1260.152. The report is due within 90 days after the expiration of the grant or cooperative agreement.

(3) A Summary of Research is required for all research grants in accordance with § 1260.22. Citation of publications resulting from research, or abstracts thereof, may serve as all or part

of the Summary of Research. The Summary of Research shall also include a complete list of all subject inventions (or negative statement) required to be disclosed that resulted from the work (see the provision at § 1260.28).

(4) A Final Inventory Report of Federally Owned Property, including equipment where title was taken by the Government, is required for all grants and cooperative agreements, where property or equipment has been provided by the government or acquired by the recipient, § 1260.27. The report is due within 60 days after the expiration of the grant or cooperative agreement. Negative reports (*i.e.*, where no property has been acquired or provided) are required.

(5) A Final Educational Activity Report is required for all education grants or cooperative agreements. The report is due within 90 days after the expiration of the grant or cooperative agreement.

(6) A Faculty Advisor Survey is required for all training grants. The report is due from the student's faculty advisor within 60 days after the expiration of the training grant.

(7) A Summary of Research is required for all training grants. The report is due from the student within 90 days after the expiration of the training grant.

(8) An Administrative Report is required for all training grants. The report is due within 90 days after the expiration of the training grant.

(9) A Student Evaluation Form is required for all training grants. The form is due from the student within 90 days after the expiration of the training grant.

(10) A Final NASA Form 1018, NASA Property in the Custody of Contractors, is required for all grants and cooperative agreements with commercial organizations. The report is due within 30 days after the expiration of the grant or cooperative agreement.

(d) To clarify report requirements to grant and cooperative agreement recipients, the grant officer will include the ''Required Publications and Reports'' form (Exhibit G to subpart A of this part 1260) as part of the award document.

§ 1260.76 Termination and enforcement.

(a) Suspension or termination of a grant prior to the planned expiration date must be reserved for exceptional situations that cannot be handled any other way (see § 1260.160).

(b) The Director, Program Operations Division (Code HS), shall provide to the General Services Administration information concerning all NASA debarments, suspensions, determinations of ineligibility, and voluntary exclusions of persons in accordance with 14 CFR 1265.505.

(c) Remedies for Noncompliance are delineated in § 1260.162.

(d) Failure of the recipient to provide a required report can result in the Agency and the public being denied information about grant activities, NASA officials having less information for making decisions, grant closeout being delayed, and confidence being undermined as to whether the recipient will meet the requirements under other grants. Because NASA grants provide for advance payments, a recipient could be fully paid before final reports are due. At this point, it is too late to withhold payment on the existing grant.

(e) Consistent with §§ 1260.122(h) and 1260.162(a), NASA may suspend advanced payments from recipients that fail to comply with reporting requirements. To remedy failure to furnish timely reports, special condition at § 1260.56, Withholding, should be used when awarding a new grant or modifying an existing grant with non-responsive organizations.

(1) Special condition at § 1260.56 allows the grant officer to instruct the Financial Management Office to suspend advanced payments under an institutions letter of credit pending receipt of the satisfactorily completed reports required in § 1260.75.

(2) The grant officer may waive the withholding requirement when the recipient has taken corrective action that makes withholding unnecessary. To release for payment the amount withheld, grant officers shall send a memorandum to their Financial Management Office.

(3) The NASA Financial Management Office may require the grant officer to suspend or terminate a recipients advance payments when the recipient is not in compliance with requirements for receipt of advanced payments set forth in the NASA Financial Management Manual. For example, Advance payments may be suspended when two (2) successive quarterly reports are late or when more than two (2) reports are late in a fiscal year.

§ 1260.77 Closeout procedures.

Closeout is the process by which NASA determines that all applicable administrative actions and all required work under the instrument have been completed by both the recipient and NASA and no further activity is expected (see § 1260.171).

(a) Closeout will begin within 90 days after the expiration date of the grant.

(b) Those who are designated to receive NASA reports (except for CASI, which only acknowledges receipt) must provide certification to the NASA grant officer, and to ONR when delegated, that the reports have been received and satisfactorily completed. Electronic certifications are acceptable. See §§ 1260.75 and 1260.171(a). The property certification should indicate that disposal of any remaining Government property has been made as directed and that NASA has been compensated for any residual inventory.

(c) When ONR has been delegated closeout and has completed its actions, the NASA grant officer is to receive from ONR all of the following:

(1) Certification that all required reports have been received and approved. However, when a NASA technical officer does not respond to a third request from ONR to provide a certification for a Summary of Research, ONR may provide a ''qualified acceptance statement'' in lieu of the required certification, after providing written notification to the NASA grant officer.

(2) A DD Form 1593 Contract Administration Completion Record (or equivalent electronic notification), without supporting or backup documents, indicating property administration is complete.

(3) An original, signed DD Form 1594 Contract Completion Statement.

(d) A grant is administratively complete and ready for closeout when:

(1) Property disposition has been completed.

(2) Certifications for all reports have been received.

(3) A DD Form 1594 has been received, when delegated.

(4) Payments have been made for allowable reimbursable costs, and refunds have been received for any balance of unobligated cash advanced that is not authorized to be retained for use on other grants (see §§ 1260.171 through 1260.173).

(e) Grants will not be closed out if litigation or an appeal is pending, or when termination action has not been completed.

(f) Records will be retained in accordance with § 1260.153 and NPG 1441.1, Record Retention Schedules.

Appendix to Subpart A to Part 1260—Listing of Exhibits

Exhibit A—Budget Summary
Exhibit B—Standard Grant and Cooperative Agreement Cover Page
Exhibit C—Provisions
Exhibit D—Federal Demonstration Partnership Terms and Conditions
Exhibit E—Special Conditions for Cooperative Agreements between NASA and the Commercial Space Centers

Exhibit F—NASA 1674 Letter of Delegation for the Administration of Grants and Cooperative Agreements
Exhibit G—Required Publications and Reports

Note: Exhibits are available at NASA Headquarters, Code HC, Washington, D.C. 20546.

Subpart B—Uniform Administrative Requirements for Grants and Cooperative Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations

General

§ 1260.101 Purpose.

This subpart implements OMB Circular No. A–110 and establishes uniform administrative requirements for NASA grants and agreements awarded to institutions of higher education, hospitals, and other non-profit organizations. NASA shall not impose additional or inconsistent requirements, except as provided in §§ 1260.104 and 1260.114 or unless specifically required by Federal statute or executive order. Non-profit organizations that implement Federal programs for the States are also subject to State requirements.

§ 1260.102 Definitions.

Accrued expenditures means the charges incurred by the recipient during a given period requiring the provision of funds for:

(1) Goods and other tangible property received;

(2) Services performed by employees, contractors, subcontractors, and other payees; and

(3) Other amounts becoming owed under programs for which no current services or performance is required.

Accrued income means the sum of:

(1) Earnings during a given period from services performed by the recipient, and goods and other tangible property delivered to purchasers; and

(2) Amounts becoming owed to the recipient for which no current services or performance is required by the recipient.

Acquisition cost of equipment means the net invoice price of the equipment, including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges, such as the cost of installation, transportation, taxes, duty or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the recipient's regular accounting practices. *Advance* means a payment made by Treasury check or other appropriate payment mechanism to a recipient upon its request either before outlays are made by the recipient or through the use of predetermined payment schedules.

Award means a grant or cooperative agreement that provides support or stimulation to accomplish a public purpose. Awards include research grants, training grants, facilities grants, educational grants, and cooperative agreements in the form of money or property in lieu of money, by NASA to an eligible recipient. The term does not include: technical assistance, which provides services instead of money; other assistance in the form of loans, loan guarantees, interest subsidies, or insurance; direct payments of any kind to individuals; and, contracts which are required to be entered into and administered under procure ment laws and regulations.

Cash contributions means the recipient's cash outlay, including the outlay of money contributed to the recipient by third parties.

Closeout means the process by which NASA determines that all applicable administrative actions and all required work of the award have been completed by the recipient and NASA.

Contract means a procurement contract under an award, and a procurement subcontract under a recipient's contract.

Cost sharing or matching means that portion of project or program costs not borne by NASA.

Date of completion means the date on which all work under an award is completed or the date on the award document, or any supplement or amendment thereto, on which NASA sponsorship ends.

Disallowed costs means those charges to an award that NASA determines to be unallowable, in accordance with the applicable Federal cost principles or other terms and conditions contained in the award.

Equipment means tangible nonexpendable personal property including exempt property charged directly to the award having a useful life of more than one year and an acquisition cost of $5,000 or more per unit. However, consistent with recipient policy, lower limits may be established.

Excess property means property under the control of any Federal awarding agency that, as determined by the head thereof, is no longer required for its needs or the discharge of its responsibilities.

Exempt property means tangible personal property acquired in whole or in part with Federal funds, where a Federal awarding agency has statutory authority to vest title in the recipient without further obligation to the Federal Government. An example of exempt property authority is contained in the Federal Grant and Cooperative Agreement Act (31 U.S.C. 6306) for property acquired under an award to conduct basic or applied research by a non-profit institution of higher education or non-profit organi zation whose principal purpose is conducting scientific research.

Federal funds authorized means the total amount of Federal funds obligated by the Federal Government for use by the recipient. This amount may include any authorized carryover of unobligated funds from prior funding periods when permitted by agency regulations or agency implementing instructions.

Federal share of real property, equipment, or supplies means that percentage of the property's acquisition costs and any improvement expenditures paid with Federal funds.

Funding period means the period of time when NASA funding is available for obligation by the recipient.

Intangible property and debt instruments means, but is not limited to, trademarks, copyrights, patents and patent applications and such property as loans, notes and other debt instruments, lease agreements, stock and other instruments of property ownership, whether considered tangible or intangible.

NASA means the National Aeronautics and Space Administration (NASA), including its authorized representatives.

Obligations mean the amounts of orders placed, contracts and grants awarded, services received and similar transactions during a given period that require payment by the recipient during the same or a future period.

Outlays or expenditures means charges made to the project or program. They may be reported on a cash or accrual basis. For reports prepared on a cash basis, outlays are the sum of cash disbursements for direct charges for goods and services, the amount of indirect expense charged, the value of third party in-kind contributions applied and the amount of cash advances and payments made to subcontractors. For reports prepared on an accrual basis, outlays are the sum of cash disbursements for direct charges for goods and services, the amount of indirect expense incurred, the value of in-kind contributions applied, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received, for services performed by employees, contractors, subcontractors and other

payees and other amounts becoming owed under programs for which no current services or performance are required.

Personal property means property of any kind except real property. It may be tangible, having physical existence, or intangible, having no physical existence, such as copyrights, patents, or securities.

Prior approval means written approval by an authorized official evidencing prior consent.

Program income means gross income earned by the recipient that is directly generated by a supported activity or earned as a result of the award (see exclusions in 1260.124(c) and (f)). Program income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under federally-funded projects, the sale of commodities or items fabricated under an award, license fees and royalties on patents and copyrights, and interest on loans made with award funds. Interest earned on advances of NASA funds is not program income. Except as otherwise provided in the regulations in this subpart or the terms and conditions of the award, program income does not include the receipt of principal on loans, rebates, credits, discounts, etc., or interest earned on any of them.

Project costs means all allowable costs, as set forth in the applicable Federal cost principles, incurred by a recipient and the value of the contributions made by third parties in accomplishing the objectives of the award during the project period.

Project period means the period established in the award document during which NASA sponsorship begins and ends.

Property means, unless otherwise stated, real property, equipment, intellectual property and debt instruments.

Real property means land, including land improvements, structures and appurtenances thereto, but excludes movable machinery and equipment.

Recipient means an organization receiving an award directly from NASA to carry out a project or program. The term includes public and private institutions of higher education, public and private hospitals, and other quasi-public and private non-profit organizations such as, but not limited to, community action agencies, research institutes, educational associations, and health centers. The term may include commercial organizations, foreign or international organizations (such as agencies of the United Nations) which are recipients, subcontractors, or contractors or subcontractors of recipients. The term does not include government-owned contractor-operated facilities or research centers providing continued support for mission-oriented, large-scale programs that are government-owned or controlled, or are designated as federally-funded research and development centers.

Research and development means all research activities, both basic and applied, and all development activities that are supported at universities, colleges, and other nonprofit institutions. ''Research'' is defined as a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. ''Development'' is the systematic use of knowledge and understanding gained from research directed toward the production of useful materials, devices, systems, or methods, including design and development of prototypes and processes. The term ''research'' also included activities involving the training of individuals in research techniques where such activities utilize the same facilities as other research and development activities and where such activities are not included in the instruction function.

Small awards means a grant or cooperative agreement not exceeding the small purchase threshold.

Subaward means an award of financial assistance in the form of money, or property in lieu of money, made under an award by a recipient to an eligible subrecipient or by a subrecipient to a lower tier subrecipient. The term includes financial assistance when provided by any legal agreement, even if the agreement is called a contract, but does not include procurement of goods and services nor does it include any form of assistance which is excluded from the definition of ''award'' of this section.

Subrecipient means the legal entity to which a subaward is made and which is accountable to the recipient for the use of the funds provided. The term may include foreign or international organizations (such as agencies of the United Nations).

Supplies means all personal property excluding equipment, intellectual property, and debt instruments as defined in this section, and inventions of a contractor conceived or first actually reduced to practice in the performance of work under a funding agreement (''subject inventions''), as defined in 37 CFR part 401, ''Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements.''

Suspension means an action by NASA that temporarily withdraws NASA sponsorship under an award, pending corrective action by the recipient or pending a decision to terminate the award by NASA. Suspension of an award is a separate action from suspension under Federal agency regulations implementing Executive Orders 12549 and 12689, ''Debarment and Suspension.''

Termination means the cancellation of Federal sponsorship, in whole or in part, under an agreement at any time prior to the date of completion.

Third party in-kind contributions means the value of non-cash contributions provided by non-Federal third parties. Third party in-kind contributions may be in the form of real property, equipment, supplies and other expendable property, and the value of goods and services directly benefiting and specifically identifiable to the project or program.

Unliquidated obligations, for financial reports prepared on a cash basis, means the amount of obligations incurred by the recipient that have not been paid. For reports prepared on an accrued expenditure basis, they represent the amount of obligations incurred by the recipient for which an outlay has not been recorded.

Unobligated balance means the portion of the funds authorized by NASA that has not been obligated by the recipient and is determined by deducting the cumulative obligations from the cumulative funds authorized.

Unrecovered indirect cost means the difference between the amount awarded and the amount which could have been awarded under the recipient's approved negotiated indirect cost rate.

Working capital advance means a procedure whereby funds are advanced to the recipient to cover its estimated disbursement needs for a given initial period.

§ 1260.103 Effect on other issuances.

For awards subject to this subpart, the requirements of this subpart apply, except to the extent that any administrative requirements of codified program regulations, program manuals, handbooks and other nonregulatory materials are required by statute, or are authorized in accordance with the deviations provision in § 1260.104.

§ 1260.104 Deviations.

The Office of Management and Budget (OMB) may grant exceptions for classes of grants or recipients subject to the requirements of this subpart when exceptions are not prohibited by statute. However, in the interest of maximum

uniformity, exceptions from the requirements of this subpart shall be permitted only in unusual circumstances. NASA may apply more restrictive requirements to a class of recipients when approved by OMB. NASA may apply less restrictive requirements when awarding small awards, except for those requirements which are statutory. Exceptions on a case-by-case basis may also be made by NASA. See § 1260.6(c).

§ 1260.105 Subawards.

Unless sections of this subpart specifically exclude subrecipients from coverage, the provisions of this subpart shall be applied to subrecipients performing work under awards if such subrecipients are institutions of higher education, hospitals or other non-profit organizations. State and local government subrecipients are subject to the provisions of 14 CFR part 1273, ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.''

Pre-Award Requirements

§ 1260.110 Purpose.

Sections 1260.111 through 1260.117 prescribe forms and instructions and other pre-award matters to be used in applying for NASA awards.

§ 1260.111 Pre-award policies.

(a) *Use of grants and cooperative agreements, and contracts.* In each instance, NASA shall decide on the appropriate award instrument (*i.e.* grant, cooperative agreement, or contract). The Federal Grant and Cooperative Agreement Act (31 U.S.C. 6301–08) governs the use of grants, cooperative agreements and contracts. A grant or cooperative agreement shall be used only when the principal purpose of a transaction is to accomplish a public purpose of support or stimulation authorized by Federal statute. The statutory criterion for choosing between grants and cooperative agreements is that for the latter, ''substantial involvement is expected between the executive agency and the State, local government, or other recipient when carrying out the activity contemplated in the agreement.'' Contracts shall be used when the principal purpose is acquisition of property or services for the direct benefit or use of the Federal Government.

(b) *Public notice and priority setting.* NASA notifies the public of its intended funding priorities for discretionary grant programs through Broad Agency Announcements, Cooperative Agreement Notices, Agency-Wide program announcements, and other approved forms of announcements.

§ 1260.112 Forms for applying for Federal assistance.

(a) NASA shall comply with the applicable report clearance requirements of 5 CFR part 1320, ''Controlling Paperwork Burdens on the Public,'' with regard to all forms used by the NASA in place of or as a supplement to the Standard Form 424 (SF 424) series.

(b) Applicants shall use those forms and instructions prescribed by NASA in § 1260.10.

§ 1260.113 Debarment and suspension.

NASA and recipients shall comply with the nonprocurement debarment and suspension rule, 14 CFR part 1265, ''Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants),'' implementing Executive Orders 12549 and 12689, ''Debarment and Suspension.'' This rule restricts contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

§ 1260.114 Special award conditions.

If an applicant or recipient has a history of poor performance, is not financially stable, has a management system that does not meet the standards prescribed in this subpart, has not conformed to the terms and conditions of a previous award, or is not otherwise responsible, NASA may impose additional requirements as needed. Such applicant or recipient will be notified in writing as to the nature of the additional requirements, the reason why the additional requirements are being imposed, the nature of the corrective action needed, the time allowed for completing the corrective actions, and the method for requesting reconsideration of the additional requirements imposed. Any special conditions shall be promptly removed once the conditions that prompted them have been corrected.

§ 1260.115 Metric system of measurement.

The Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act (15 U.S.C. 205) declares that the metric system is the preferred measurement system for U.S. trade and commerce. The Act requires each Federal agency to establish a date or dates in consultation with the Secretary of Commerce, when the metric system of measurement will be used in the agency's procurements, grants, and other business-related activities. Metric implementation may take longer where the use of the system is initially impractical or likely to cause significant inefficiencies in the accomplishment of federally-funded activities. NASA follows the provisions of Executive Order 12770, ''Metric Usage in Federal Government Programs.'' NASA's policy with respect to the metric measurement system is stated in NASA Policy Directive (NPD) 8010.2, Use of the Metric System of Measurement in NASA Programs.

§ 1260.116 Resource Conservation and Recovery Act (RCRA).

Under the RCRA (Public Law 94–580 codified at 42 U.S.C. 6962), any State agency or agency of a political subdivision of a State which is using appropriated Federal funds must comply with Section 6002 of the RCRA (42 U.S.C. 6962). Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency (EPA) (40 CFR parts 247 through 254). Accordingly, State and local institutions of higher education, hospitals, and non-profit organizations that receive direct Federal awards or other Federal funds shall give preference in their procurement programs funded with Federal funds to the purchase of recycled products pursuant to the EPA guidelines.

§ 1260.117 Certifications and representations.

Unless prohibited by statute or codified regulation, NASA will allow recipients to submit certain certifications and representations required by statute, executive order, or regulation on an annual basis, if the recipients have ongoing and continuing relationships with the agency. Annual certifications and representations shall be signed by responsible officials with the authority to ensure recipients' compliance with the pertinent requirements.

Post-Award Requirements

Financial and Program Management

§ 1260.120 Purpose of financial and program management.

Sections 1260.121 through 1260.128 prescribe standards for financial management systems, methods for making payments and rules for: satisfying cost sharing and matching requirements, accounting for program income, budget revision approvals, making audits, determining allowability

of cost, and establishing fund availability.

§ 1260.121 Standards for financial management systems.

(a) Recipients shall relate financial data to performance data and develop unit cost information whenever practical. For awards that support research, it should be noted that it is generally not appropriate to develop unit cost information.

(b) Recipients' financial management systems shall provide for the following.

(1) Accurate, current and complete disclosure of the financial results of each federally-sponsored project or program in accordance with the reporting requirements set forth in § 1260.152. If NASA requires reporting on an accrual basis from a recipient that maintains its records on other than an accrual basis, the recipient shall not be required to establish an accrual accounting system. These recipients may develop such accrual data for its reports on the basis of an analysis of the documentation on hand.

(2) Records that identify adequately the source and application of funds for federally-sponsored activities. These records shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.

(3) Effective control over and accountability for all funds, property and other assets. Recipients shall adequately safeguard all such assets and assure they are used solely for authorized purposes.

(4) Comparison of outlays with budget amounts for each award. Whenever appropriate, financial information should be related to performance and unit cost data.

(5) Written procedures to minimize the time elapsing between the transfer of funds to the recipient from the U.S. Treasury and the issuance or redemption of checks, warrants or payments by other means for program purposes by the recipient. To the extent that the provisions of the Cash Management Improvement Act (CMIA) (Public Law 101–453) govern, payment methods of State agencies, instrumentalities, and fiscal agents shall be consistent with CMIA Treasury-State Agreements or the CMIA default procedures codified at 31 CFR part 205, ''Withdrawal of Cash from the Treasury for Advances under Federal Grant and Other Programs.''

(6) Written procedures for determining the reasonableness, allocability and allowability of costs in accordance with the provisions of the applicable Federal cost principles and the terms and conditions of the award.

(7) Accounting records including cost accounting records that are supported by source documentation.

(c) Where the Federal Government guarantees or insures the repayment of money borrowed by the recipient, NASA, at its discretion, may require adequate bonding and insurance if the bonding and insurance requirements of the recipient are not deemed adequate to protect the interest of the Federal Government.

(d) NASA may require adequate fidelity bond coverage where the recipient lacks sufficient coverage to protect the Federal Government's interest.

(e) Where bonds are required in the situations described in this section, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties, as prescribed in 31 CFR part 223, ''Surety Companies Doing Business with the United States.''

§ 1260.122 Payment.

(a) Payment methods shall minimize the time elapsing between the transfer of funds from the United States Treasury and the issuance or redemption of checks, warrants, or payment by other means by the recipients. Payment methods of State agencies or instrumentalities shall be consistent with Treasury-State CMIA agreements or default procedures codified at 31 CFR part 205.

(b)(1) Recipients are to be paid in advance, provided they maintain or demonstrate the willingness to maintain:

(i) Written procedures that minimize the time elapsing between the transfer of funds and disbursement by the recipient; and

(ii) Financial management systems that meet the standards for fund control and accountability as established in § 1260.121.

(2) Cash advances to a recipient organization shall be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by the recipient organization for direct program or project costs and the proportionate share of any allowable indirect costs.

(c) Whenever possible, advances shall be consolidated to cover anticipated cash needs for all awards made by NASA to the recipient.

(1) Advance payments will be made by electronic funds transfer.

(2) Advance payment mechanisms are subject to 31 CFR part 205.

(d) [Reserved. Not used by NASA.]

(e) Reimbursement is the preferred method when the requirements in paragraph (b) of this section cannot be met. NASA may also use this method on any construction agreement, or if the major portion of the construction project is accomplished through private market financing or Federal loans, and the Federal assistance constitutes a minor portion of the project. When the reimbursement method is used, NASA shall make payment within 30 days after receipt of the billing, unless the billing is improper.

(f) If a recipient cannot meet the criteria for advance payments and NASA has determined that reimbursement is not feasible because the recipient lacks sufficient working capital, NASA may provide cash on a working capital advance basis. Under this procedure, NASA shall advance cash to the recipient to cover its estimated disbursement needs for an initial period generally geared to the awardee's disbursing cycle. Thereafter, NASA shall reimburse the recipient for its actual cash disbursements. The working capital advance method of payment shall not be used for recipients unwilling or unable to provide timely advances to their subcontractor to meet the subcontractor's actual cash disbursements.

(g) To the extent available, recipients shall disburse funds available from repayments to an interest earned on a revolving fund, program income, rebates, refunds, contract settlements, audit recoveries and interest earned on such funds before requesting additional cash payments.

(h) Unless otherwise required by statute, NASA will not withhold payments for proper charges made by recipients at any time during the project period unless the conditions in paragraphs (h)(1) or (2) of this section apply.

(1) A recipient has failed to comply with the project objectives, the terms and conditions of the award, or NASA reporting requirements.

(2) The recipient is delinquent in a debt to the United States as defined in OMB Circular A–129, ''Managing Federal Credit Programs.'' Under such conditions, NASA may, upon reasonable notice, inform the recipient that payments shall not be made for obligations incurred after a specified date until the conditions are corrected or the indebtedness to the Federal Government is liquidated.

(i) Standards governing the use of banks and other institutions as depositories of funds advanced under awards are as follows.

(1) Except for situations described in paragraph (i)(2) of this section, NASA shall not require separate depository accounts for funds provided to a recipient or establish any eligibility requirements for depositories for funds provided to a recipient. However, recipients must be able to account for the receipt, obligation and expenditure of funds.

(2) Advances of Federal funds shall be deposited and maintained in insured accounts whenever possible.

(j) Consistent with the national goal of expanding the opportunities for women-owned and minority-owned business enterprises, recipients shall be encouraged to use women-owned and minority-owned banks (a bank which is owned at least 50 percent by women or minority group members).

(k) Recipients shall maintain advances of Federal funds in interest bearing accounts, unless the conditions in paragraphs (k)(1), (2), or (3) of this section apply.

(1) The recipient receives less than $120,000 in Federal awards per year.

(2) The best reasonably available interest bearing account would not be expected to earn interest in excess of $250 per year on Federal cash balances.

(3) The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.

(l) Interest earned on Federal advances deposited in interest-bearing accounts in excess of $250 per year shall be remitted annually to Department of Health and Human Services (DHHS), Payment Management System, Rockville, MD 20852. Interest amounts up to $250 per year may be retained by the recipient for administrative expense. In accordance with 31 CFR part 206, interest should be remitted electronically through the Automated Clearing House (ACT) to DHHS. Recipients without this capability may make the remittance by check. In either case, the remittance should be payable to DHHS and should indicate the recipient's Entity Identification Number (EIN) and reason, *i.e.*, ''Interest earned.''

(m) Except as noted elsewhere in this subpart, only the following forms shall be authorized for the recipients in requesting advances and reimbursements. Federal agencies shall not require more than an original and two copies of these forms.

(1) SF–270, Request for Advance or Reimbursement. [Reserved. Not used by NASA.]

(2) SF–271, Outlay Report and Request for Reimbursement for Construction Programs. The SF–271 may be used for requesting reimbursement for NASA construction programs.

§ 1260.123 Cost sharing or matching.

(a) All contributions, including cash and third party in-kind, shall be accepted as part of the recipient's cost sharing or matching when such contributions meet all of the following criteria.

(1) Are verifiable from the recipient's records.

(2) Are not included as contributions for any other federally-assisted project or program.

(3) Are necessary and reasonable for proper and efficient accomplishment of project or program objectives.

(4) Are allowable under the applicable cost principles.

(5) Are not paid by the Federal Government under another award, except where authorized by Federal statute to be used for cost sharing or matching.

(6) Are provided for in the approved budget when required by NASA.

(7) Conform to other provisions of this subpart, as applicable.

(b) Unrecovered indirect costs may be included as part of cost sharing or matching only with the prior approval of NASA.

(c) Values for recipient contributions of services and property shall be established in accordance with the applicable cost principles. If NASA authorizes recipients to donate buildings or land for construction/facilities acquisition projects or long-term use, the value of the donated property for cost sharing or matching shall be the lesser of paragraph (c)(1) or (2) of this section.

(1) The certified value of the remaining life of the property recorded in the recipient's accounting records at the time of donation.

(2) The current fair market value. However, when there is sufficient justification, NASA may approve the use of the current fair market value of the donated property, even if it exceeds the certified value at the time of donation to the project.

(d) Volunteer services furnished by professional and technical personnel, consultants, and other skilled and unskilled labor may be counted as cost sharing or matching if the service is an integral and necessary part of an approved project or program. Rates for volunteer services shall be consistent with those paid for similar work in the recipient's organization. In those instances in which the required skills are not found in the recipient organization, rates shall be consistent with those paid for similar work in the labor market in which the recipient competes for the kind of services involved. In either case, paid fringe benefits that are reasonable, allowable, and allocable may be included in the valuation.

(e) When an employer other than the recipient furnishes the services of an employee, these services shall be valued at the employee's regular rate of pay (plus an amount of fringe benefits that are reasonable, allowable, and allocable, but exclusive of overhead costs), provided these services are in the same skill for which the employee is normally paid.

(f) Donated supplies may include such items as expendable equipment, office supplies, laboratory supplies or workshop and classroom supplies. Value assessed to donated supplies included in the cost sharing or matching share shall be reasonable and shall not exceed the fair market value of the property at the time of the donation.

(g) The method used for determining cost sharing or matching for donated equipment, buildings and land for which title passes to the recipient may differ according to the purpose of the award, if the conditions in paragraph (g)(1) or (2) of this section apply.

(1) If the purpose of the award is to assist the recipient in the acquisition of equipment, buildings or land, the total value of the donated property may be claimed as cost sharing or matching.

(2) If the purpose of the award is to support activities that require the use of equipment, buildings or land, normally only depreciation or use charges for equipment and buildings may be made. However, the full value of equipment or other capital assets and fair rental charges for land may be allowed, provided that NASA has approved the charges.

(h) The value of donated property shall be determined in accordance with the usual accounting policies of the recipient, with the following qualifications:

(1) The value of donated land and buildings shall not exceed its fair market value at the time of donation to the recipient as established by an independent appraiser (*e.g.*, certified real property appraiser or General Services Administration representative) and certified by a responsible official of the recipient.

(2) The value of donated equipment shall not exceed the fair market value of equipment of the same age and condition at the time of donation.

(3) The value of donated space shall not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately-owned building in the same locality.

(4) The value of loaned equipment shall not exceed its fair rental value.

(5) The following requirements pertain to the recipient's supporting records for in-kind contributions from third parties.

(i) Volunteer services shall be documented and, to the extent feasible, supported by the same methods used by the recipient for its own employees.

(ii) The basis for determining the valuation for personal service, material, equipment, buildings and land shall be documented.

§ 1260.124 Program income.

(a) The standards set forth in this section shall be used to account for program income related to projects financed in whole or in part with Federal funds.

(b) Program income earned during the project period shall be retained by the recipient and added to funds committed to the project by NASA and the recipient, and used to further eligible project or program objectives, unless NASA indicates in the terms and conditions of the award another alternative to account for program income or the recipient is subject to special award conditions, as indicated in 1260.114.

(c) Unless program regulations or the terms and conditions of the award provide otherwise, recipients shall have no obligation to the Federal Government regarding program income earned after the end of the project period.

(d) Unless program regulations or the terms and conditions of the award provide otherwise, costs incident to the generation of program income may be deducted from gross income to determine program income, provided these costs have not been charged to the award.

(e) Proceeds from the sale of property shall be handled in accordance with the requirements of the Property Standards (See 1260.130 through 1260.137).

(f) Unless program regulations or the terms and condition of the award provide otherwise, recipients shall have no obligation to the Federal Government with respect to program income earned from license fees and royalties for copyrighted material, patents, patent applications, trademarks, and inventions produced under an award. However, Patent and Trademark Amendments (35 U.S.C. 18) apply to inventions made under an experimental, developmental, or research award.

§ 1260.125 Revision of budget and program plans.

(a) The budget plan is the financial expression of the project or program as approved during the award process. It may include either the Federal and non-Federal share, or only the Federal share, depending upon requirements in the regulations in this subpart. It shall be related to performance for program evaluation purposes whenever appropriate.

(b) Recipients are required to report deviations from budget and program plans, and request prior approvals for budget and program plan revisions, in accordance with this section.

(c) For nonconstruction awards, recipients shall request prior approvals from NASA for the following program or budget related reasons, except the item in paragraph (c)(5) of this section, which is waived by NASA.

(1) Change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).

(2) Change in a key person specified in the application or award document.

(3) The absence for more than three months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator.

(4) The need for additional Federal funding.

(5) The transfer of amounts budgeted for indirect costs to absorb increases in direct costs, or vice versa.

Notice: NASA waives prior approval of such revisions.

(6) The inclusion of costs that require prior approval in accordance with OMB Circular A–21, ''Cost Principles for Institutions of Higher Education;'' OMB Circular A–122, ''Cost Principles for Non-Profit Organizations;'' 45 CFR part 74 appendix E, ''Principles for Determining Costs Applicable to Research and Development under Grants and Contracts with Hospitals;'' or 48 CFR part 31, ''Contract Cost Principles and Procedures,'' as applicable.

(7) The transfer of funds allotted for training allowances (direct payment to trainees) to other categories of expense.

(8) Unless described in the application and funded in the approved awards, the subaward, transfer or contracting out of any work under an award. This provision does not apply to the purchase of supplies, material, equipment or general support services.

(d) No other prior approval requirements for specific items will be imposed unless a deviation has been approved by OMB.

(e) NASA has determined to waive the following cost-related and administrative prior written approvals otherwise required by OMB Circulars A–21, A–110 and A–122 to allow recipients to do the following:.

(1) Incur pre-award costs 90 calendar days prior to award or more than 90 calendar days with the prior approval of NASA. All pre-award costs are incurred at the recipient's risk (*i.e.*, NASA is under no obligation to reimburse such costs if for any reason the recipient does not receive an award or if the award is less than anticipated and inadequate to cover such costs).

(2) Initiate a one-time extension of the expiration date of the award of up to 12 months unless one or more of the following conditions apply. For one-time extensions, the recipient must notify NASA in writing with the supporting reasons and revised expiration date at least 10 days before the expiration date specified in the award. This one-time extension may not be exercised merely for the purpose of using unobligated balances.

(i) The terms and conditions of award prohibit the extension.

(ii) The extension requires additional Federal funds.

(iii) The extension involves any change in the approved objectives or scope of the project.

(3) Unless directed otherwise by the grant officer, carry forward unobligated balances to subsequent funding periods.

(f) Program regulations may restrict the transfer of funds among direct cost categories or programs, functions and activities for awards in which NASA's share of the project exceeds $100,000 and the cumulative amount of such transfers exceeds or is expected to exceed 10 percent of the total budget as last approved by NASA. However, no program regulation shall permit a transfer that would cause any Federal appropriation or part thereof to be used for purposes other than those consistent with the original intent of the appropriation.

(g) All other changes to nonconstruction budgets, except for the changes described in paragraph (j) of this section, do not require prior approval.

(h) For construction awards, recipients shall request prior written approval promptly from NASA for budget revisions whenever the

conditions in paragraphs (h)(1), (2) or (3) of this section apply.

(1) The revision results from changes in the scope or the objective of the project or program.

(2) The need arises for additional Federal funds to complete the project.

(3) A revision is desired which involves specific costs for which prior written approval requirements may be imposed consistent with applicable OMB cost principles listed in § 1260.127.

(i) No other prior approval requirements for specific items will be imposed unless a deviation has been approved by OMB.

(j) When NASA makes an award that provides support for both construction and nonconstruction work, NASA requires the recipient to request prior approval from NASA before making any fund or budget transfers between the two types of work supported.

(k) For both construction and nonconstruction awards, NASA requires recipients to notify NASA in writing promptly whenever the amount of Federal authorized funds is expected to exceed the needs of the recipient for the project period by more than $5,000 or five percent of the Federal award, whichever is greater. This notification shall not be required if an application for additional funding is submitted for a continuation award.

(l) When requesting approval for budget revisions, recipients shall use the budget forms that were used in the application unless NASA indicates a letter of request suffices.

(m) Within 30 calendar days from the date of receipt of the request for budget revisions, NASA shall review the request and notify the recipient whether the budget revisions have been approved. If the revision is still under consideration at the end of 30 calendar days, NASA shall inform the recipient in writing of the date when the recipient may expect the decision.

§ 1260.126 Non-Federal audits.

(a) Recipients and subrecipients that are institutions of higher education or other non-profit organizations (including hospitals) shall be subject to the audit requirements contained in the Single Audit Act Amendments of 1966 (31 U.S.C. 7501–7507) and revised OMB Circular A–133, ''Audits of States, Local Governments, and Other Non-Profit Institutions.''

(b) State and local governments shall be subject to the audit requirements contained in the Single Audit Act Amendments of 1966 (31 U.S.C. 7501–7507) and revised OMB Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations.''

(c) For-profit hospitals not covered by the audit provisions of revised OMB Circular A–133 shall be subject to the audit requirements of NASA.

(d) Commercial organizations shall be subject to the audit requirements of NASA or the prime recipient as incorporated into the award document.

§ 1260.127 Allowable costs.

For each kind of recipient, there is a set of Federal principles for determining allowable costs. Allowability of costs shall be determined in accordance with the cost principles applicable to the entity incurring the costs. Thus, allowability of costs incurred by State, local or federally-recognized Indian tribal governments is determined in accordance with the provisions of OMB Circular A–87, ''Cost Principles for State and Local Governments.'' The allowability of costs incurred by non-profit organizations is determined in accordance with the provisions of OMB Circular A–122, ''Cost Principles for Non-Profit Organizations.'' The allowability of costs incurred by institutions of higher education is determined in accordance with the provisions of OMB Circular A–21, ''Cost Principles for Educational Institutions.'' The allowability of costs incurred by hospitals is determined in accordance with the provisions of appendix E of 45 CFR part 74, ''Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals.'' The allowability of costs incurred by commercial organizations and those non-profit organizations listed in Attachment C to Circular A–122 is determined in accordance with the provisions of the Federal Acquisition Regulation (FAR) at 48 CFR part 31.

§ 1260.128 Period of availability of funds.

Where a funding period is specified, a recipient may charge to the grant only allowable costs resulting from obligations incurred during the funding period and any pre-award costs authorized by NASA.

Property Standards

§ 1260.130 Purpose of property standards.

Sections 1260.131 through 1260.137 set forth uniform standards governing management and disposition of property furnished by the Federal Government whose cost was charged to a project supported by a Federal award. Recipients shall observe these standards under awards and NASA will not impose additional requirements, unless specifically required by Federal statute. The recipient may use its own property management standards and procedures provided it observes the provisions of §§ 1260.131 through 1260.137.

§ 1260.131 Insurance coverage.

Recipients shall, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired with Federal funds as provided for property owned by the recipient. Federally-owned property need not be insured unless required by the terms and conditions of the award.

§ 1260.132 Real property.

Unless otherwise provided by statute, the requirements concerning the use and disposition of real property acquired in whole or in part under awards are as follows:

(a) Title to real property shall vest in the recipient subject to the condition that the recipient shall use the real property for the authorized purpose of the project as long as it is needed and shall not encumber the property without approval of NASA.

(b) The recipient shall obtain written approval by NASA for the use of real property in other federally-sponsored projects when the recipient determines that the property is no longer needed for the purpose of the original project. Use in other projects shall be limited to those under federally-sponsored projects (*i.e.*, awards) or programs that have purposes consistent with those authorized for support by NASA.

(c) When the real property is no longer needed as provided in paragraphs (a) and (b) of this section, the recipient shall request disposition instructions from NASA or its successor Federal awarding agency. NASA shall observe one or more of the following disposition instructions.

(1) The recipient may be permitted to retain title without further obligation to the Federal Government after it compensates the Federal Government for that percentage of the current fair market value of the property attributable to the Federal participation in the project.

(2) The recipient may be directed to sell the property under guidelines provided by NASA and pay the Federal Government for that percentage of the current fair market value of the property attributable to the Federal participation in the project (after deducting actual and reasonable selling and fix-up expenses, if any, from the sales proceeds). When the recipient is authorized or required to sell the property, proper sales procedures shall be established that provide for

competition to the extent practicable and result in the highest possible return.

(3) The recipient may be directed to transfer title to the property to the Federal Government or to an eligible third party provided that, in such cases, the recipient shall be entitled to compensation for its attributable percentage of the current fair market value of the property.

§ 1260.133 Federally-owned and exempt property.

(a) *Federally-owned property.*

(1) Title to federally-owned property remains vested in the Federal Government. Recipients shall submit annually an inventory listing of federally-owned property in their custody to NASA. Upon completion of the award or when the property is no longer needed, the recipient shall report the property to NASA for further Federal agency utilization.

(2) If NASA has no further need for the property, it shall be declared excess and reported to the General Services Administration, unless NASA has statutory authority to dispose of the property by alternative methods (*e.g.*, the authority provided by the Federal Technology Transfer Act (15 U.S.C. 3710 (I)) to donate research equipment to educational and non-profit organizations in accordance with Executive Order 12821, ''Improving Mathematics and Science Education in Support of the National Education Goals.'') Appropriate instructions shall be issued to the recipient by NASA.

(b) *Exempt property.* Under the authority of the Childs Act, 31 U.S.C. 6301 to 6308, NASA has determined, as a general rule, to vest title to property acquired with Federal funds in the recipient without further obligation to NASA, including reporting requirements. However, NASA reserves the right, on a case-by-case basis, to transfer title to equipment to NASA or to a third party named by NASA when the third party is eligible under existing statutes. Such equipment will be initially titled to the recipient upon acquisition in accordance with § 1260.134, with instructions for title to be transferred to NASA when no longer needed in performance of the grant or cooperative agreement, in accordance with § 1260.134(g)(4).

§ 1260.134 Equipment.

(a) Title to equipment acquired by a recipient with Federal funds shall vest in the recipient, subject to conditions of this section.

(b) The recipient shall not use equipment acquired with Federal funds to provide services to non-Federal outside organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute, for as long as the Federal Government retains an interest in the equipment.

(c) The recipient shall use the equipment in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds and shall not encumber the property without approval of NASA. When no longer needed for the original project or program, the recipient shall use the equipment in connection with its other federally-sponsored activities, in the following order of priority:

(1) Activities sponsored by NASA, then

(2) Activities sponsored by other Federal agencies.

(d) During the time that equipment is used on the project or program for which it was acquired, the recipient shall make it available for use on other projects or programs if such other use will not interfere with the work on the project or program for which the equipment was originally acquired. First preference for such other use shall be given to other projects or programs sponsored by NASA; second preference shall be given to projects or programs sponsored by other Federal agencies. If the equipment is owned by the Federal Government, use on other activities not sponsored by the Federal Government shall be permissible if authorized by NASA. User charges shall be treated as program income.

(e) When acquiring replacement equipment, the recipient may use the equipment to be replaced as trade-in or sell the equipment and use the proceeds to offset the costs of the replacement equipment subject to the approval of NASA.

(f) The recipient's property management standards for equipment acquired with Federal funds and federally-owned equipment shall include all of the following:

(1) Equipment records shall be maintained accurately and shall include the following information.

(i) A description of the equipment.

(ii) Manufacturer's serial number, model number, Federal stock number, national stock number, or other identification number.

(iii) Source of the equipment, including the award number.

(iv) Whether title vests in the recipient or the Federal Government.

(v) Acquisition date (or date received, if the equipment was furnished by the Federal Government) and cost.

(vi) Information from which one can calculate the percentage of Federal participation in the cost of the equipment (not applicable to equipment furnished by the Federal Government).

(vii) Location and condition of the equipment and the date the information was reported.

(viii) Unit acquisition cost.

(ix) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a recipient compensates NASA for its share.

(2) Equipment owned by the Federal Government shall be identified to indicate Federal ownership.

(3) A physical inventory of equipment shall be taken and the results reconciled with the equipment records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The recipient shall, in connection with the inventory, verify the existence, current utilization, and continued need for the equipment.

(4) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the equipment. Any loss, damage, or theft of equipment shall be investigated and fully documented; if the equipment was owned by the Federal Government, the recipient shall promptly notify NASA.

(5) Adequate maintenance procedures shall be implemented to keep the equipment in good condition.

(6) Where the recipient is authorized or required to sell the equipment, proper sales procedures shall be established which provide for competition to the extent practicable and result in the highest possible return.

(g) When the recipient no longer needs the equipment, the equipment may be used for other activities in accordance with the following standards. For equipment with a current per unit fair market value of $5,000 or more, the recipient may retain the equipment for other uses provided that compensation is made to the original Federal awarding agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value of the equipment. If the recipient has no need for the equipment, the recipient shall request disposition instructions from NASA. NASA shall determine whether the equipment can be used to meet NASA's requirements. If no requirement exists within NASA, the

availability of the equipment shall be reported to the General Services Administration by NASA to determine whether a requirement for the equipment exists in other Federal agencies. NASA shall issue instructions to the recipient no later than 120 calendar days after the recipient's request and the following procedures shall govern.

(1) If so instructed or if disposition instructions are not issued within 120 calendar days after the recipient's request, the recipient shall sell the equipment and reimburse NASA an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the recipient shall be permitted to deduct and retain from the Federal share $500 or ten percent of the proceeds, whichever is less, for the recipient's selling and handling expenses.

(2) If the recipient is instructed to ship the equipment elsewhere, the recipient shall be reimbursed by the Federal Government by an amount which is computed by applying the percentage of the recipient's participation in the cost of the original project or program to the current fair market value of the equipment, plus any reasonable shipping or interim storage costs incurred.

(3) If the recipient is instructed to otherwise dispose of the equipment, the recipient shall be reimbursed by NASA for such costs incurred in its disposition.

(4) NASA may reserve the right to transfer the title to the Federal Government or to a third party named by NASA when such third party is otherwise eligible under existing statutes. Such transfer shall be subject to the following standards.

(i) The equipment shall be appropriately identified in the award or otherwise made known to the recipient in writing.

(ii) NASA shall issue disposition instructions within 120 calendar days after receipt of a final inventory. The final inventory shall list all equipment acquired with grant funds and federally-owned equipment. If NASA fails to issue disposition instructions within the 120 calendar day period, the recipient shall apply the standards of this section, as appropriate. When NASA exercises its right to take title, the equipment shall be subject to the provisions for federally-owned equipment.

§ 1260.135 Supplies and other expendable property.

(a) Title to supplies and other expendable property shall vest in the recipient upon acquisition. If there is a residual inventory of unused supplies exceeding $5,000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other federally-sponsored project or program, the recipient shall retain the supplies for use on non-Federal sponsored activities or sell them, but shall, in either case, compensate the Federal Government for its share. The amount of compensation shall be computed in the same manner as for equipment.

(b) The recipient shall not use supplies acquired with Federal funds to provide services to non-Federal outside organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute as long as the Federal Government retains an interest in the supplies.

§ 1260.136 Intangible property.

(a) The recipient may assert copyright in any work that is copyrightable and was created, or for which copyright ownership was purchased, under an award. NASA is granted a royalty-free, nonexclusive and irrevocable right to reproduce, publish, prepare derivative works or otherwise use the work for Federal purposes, and to authorize others to do so.

(b) Recipients are subject to applicable regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR part 401, ''Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements.''

(c) NASA has the right to:

(1) Obtain, reproduce, publish, create derivative works or otherwise use the data first produced under an award.

(2) Authorize others to receive, reproduce, publish, create derivative works or otherwise use such data for Federal purposes.

(d) Title to intellectual property and debt instruments acquired under an award or subcontract vests upon acquisition in the recipient. The recipient shall use that property for the originally-authorized purpose, and the recipient shall not encumber the property without approval of NASA. When no longer needed for the originally authorized purpose, disposition of the intangible property shall occur in accordance with the provisions of § 1260.134(g).

(e) Due to the substantial involvement on the part of NASA under a cooperative agreement, intellectual property may be produced by Federal employees and NASA contractors tasked to perform NASA assigned activities. Title to intellectual property created under the cooperative agreement by NASA or its contractors will initially vest with the creating party. Certain rights may be exchanged with the recipient.

§ 1260.137 Property trust relationship.

Real property, equipment, intangible property and debt instruments that are acquired or improved with Federal funds shall be held in trust by the recipient as trustee for the beneficiaries of the project or program under which the property was acquired or improved. NASA may require recipients to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with Federal funds and that use and disposition conditions apply to the property.

Procurement Standards

§ 1260.140 Purpose of procurement standards.

Sections 1260.141 through 1260.148 set forth standards for use by recipients in establishing procedures for the procurement of supplies and other expendable property, equipment, real property and other services with Federal funds. These standards are furnished to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal statutes and executive orders. No additional procurement standards or requirements shall be imposed by NASA upon recipients, unless specifically required by Federal statute or executive order or approved in accordance with the deviation procedures of § 1260.6.

§ 1260.141 Recipient responsibilities.

The standards contained in this section do not relieve the recipient of the contractual responsibilities arising under its contract(s). The recipient is the responsible authority, without recourse to NASA, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in support of an award or other agreement. This includes disputes, claims, protests of award, source evaluation or other matters of a contractual nature. Matters concerning violation of statute are to be referred to such Federal, State or local authority as may have proper jurisdiction.

§ 1260.142 Codes of conduct.

The recipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award. The officers, employees, and agents of the recipient shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to subagreements. However, recipients may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the recipient.

§ 1260.143 Competition.

All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The recipient shall be alert to organizational conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals shall be excluded from competing for such procurements. Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to the recipient, price, quality and other factors considered. Solicitations shall clearly set forth all requirements that the bidder or offeror shall fulfill in order for the bid or offer to be evaluated by the recipient. Any and all bids or offers may be rejected when it is in the recipient's interest to do so.

§ 1260.144 Procurement procedures.

(a) All recipients shall establish written procurement procedures. These procedures shall provide for, at a minimum, that the conditions in paragraphs (a)(1), (2) and (3) of this section apply.

(1) Recipients avoid purchasing unnecessary items.

(2) Where appropriate, an analysis is made of lease and purchase alternatives to determine which would be the most economical and practical procurement for the Federal Government.

(3) Solicitations for goods and services provide for all of the following:

(i) A clear and accurate description of the technical requirements for the material, product or service to be procured. In competitive procurements, such a description shall not contain features which unduly restrict competition.

(ii) Requirements which the bidder/offeror must fulfill and all other factors to be used in evaluating bids or proposals.

(iii) A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.

(iv) The specific features of ''brand name or equal'' descriptions that bidders are required to meet when such items are included in the solicitation.

(v) The acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.

(vi) Preference, to the extent practicable and economically feasible, for products and services that conserve natural resources and protect the environment and are energy efficient.

(b) Positive efforts shall be made by recipients to utilize small businesses, minority-owned firms, and women's business enterprises, whenever possible. Recipients of NASA awards shall take all of the following steps to further this goal.

(1) Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.

(2) Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.

(3) Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.

(4) Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.

(5) Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises.

(c) The type of procuring instruments used (*e.g.*, fixed price contracts, cost reimbursable contracts, purchase orders, and incentive contracts) shall be determined by the recipient but shall be appropriate for the particular procurement and for promoting the best interest of the program or project involved.

The ''cost-plus-a-percentage-of-cost'' or ''percentage of construction cost'' methods of contracting shall not be used.

(d) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources. In certain circumstances, contracts with certain parties are restricted by 14 CFR part 1265, the implementation of Executive Orders 12549 and 12689, ''Debarment and Suspension.''

(e) Recipients shall, on request, make available for NASA, pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc., when any of the following conditions apply.

(1) A recipient's procurement procedures or operation fails to comply with the procurement standards in NASA's implementation of this subpart.

(2) The procurement is expected to exceed the small purchase threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation.

(3) The procurement, which is expected to exceed the small purchase threshold, specifies a ''brand name'' product.

(4) The proposed award over the small purchase threshold is to be awarded to other than the apparent low bidder under a sealed bid procurement.

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the amount of the small purchase threshold.

§ 1260.145 Cost and price analysis.

Some form of cost or price analysis shall be made and documented in the procurement files in connection with every procurement action. Price analysis

may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.

§ 1260.146 Procurement records.

Procurement records and files for purchases in excess of the small purchase threshold shall include the following at a minimum:

(a) Basis for contractor selection,

(b) Justification for lack of competition when competitive bids or offers are not obtained, and

(c) Basis for award cost or price.

§ 1260.147 Contract administration.

A system for contract administration shall be maintained to ensure contractor conformance with the terms, conditions and specifications of the contract and to ensure adequate and timely follow up of all purchases. Recipients shall evaluate contractor performance and document, as appropriate, whether contractors have met the terms, conditions and specifications of the contract.

§ 1260.148 Contract provisions.

The recipient shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts. The following provisions shall also be applied to subcontracts.

(a) Contracts in excess of the small purchase threshold shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms, and provide for such remedial actions as may be appropriate.

(b) All contracts in excess of the small purchase threshold shall contain suitable provisions for termination by the recipient, including the manner by which termination shall be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(c) Except as otherwise required by statute, an award that requires the contracting (or subcontracting) for construction or facility improvements shall provide for the recipient to follow its own requirements relating to bid guarantees, performance bonds, and payment bonds unless the construction contract or subcontract exceeds $100,000. For those contracts or subcontracts exceeding $100,000, NASA may accept the bonding policy and requirements of the recipient, provided the NASA has made a determination that the Federal Government's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows.

(1) A bid guarantee from each bidder equivalent to five percent of the bid price. The ''bid guarantee'' shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder shall, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) A performance bond on the part of the contractor for 100 percent of the contract price. A ''performance bond'' is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(3) A payment bond on the part of the contractor for 100 percent of the contract price. A ''payment bond'' is one executed in connection with a contract to assure payment as required by statute of all persons supplying labor and material in the execution of the work provided for in the contract.

(4) Where bonds are required in the situations described in this section, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties pursuant to 31 CFR part 223, ''Surety Companies Doing Business with the United States.''

(d) All negotiated contracts (except those for less than the small purchase threshold) awarded by recipients shall include a provision to the effect that the recipient, NASA, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.

(e) All contracts, including small purchases, awarded by recipients and their contractors shall contain the procurement provisions of appendix A to this subpart, as applicable.

Reports and Records

§ 1260.150 Purpose of reports and records.

Sections 1260.151 through 1260.153 set forth the procedures for monitoring and reporting on the recipient's financial and program performance and the necessary standard reporting forms. They also set forth record retention requirements.

§ 1260.151 Monitoring and reporting program performance.

(a) Recipients are responsible for managing and monitoring each project, program, subcontract, function or activity supported by the award. Recipients shall monitor subcontracts to ensure subcontractors have met the audit requirements as delineated in § 1260.126.

(b) The terms and conditions of the award shall prescribe the frequency with which the performance reports shall be submitted. Except as provided in § 1260.151(f), performance reports shall not be required more frequently than quarterly or, less frequently than annually. Annual reports shall be due 90 calendar days after the grant year; quarterly or semi-annual reports shall be due 30 days after the reporting period. NASA may require annual reports before the anniversary dates of multiple year awards in lieu of these requirements. The final performance reports are due 90 calendar days after the expiration or termination of the award.

(c) If inappropriate, a final technical or performance report shall not be required after completion of the project.

(d) When required, performance reports shall generally contain, for each award, brief information on each of the following.

(1) A comparison of actual accomplishments with the goals and objectives established for the period, the findings of the investigator, or both. Whenever appropriate and the output of programs or projects can be readily quantified, such quantitative data should be related to cost data for computation of unit costs.

(2) Reasons why established goals were not met, if appropriate.

(3) Other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(e) Recipients shall not be required to submit more than the original and two copies of performance reports.

(f) Recipients shall immediately notify NASA of developments that have a significant impact on the award-supported activities. Also, notification shall be given in the case of problems, delays, or adverse conditions which materially impair the ability to meet the objectives of the award. This notification shall include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.

(g) NASA may make site visits, as needed.

(h) NASA shall comply with clearance requirements of 5 CFR part 1320 when requesting performance data from recipients.

§ 1260.152 Financial reporting.

(a) When funds are advanced to recipients, each recipient is required to submit the SF 272, Report of Federal Cash Transactions, and, when necessary, its continuation sheet, SF 272a. NASA uses this report to monitor cash advanced to the recipient and obtain disbursement information for each agreement with the recipient.

(b) NASA requires forecasts of the recipient's cash requirements for each of the four months following the quarter being reported, in the ''Remarks'' section of the report.

(c) Recipients are required to submit the original of the report to the Financial Management Office of the NASA Center which issued the agreement 15 working days following the end of each Federal fiscal quarter. Copies will be furnished to the appropriate grant officer.

§ 1260.153 Retention and access requirements for records.

(a) This section sets forth requirements for record retention and access to records for awards to recipients. NASA shall not impose any other record retention or access requirements upon recipients.

(b) Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of three years from the date of submission of the final expenditure report or, for awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, as authorized by NASA. The only exceptions are the following.

(1) If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.

(2) Records for real property and equipment acquired with Federal funds shall be retained for 3 years after final disposition.

(3) When records are transferred to or maintained by NASA, the 3-year retention requirement is not applicable to the recipient.

(4) Indirect cost rate proposals, cost allocations plans, etc. as specified in § 1260.153(g).

(c) Copies of original records may be substituted for the original records if authorized by NASA.

(d) NASA shall request transfer of certain records to its custody from recipients when it determines that the records possess long term retention value. However, in order to avoid duplicate record keeping, NASA may make arrangements for recipients to retain any records that are continuously needed for joint use.

(e) NASA, the Inspector General, Comptroller General of the United States, or any of their duly authorized representatives, have the right of timely and unrestricted access to any books, documents, papers, or other records of recipients that are pertinent to the awards, in order to make audits, examinations, excerpts, transcripts and copies of such documents. This right also includes timely and reasonable access to a recipient's personnel for the purpose of interview and discussion related to such documents. The rights of access in this paragraph are not limited to the required retention period, but shall last as long as records are retained.

(f) Unless required by statute, NASA shall place no restrictions on recipients that limit public access to the records of recipients that are pertinent to an award, except when NASA can demonstrate that such records shall be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) if the records had belonged to NASA.

(g) Indirect cost rate proposals, cost allocations plans, etc. Paragraphs (g)(1) and (g)(2) of this section apply to the following types of documents, and their supporting records: Indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(1) *If submitted for negotiation*. If the recipient submits to NASA or the subrecipient submits to the recipient the proposal, plan, or other computation to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts on the date of such submission.

(2) *If not submitted for negotiation*. If the recipient is not required to submit to NASA or the subrecipient is not required to submit to the recipient the proposal, plan, or other computation for negotiation purposes, then the 3-year retention period for the proposal, plan, or other computation and its supporting records starts at the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

Termination and Enforcement

§ 1260.160 Purpose of termination and enforcement.

Sections 1260.61 and 1260.62 set forth uniform suspension, termination and enforcement procedures.

§ 1260.161 Termination.

(a) Awards may be terminated in whole or in part only if the conditions in paragraph (a)(1), (2) or (3) of this section apply.

(1) By NASA, if a recipient materially fails to comply with the terms and conditions of an award.

(2) By NASA with the consent of the recipient, in which case the two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.

(3) By the recipient upon sending to NASA written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if NASA determines in the case of partial termination that the reduced or modified portion of the grant will not accomplish the purposes for which the grant was made, it may terminate the grant in its entirety under either paragraphs (a)(1) or (2) of this section.

(b) If costs are allowed under an award, the responsibilities of the recipient referred to in § 1260.171(a), including those for property management as applicable, shall be considered in the termination of the award, and provision shall be made for continuing responsibilities of the recipient after termination, as appropriate.

§ 1260.162 Enforcement.

(a) *Remedies for noncompliance*. If a recipient materially fails to comply with the terms and conditions of an award, whether stated in a Federal statute, regulation, assurance, application, or notice of award, NASA may, in addition to imposing any of the special conditions outlined in § 1260.114, take one or more of the following actions, as appropriate in the circumstances.

(1) Temporarily withhold cash payments pending correction of the deficiency by the recipient or more severe enforcement action by NASA.

(2) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.

(3) Wholly or partly suspend or terminate the current award.

(4) Withhold further awards.

(5) Take other remedies that may be legally available.

(b) *Hearings and appeals*. In taking an enforcement action, NASA shall provide the recipient an opportunity for hearing, appeal, or other administrative proceeding to which the recipient is entitled under any statute or regulation applicable to the action involved.

(c) *Effects of suspension and termination*. Costs of a recipient resulting from obligations incurred by the recipient during a suspension or after termination of an award are not allowable unless NASA expressly authorizes them in the notice of suspension or termination or subsequently. Other recipient costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if the conditions in paragraph (c)(1) and (2) of this section apply.

(1) The costs result from obligations which were properly incurred by the recipient before the effective date of suspension or termination, are not in anticipation of it, and in the case of a termination, are noncancellable.

(2) The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.

(d) *Relationship to debarment and suspension*. The enforcement remedies identified in this section, including suspension and termination, do not preclude a recipient from being subject to debarment and suspension under Executive Orders 12549 and 12689 and 14 CFR part 1265 (see § 1260.113).

After-the-Award Requirements

§ 1260.170 Purpose.

Sections 1260.171 through 1260.173 contain closeout procedures and other procedures for subsequent disallowances and adjustments.

§ 1260.171 Closeout procedures.

(a) Recipients shall submit, within 90 calendar days after the date of completion of the award, all financial, performance, and other reports as required by the terms and conditions of the award. NASA may approve extensions when requested by the recipient.

(b) Unless NASA authorizes an extension, a recipient shall liquidate all obligations incurred under the award not later than 90 calendar days after the funding period or the date of completion as specified in the terms and conditions of the award or in agency implementing instructions.

(c) NASA shall make prompt payments to a recipient for allowable reimbursable costs under the award being closed out.

(d) The recipient shall promptly refund any balances of unobligated cash that NASA has advanced or paid and that is not authorized to be retained by the recipient for use in other projects. OMB Circular A–129 governs unreturned amounts that become delinquent debts.

(e) When authorized by the terms and conditions of the award, NASA shall make a settlement for any upward or downward adjustments to the Federal share of costs after closeout reports are received.

(f) The recipient shall account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with §§ 1260.131 through 1260.137.

(g) In the event a final audit has not been performed prior to the closeout of an award, NASA shall retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

§ 1260.172 Subsequent adjustments and continuing responsibilities.

(a) The closeout of an award does not affect any of the following.

(1) The right of NASA to disallow costs and recover funds on the basis of a later audit or other review.

(2) The obligation of the recipient to return any funds due as a result of later refunds, corrections, or other transactions.

(3) Audit requirements in § 1260.126.

(4) Property management requirements in §§ 1260.131 through 1260.137.

(5) Records retention as required in § 1260.153.

(b) After closeout of an award, a relationship created under an award may be modified or ended in whole or in part with the consent of the NASA and the recipient, provided the responsibilities of the recipient referred to in § 1260.173(a), including those for property management as applicable, are considered and provisions made for continuing responsibilities of the recipient, as appropriate.

§ 1260.173 Collection of amounts due.

(a) Any funds paid to a recipient in excess of the amount to which the recipient is finally determined to be entitled under the terms and conditions of the award constitute a debt to the Federal Government. If not paid within a reasonable period after the demand for payment, NASA may reduce the debt by the provisions of paragraph (a)(1), (2) or (3) of this section

(1) Making an administrative offset against other requests for reimbursements.

(2) Withholding advance payments otherwise due to the recipient.

(3) Taking other action permitted by statute.

(b) Except as otherwise provided by law, NASA shall charge interest on an overdue debt in accordance with 4 CFR chapter II, ''Federal Claims Collection Standards.''

Appendix A to Subpart B of Part 1260—Contract Provisions

All contracts awarded by a recipient, including small purchases, shall contain the following provisions as applicable:

1. *Equal Employment Opportunity*. All contracts shall contain a provision requiring compliance with Executive Order 11246, ''Equal Employment Opportunity,'' as amended by Executive Order 11375, ''Amending Executive Order 11246 Relating to Equal Employment Opportunity,'' and as supplemented by regulations at 41 CFR Part 60, ''Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.''

2. *Copeland ''Anti-Kickback'' Act (18 U.S.C. 874 and 40 U.S.C. 276c)*. All contracts in excess of $2,000 for construction or repair awarded by recipients shall include a provision for compliance with the Copeland ''Anti-Kickback'' Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR Part 3, ''Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States''). The Act provides that each contractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to NASA.

3. *Davis-Bacon Act, as amended (40 U.S.C. 276a to a–7)*. When required by Federal program legislation, all construction contracts awarded by the recipients of more than $2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a–7) and as supplemented by Department of Labor regulations (29 CFR Part 5, ''Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction''). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall

report all suspected or reported violations to the NASA.

4. *Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333).* Where applicable, all contracts awarded by recipients in excess of $2,000 for construction contracts and in excess of $2,500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Subsection 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

5. *Rights to Inventions Made Under a Contract or Agreement.* Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, ''Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,'' and any implementing regulations issued by the awarding agency.

6. *Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended.* Contracts of amounts in excess of $100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 *et seq.*) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 *et seq.*). Violations shall be reported to NASA and the Regional Office of the Environmental Protection Agency (EPA).

7. *Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).* Contractors who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

8. *Debarment and Suspension (Executive Orders 12549 and 12689).* No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with Executive Orders 12549 and 12689, ''Debarment and Suspension.'' This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than Executive Order 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

2. Part 1274 is revised to read as follows:

PART 1274—COOPERATIVE AGREEMENTS WITH COMMERCIAL FIRMS

Subpart A—General

Sec.
1274.101 Purpose.
1274.102 Definitions.
1274.103 Effect on other issuances.
1274.104 Deviations.
1274.105 Approval of Cooperative Agreement Notices (CANs) and cooperative agreements.

Subpart B—Pre-Award Requirements

1274.201 Purpose.
1274.202 Solicitations and proposals.
1274.203 Intellectual property.
1274.204 Evaluation and selection.
1274.205 Award procedures.
1274.206 Document format and numbering.
1274.207 Distribution of cooperative agreements.

Subpart C—Administration

1274.301 Delegation of administration.
1274.302 Transfers, novations, and change of name agreements.

Subpart D—Government Property

1274.401 Government property.

Subpart E—Procurement Standards

1274.501 Subcontracts.

Subpart F—Reports and Records

1274.601 Retention and access requirements for records.

Subpart G—Suspension or Termination

1274.701 Suspension or termination.

Subpart H—After-the-Award Requirements

1274.801 Purpose.
1274.802 Closeout procedures.
1274.803 Subsequent adjustments and continuing responsibilities.

Subpart I—Provisions and Special Conditions

1274.901 Other provisions and special conditions.
1274.902 Purpose.
1274.903 Responsibilities.
1274.904 Resource sharing requirements.
1274.905 Rights in data.
1274.906 Designation of new technology representative and patent representative.
1274.907 Disputes.
1274.908 Milestone payments.
1274.909 Term of this agreement.
1274.910 Authority.
1274.911 Patent rights.
1274.912 Patent rights—retention by the Recipient (large business).
1274.913 Patent rights—retention by the Recipient (small business).
1274.914 Requests for waiver of rights—large business.
1274.915 Restrictions on sale or transfer of technology to foreign firms or institutions.
1274.916 Liability and risk of loss.
1274.917 Additional funds.
1274.918 Incremental funding.
1274.919 Cost principles and accounting standards.
1274.920 Responsibilities of the NASA Technical Officer.
1274.921 Publications and reports: Non-proprietary research results.
1274.922 Suspension or termination.
1274.923 Equipment and other property.
1274.924 Civil rights.
1274.925 Subcontracts.
1274.926 Clean Air-Water Pollution Control Acts.
1274.927 Debarment and suspension and Drug-Free Workplace.
1274.928 Foreign national employee investigative requirements.
1274.929 Restrictions on lobbying.
1274.930 Travel and transportation.
1274.931 Electronic funds transfer payment methods.
1274.932 Retention and examination of records.
1274.933 Summary of recipient reporting responsibilities.
1274.934 Safety.

Appendix to Part 1274—Listing of Exhibits

Exhibit A to Part 1274—Contract Provisions
Exhibit B to Part 1274—Reports

Authority: 31 U.S.C. 6301 to 6208; 42 U.S.C. 2451 *et seq.*

Subpart A—General

§ 1274.101 Purpose.

(a) This part establishes uniform administrative requirements for NASA cooperative agreements awarded to commercial firms. Cooperative agreements are ordinarily entered into with commercial firms to—

(1) Support research and development;

(2) Provide technology transfer from the Government to the recipient; or

(3) Develop a capability among U.S. firms to potentially enhance U.S. competitiveness.

(b) An award may not be made to a foreign government. Award to foreign firms is not precluded. The approval of the Associate Administrator for

Procurement is required to exclude foreign firms from submitting proposals.

§ 1274.102 Definitions.

Administrator. The Administrator or Deputy Administrator of NASA.

Associate Administrator for Procurement. The head of the Office of Procurement, NASA Headquarters (Code H).

Cash contributions. The recipient's cash outlay, including the outlay of money contributed to the recipient by third parties.

Closeout. The process by which NASA determines that all applicable administrative actions and all required work of the award have been completed by the recipient and NASA.

Commercial item. The definition in FAR 2.101 is applicable.

Cooperative agreement. As defined by 31 U.S.C. 6305, cooperative agreements are financial assistance instruments used to stimulate or support activities for authorized purposes and in which the Government participates substantially in the performance of the effort. This part covers only cooperative agreements with commercial firms. Cooperative agreements with universities and non-profit organizations are covered by 14 CFR part 1260.

Cost sharing or matching. That portion of project or program costs not borne by the Federal Government except that the recipient's contribution may be reimbursable under other Government awards as allowable IR&D costs pursuant to 48 CFR (NFS) 1831.205–18.

Date of completion. The date on which all work under an award is completed or the date on the award document, or any supplement or amendment thereto, on which NASA sponsorship ends.

Days. Calendar days, unless otherwise indicated.

Government furnished equipment. Equipment in the possession of, or acquired directly by, the Government and subsequently delivered, or otherwise made available, to a Recipient and equipment procured by the Recipient with Government funds under a cooperative agreement.

Grant Officer. A Government employee who has been delegated the authority to negotiate, award, or administer grants or cooperative agreements. A Contracting Officer may serve as a Grant Officer if authorized by installation procurement regulations.

Incremental funding. A method of funding a cooperative agreement where the funds initially allotted to the cooperative agreement are less than the award amount. Additional funding is added as described in 1274.918.

Recipient. An organization receiving financial assistance under a cooperative agreement to carry out a project or program. A recipient may be an individual firm, a consortium, a partnership, etc.

Resource contribution. The total value of resources provided by either party to the cooperative agreement including both cash and non-cash contributions.

Support contractor. A NASA contractor performing part or all of the NASA responsibilities under a cooperative agreement.

Suspension. An action by NASA or the recipient that temporarily discontinues efforts under an award, pending corrective action or pending a decision to terminate the award. Suspension of an award is a separate action from suspension under Federal agency regulations implementing Executive Orders 12549 and 12689, ''Debarment and Suspension.''

Technical officer. The official of the cognizant NASA office who is responsible for monitoring the technical aspects of the work under a cooperative agreement. A Contracting Officer's Technical Representative may serve as a Technical Officer.

Termination. The cancellation of a cooperative agreement in whole or in part, by either party at any time prior to the date of completion.

§ 1274.103 Effect on other issuances.

For awards subject to this subpart, the requirements of this subpart apply, except to the extent that any administrative requirements of codified program regulations, program manuals, handbooks and other nonregulatory materials are required by statute, or are authorized in accordance with the deviations provision in § 1274.104.

§ 1274.104 Deviations.

(a) The Associate Administrator for Procurement may grant exceptions for classes of or individual cooperative agreements from the requirements of this part when exceptions are not prohibited by statute.

(b) *Applicability.* A deviation is required for any of the following:

(1) When a prescribed provision set forth in this part for use verbatim is modified or omitted.

(2) When a provision is set forth in this part, but not prescribed for use verbatim, and the installation substitutes a provision which is inconsistent with the intent, principle, and substance of the prescribed provision.

(3) When a NASA form or other form is prescribed by this part, and that form is altered or another form is used in its place.

(4) When limitations, imposed by this part upon the use of a provision, form, procedure, or any other action, are not adhered to.

(c) Request for deviations. Requests for authority to deviate from this part will be forwarded to Headquarters, Program Operations Division (Code HS). Such requests, signed by the Procurement Officer, shall contain as a minimum:

(1) A full description of the deviation and identification of the regulatory requirement from which a deviation is sought.

(2) Detailed rationale for the request, including any pertinent background information.

(3) The name of the recipient and identification of the cooperative agreement affected, including the dollar value.

(4) A statement as to whether the deviation has been requested previously, and, if so, circumstances of the previous request(s).

(5) A copy of legal counsel's concurrence or comments.

§ 1274.105 Approval of Cooperative Agreement Notices (CANs) and cooperative agreements.

(a) As soon as possible after the initial decision is made by a Headquarters program office or Center procurement personnel to use the CAN process, the cognizant program office or procurement office shall notify the Associate Administrator for Procurement (Code HS) of the intent to use a CAN in all cases where the total Government funds to be awarded in response to CAN proposals is expected to equal or exceed $10 million. All such notifications, as described in this section, shall be concurred in by the Procurement Officer. This requirement also applies in those cases where an unsolicited proposal is received and a decision is made to award a cooperative agreement in which the recipient (or one or more members of a ''team'' of recipients) is a commercial firm and the total Government funds are expected to equal or exceed $10 million.

(b) The required notification is to be accomplished by sending an electronic mail (e-mail) message to the following address at NASA Headquarters: can@hq.nasa.gov. The notification must include the following information, as a minimum:

(1) Identification of the cognizant center and program office,

(2) Description of the proposed program for which proposals are to be solicited,

(3) Rationale for decision to use a CAN rather than other types of solicitations,

(4) The amount of Government funding to be available for awards,

(5) Estimate of the number of cooperative agreements to be awarded as a result of the CAN,

(6) The percentage of cost-sharing to be required,

(7) Tentative schedule for release of CAN and award of cooperative agreements,

(8) If the term of the cooperative agreement is anticipated to exceed 3 years and/or if the Government cash contribution is expected to exceed $20M, address anticipated changes, if any, to the provisions (see 1274.202(f)), and

(9) If the cooperative agreement is for programs/projects that provide aerospace products or capabilities, (*i.e.*, provide space and aeronautics, flight and ground systems, technologies and operations), a statement that the requirements of NASA Policy Directive (NPD) 7120.4 and NASA Policy Guidance (NPG) 7120.5 have been met. This affirmative statement will include a specific reference to the signed Program Commitment Agreement.

(c) Code HS will respond by e-mail message to the sender, with a copy of the message to the Procurement Officer and the Office of Small and Disadvantaged Business Utilization, within 5 working days of receipt of this initial notification. The response will address the following:

(1) Whether Code HS agrees or disagrees with the appropriateness for using a CAN for the effort described,

(2) Whether Code HS will require review and approval of the CAN before its issuance,

(3) Whether Code HS will require review and approval of the selected offeror's cost sharing arrangement (*e.g.*, cost sharing percentage; type of contribution (cash, labor, etc.)), and

(4) Whether Code HS will require review and approval of the resulting cooperative agreement(s).

(d) If a response from Code HS is not received within 5 working days of notification, the program office or center may proceed with release of the CAN and award of the cooperative agreements as described.

Subpart B—Pre-Award Requirements

§ 1274.201 Purpose.

Sections 1274.202 through 1274.207 prescribe forms and instructions and address other pre-award matters.

§ 1274.202 Solicitations and proposals.

(a) Consistent with 31 U.S.C. 6301(3), NASA uses competitive procedures to award cooperative agreements whenever possible. An award will normally be made as a result of a Cooperative Agreement Notice (CAN) which envisions a cooperative agreement as the award instrument. A Commerce Business Daily synopsis or a synopsis on the NASA Acquisition Internet Service will be used to publicize the CAN.

(b) Unsolicited proposals. (1) An award may be made as a result of an unsolicited proposal. The unsolicited proposal must evidence a unique and innovative idea or approach which is not the subject of a current or anticipated solicitation. When a cooperative agreement is awarded as a result of an unsolicited proposal, a Commerce Business Daily synopsis and a synopsis on the NASA Acquisition Internet Service will be used to provide an opportunity for other firms/consortia to express an interest in the agreement unless the exception in 48 CFR (FAR) 5.202(a)(8) applies. Respondents should be given a minimum of thirty days to respond. If interest is expressed, a decision must be made to proceed with the award or to issue a solicitation for competitive proposals.

(2) Prior to an award made as the result of an unsolicited proposal, the award must be approved by the Procurement Officer if NASA's total resource contribution is below $5 million. Center Director approval is required if NASA's total resource contribution is $5 million or more. For Headquarters cooperative agreements, approval by the Associate Administrator for Procurement is required if NASA's total resource contribution is $5 million or more.

(c) Cost and payment matters. (1) The expenditure of Government funds by the Recipient and the allowability of costs recognized as a resource contribution by the Recipient shall be governed by the FAR cost principles, 48 CFR part 31. If the Recipient is a consortium which includes non-commercial entities as members, cost allowability for those members will be determined as follows:

(i) Allowability of costs incurred by State, local or federally-recognized Indian tribal governments is determined in accordance with the provisions of OMB Circular A–87, ''Cost Principles for State and Local Governments.''

(ii) The allowability of costs incurred by non-profit organizations is determined in accordance with the provisions of OMB Circular A–122, ''Cost Principles for Non-Profit Organizations.''

(iii) The allowability of costs incurred by institutions of higher education is determined in accordance with the provisions of OMB Circular A–21, ''Cost Principles for Educational Institutions.''

(iv) The allowability of costs incurred by hospitals is determined in accordance with the provisions of Appendix E of 45 CFR Part 74, ''Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals.'' Recipient's method for accounting for the expenditure of funds must be consistent with Generally Accepted Accounting Principles.

(2) Cost sharing. A substantial resource contribution on the part of the Recipient is required. The Recipient is expected to contribute at least 50 percent of the total resources required to accomplish the cooperative agreement. Recipient contributions may be either cash or non-cash or both. In those cases in which a contribution of less than 50 percent is anticipated from the Recipient, approval of the Associate Administrator for Procurement (Code HS) is required prior to award. The request for approval should address the evaluation factor in the solicitation and how the proposal accomplishes those objectives to such a degree that a share ratio of less than 50 percent is warranted.

(3) Fixed funding. Cooperative agreements are funded by NASA in a fixed amount. Payments in fixed amounts will be made by NASA in accordance with ''Milestone Billings'' which are discussed in paragraph (c)(4) of this section. If the Recipient completes the final milestone, final payment is made, and NASA will have completed its financial responsibilities under the agreement. However, if the cooperative agreement is terminated prior to achievement of all milestones, NASA's funding will be limited to milestone payments already made plus NASA's share of costs required by the Recipient to meet commitments which had in the judgment of NASA become firm prior to the effective date of termination and are otherwise appropriate. In no event shall these additional costs or payment exceed the amount of the next payable milestone billing amount.

(4) Milestone billings is the method of payment to the Recipient under cooperative agreements. Performance based milestones are used as the basis of establishing a set of verifiable milestones for payment purposes. Each milestone payment shall be established so that the Government payment is at the same share ratio as the cooperative

agreement share ratio. If the Recipient is a consortium, the Articles of Collaboration is required to contain an extensive list of performance based milestones that the consortium has agreed to. Generally, payments should not be made more than once monthly; ideally, payments will be made about every 60 to 90 days but in all cases should be made on the basis of verifiable, significant events as opposed to the passage of time. The last payment milestone should be large enough to ensure that the Recipient completes its responsibilities under the cooperative agreement (or funds should be reserved for payment until after completion of the cooperative agreement). The Government technical officer must verify completion of each milestone to the Grant Officer as part of the payment process.

(5) Incremental funding. Cooperative agreements may be incrementally funded subject to the following:

(i) The total value of the NASA cash contribution is $50,000 or more.

(ii) The period of performance overlaps the succeeding fiscal year.

(iii) The funds are not available to fully fund the cooperative agreement at the time of award.

(6) Cost sharing. Cost sharing requirements on cooperative agreements with commercial firms are based on Section 23 of OMB Circular A–110. Only cash or certain non-cash resources are acceptable sources for the Recipient contribution to a cooperative agreement. Acceptable non-cash resources include such items as purchased equipment, equipment, labor, office space, etc. The actual or imputed value of intellectual property such as patent rights, data rights, trade secrets, etc., are not acceptable as sources for the Recipient contribution. The Government's cost share should fully reflect the total cost of the cash and non-cash contributions. With respect to the non-cash contribution, a fully burdened cost estimate of personnel, facilities, and other expenses should be utilized. It is recognized that this will be an estimate in some cases, but the cost principles in Section 9091–5 of the NASA Financial Management Manual should be adhered to.

(7) Recipients shall not be paid a profit under cooperative agreements. Profit may be paid by the Recipient to subcontractors, if the subcontractor is not part of the offering team and the subcontract is an arms-length relationship.

(8) The Recipient's resource share of the cooperative agreement may be allocated as part of its IR&D program.

(9) The CAN must provide a description of the non-cash Government contribution (personnel, equipment, facilities, etc.) as part of the Government's contribution to the cooperative agreement in addition to funding. The offeror may propose that additional non-cash Government resources be provided under two conditions. First, the offeror is responsible for verifying the availability of the resources and their suitability for their intended purpose and, second, those resources are part of the Government contribution (which must be matched by the Recipient) and paid for directly by the awarding organization.

(d) Consortia as recipients. (1) The use of consortia as Recipients for cooperative agreements is encouraged. Consortia will tend to bring to a cooperative agreement a broader range of capabilities and resources. A consortium is a group of organizations that enter into an agreement to collaborate for the purposes of the cooperative agreement with NASA. The agreement to collaborate can take the form of a legal entity such as a partnership or joint venture but it is not necessary that such an entity be created. A consortium may be made up of firms which normally compete for commercial or Government business or may be made up of firms which perform complementary functions in a given industry. The inclusion of non-profit or educational institutions, small businesses, or small disadvantaged businesses in the consortium could be particularly valuable in ensuring that the results of the consortium's activities are disseminated.

(2) Key to the success of the cooperative agreement with a consortium is the consortium's Articles of Collaboration, which is a definitive description of the roles and responsibilities of the consortium's members. It should also address to the extent appropriate: commitments of financial, personnel, facilities and other resources, a detailed milestone chart of consortium activities, accounting requirements, subcontracting procedures, disputes, term of the agreement, insurance and liability issues, internal and external reporting requirements, management structure of the consortium, obligations of organizations withdrawing from the consortia, allocation of data and patent rights among the consortia members, agreements, if any, to share existing technology and data, the firm which is responsible for the completion of the consortium's responsibilities under the cooperative agreement and has the authority to commit the consortium and receive payments from NASA, employee policy issues, etc.

(3) An outline of the Articles of Collaboration should be required as part of the proposal and evaluated during the source selection process.

(e) Metric system of measurement. The Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act (15 U.S.C. 205) declares that the metric system is the preferred measurement system for U.S. trade and commerce. NASA's policy with respect to the metric measurement system is stated in NPD 8010.2, Use of the Metric System of Measurement in NASA Programs.

(f) The provisions set forth in § 1274.901 are generally considered appropriate for agreements not exceeding 3 years and/or a Government cash contribution not exceeding $20M. For cooperative agreements expected to be longer than 3 years and/or involve a Government cash contribution exceeding $20M, consideration should be given to provisions which place additional restrictions on the recipient in terms of validating performance and accounting for funds expended.

§ 1274.203 Intellectual property.

(a) A cooperative agreement covers the disposition of rights to intellectual property between NASA and the Recipient. If the Recipient is a consortium or partnership, rights flowing between multiple organizations in a consortium must be negotiated separately and formally documented, preferably in the Articles of Collaboration.

(b) Patent rights clauses are required by statute and regulation. The clauses exist for Recipients of the Agreement whether they are:

(1) Other than small business or nonprofit organizations (generally referred to as large businesses) or

(2) Small businesses or nonprofit organizations.

(c) There are five situations in which inventions may arise under a cooperative agreement: Recipient inventions, subcontractor inventions, NASA inventions, NASA support contractor inventions, and joint inventions with Recipient.

(d)(1) Recipient inventions.

(i) A Recipient, if a large business, is subject to Section 305 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457) relating to property rights in inventions. The term ''invention'' includes any invention, discovery, improvement, or innovation. Title to an invention made under a cooperative agreement by a large business Recipient

initially vests with NASA. The Recipient may request a waiver under the NASA Patent Waiver Regulations to obtain title to inventions made under the Agreement. Such a request may be made in advance of the Agreement (or 30 days thereafter) for all inventions made under the Agreement. Alternatively, requests may be made on a case by case basis any time an individual invention is made. Such waivers are liberally and expeditiously granted after review by NASA's Invention and Contribution Board and approval by NASA's General Counsel. When a waiver is granted, any inventions made in the performance of work under the Agreement are subject to certain reporting, election and filing requirements, a royalty-free license to the Government, march-in rights, and certain other reservations.

(ii) A Recipient, if a small business or nonprofit organization, may elect to retain title to its inventions. The term ''nonprofit organization'' is defined in 35 U.S.C. 201(i) and includes universities and other institutions of higher education or an organization of the type described in Section 501(c)(3) of the Internal Revenue Code (26 U.S.C.). The Government obtains an irrevocable, nonexclusive, royalty-free license.

(2) Subcontractor inventions.

(i) Large business. If a Recipient enters a subcontract (or similar arrangement) with a large business organization for experimental, developmental, research, design or engineering work in support of the Agreement to be done in the United States, its possessions, or Puerto Rico, section 305 of the Space Act applies. The clause applicable to large business organizations is to be used (suitably modified to identify the parties) in any subcontract. The subcontractor may request a waiver under the NASA Patent Waiver Regulations to obtain rights to inventions made under the subcontract just as a large business Recipient can (see paragraph (d)(1)(i) of this section). It is strongly recommended that a prospective large business subcontractor contact the NASA installation Patent Counsel or Intellectual Property Counsel to assure that the right procedures are followed. Just like the Recipient, any inventions made in the performance of work under the Agreement are subject to certain reporting, election and filing requirements, a royalty-free license to the Government, march-in rights, and certain other reservations.

(ii) Non-profit organization or small business. In the event the Recipient enters into a subcontract (or similar arrangement) with a domestic nonprofit organization or a small business firm for experimental, developmental, or research work to be performed under the Agreement, the requirements of 35 U.S.C. 200 *et seq.* regarding ''Patent Rights in Inventions Made With Federal Assistance,'' apply. The subcontractor has the first option to elect title to any inventions made in the performance of work under the Agreement, subject to specific reporting, election and filing requirements, a royalty-free license to the Government, march-in rights, and certain other reservations that are specifically set forth.

(iii) Work outside the United States. If the Recipient subcontracts for work to be done outside the United States, its possessions or Puerto Rico, the NASA installation Patent Counsel or Intellectual Property Counsel should be contacted for the proper patent rights clause to use and the procedures to follow.

(iv) Notwithstanding paragraphs (d)(2)(i), (ii) and (iii), and in recognition of the Recipient's substantial contribution, the Recipient is authorized, subject to rights of NASA set forth elsewhere in the Agreement, to:

(A) Acquire by negotiation and mutual agreement rights to a subcontractor's subject inventions as the Recipient may deem necessary, or

(B) If unable to reach agreement pursuant to paragraph (d)(2)(iv)(A) of this section, request that NASA invoke exceptional circumstances as necessary pursuant to 37 CFR 401.3(a)(2) if the prospective subcontractor is a small business firm or nonprofit organization, or for all other organizations, request that such rights for the Recipient be included as an additional reservation in a waiver granted pursuant to 14 CFR 1245.1. The exercise of this exception does not change the flow down of the applicable patent rights clause to subcontractors. Applicable laws and regulations require that title to inventions made under a subcontract must initially reside in either the subcontractor or NASA, not the Recipient. This exception does not change that. The exception does authorize the Recipient to negotiate and reach mutual agreement with the subcontractor for the grant-back of rights. Such grant-back could be an option for an exclusive license or an assignment, depending on the circumstances.

(3) NASA inventions. NASA will use reasonable efforts to report inventions made by its employees as a consequence of, or which bear a direct relation to, the performance of specified NASA activities under an Agreement. Upon timely request, NASA will use its best efforts to grant Recipient first option to acquire either an exclusive or partially-exclusive, revocable, royalty-bearing license, on terms to be negotiated, for any patent applications and patents covering such inventions. This exclusive or partially-exclusive license to the Recipient will be subject to the retention of rights by or on behalf of the Government for Government purposes.

(4) NASA support contractor inventions. It is preferred that NASA support contractors be excluded from performing any of NASA's responsibilities under the Agreement since the rights obtained by a NASA support contractor could work against the rights needed by the Recipient. In the event NASA support contractors are tasked to work under the Agreement and inventions are made by support contractor employees, the support contractor will normally retain title to its employee inventions in accordance with 35 U.S.C. 202, 14 CFR part 1245, and Executive Order 12591. In the event the recipient decides not to pursue right to title in any such invention and NASA obtains title to such inventions, upon timely request, NASA will use its best efforts to grant Recipient first option to acquire either an exclusive or partially exclusive, revocable, royalty-bearing license, upon terms to be negotiated, for any patent applications and patents covering such inventions. This exclusive or partially-exclusive license to the Recipient will be subject to the retention of rights by or on behalf of the Government for Government purposes.

(5) Joint inventions. (i) NASA and the Recipient agree to use reasonable efforts to identify and report to each other any inventions made jointly between NASA employees (or employees of NASA support contractors) and employees of Recipient. For large businesses, the Associate General Counsel (Intellectual Property) may agree that the United States will refrain, for a specified period, from exercising its undivided interest in a manner inconsistent with Recipient's commercial interest. For small business firms and nonprofit organizations, the Associate General Counsel (Intellectual Property) may agree to assign or transfer whatever rights NASA may acquire in a subject invention from its employee to the Recipient as authorized by 35 U.S.C. 202(e). The grant officer negotiating the Agreement with small business firms and nonprofit organizations can agree, up front, that NASA will assign whatever rights it may acquire in a subject invention from its employee to the small business firm or nonprofit organization. Requests under this

paragraph shall be made through the Center Patent Counsel.

(ii) NASA support contractors may be joint inventors. If a NASA support contractor employee is a joint inventor with a NASA employee, the same provisions apply as those for NASA Support Contractor Inventions. The NASA support contractor will retain or obtain nonexclusive licenses to those inventions in which NASA obtains title. If a NASA support contractor employee is a joint inventor with a Recipient employee, the NASA support contractor and Recipient will become joint owners of those inventions in which they have elected to retain title or requested and have been granted waiver of title. Where the NASA support contractor has not elected to retain title or has not been granted waiver of title, NASA will jointly own the invention with the Recipient.

(e) Licenses to Recipient(s). (1) Any exclusive or partially exclusive commercial licenses are to be royalty-bearing consistent with Government-wide policy in licensing its inventions. It also provides an opportunity for royalty-sharing with the employee-inventor, consistent with Government-wide policy under the Federal Technology Transfer Act.

(2) Upon application in compliance with 37 CFR Part 404—Licensing of Government Owned Inventions, all Recipients shall be granted a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a subject invention and any resulting patent in which the Government obtains title. Because cooperative agreements are cost sharing cooperative arrangements with a purpose of benefiting the public by improving the competitiveness of the Recipient and the Government receives an irrevocable, nonexclusive, royalty-free license in each Recipient subject invention, it is only equitable that the Recipient receive, at a minimum, a revocable, nonexclusive, royalty-free license in NASA inventions and NASA contractor inventions where NASA has acquired title.

(3) Notice requirements. Once a Recipient has exercised its option to apply for an exclusive or partially exclusive license, a notice, identifying the invention and the Recipient, is published in the **Federal Register**, providing the public opportunity for filing written objections for 60 days.

(f) Preference for United States manufacture. Despite any other provision, the Recipient agrees that any products embodying subject inventions or produced through the use of subject inventions shall be manufactured substantially in the United States. The intent of this provision is to support manufacturing jobs in the United States regardless of the status of the Recipient as a domestic or foreign controlled company. However, in individual cases, the requirement to manufacture substantially in the United States, may be waived by the Associate Administrator for Procurement (Code HS) upon a showing by the Recipient that under the circumstances domestic manufacture is not commercially feasible.

(g) Space Act Agreements. Invention and patent rights in cooperative agreements must comply with statutory and regulatory provisions. Where circumstances permit, a Space Act Agreement is available as an alternative instrument which can be more flexible in the area of invention and patent rights.

(h) Data rights. Data rights provisions can and should be tailored to best achieve the needs and objectives of the respective parties concerned.

(1) The data rights clause at § 1274.905 assumes a substantially equal cost sharing relationship where collaborative research, experimental, developmental, engineering, demonstration, or design activities are to be carried out, such that it is likely that ''proprietary'' information will be developed and/or exchanged under the agreement. If cost sharing is unequal or no extensive research, experimental, developmental, engineering, demonstration, or design activities are likely, a different set of clauses may be appropriate.

(2) The primary question that must be answered when developing data clauses is what does each party need or intend to do with the data developed under the agreement. Accordingly, the data rights clauses may be tailored to fit the circumstances. Where conflicting goals of the parties result in incompatible data provisions, grant officers for the Government must recognize that private companies entering into cooperative agreements bring resources to that relationship and must be allowed to reap an appropriate benefit for the expenditure of those resources. However, since serving a public purpose is a major objective of a cooperative agreement, care must be exercised to ensure the Recipient is not established as a long term sole source supplier of an item or service and is not in a position to take unfair advantage of the results of the cooperative agreement. Therefore, a reasonable time period (depending on the technology, two to five years after production of the data) may be established after which the data first produced by the Recipient in the performance of the agreement will be made public.

(3) Data can be generated from different sources and can have various restrictions placed on its dissemination. Recipient data furnished to NASA can exist prior to, or be produced outside of, the agreement or be produced under the agreement. NASA can also produce data in carrying out its responsibilities under the agreement. Each of these areas need to be covered.

(4) For data, including software, first produced by the Recipient under the agreement, the Recipient may assert copyright. Data exchanged with a notice showing that the data is protected by copyright must include appropriate licenses in order for NASA to use the data as needed.

(5) Recognizing that the dissemination of the results of NASA's activities is a primary objective of a cooperative agreement, the parties should specifically delineate what results will be published and under what conditions. This should be set forth in the clause of the cooperative agreement entitled ''Publication and Reports.'' Any such agreement on the publication of results should be stated to take precedence over any other clause in the cooperative agreement.

(6) In accordance with section 303(b) of the Space Act, any data first produced by NASA under the agreement which embodies trade secrets or financial information that would be privileged or confidential if it had been obtained from a private participant, will be marked with an appropriate legend and maintained in confidence for an agreed to period of up to five years (the maximum allowed by law). This does not apply to data other than that for which there has been agreement regarding publication or distribution. The period of time during which data first produced by NASA is maintained in confidence should be consistent with the period of time determined in accordance with paragraph (h)(2) of this section, before which data first produced by the Recipient will be made public. Also, NASA itself may use the marked data (under suitable protective conditions) for agreed-to purposes.

§ 1274.204 Evaluation and selection.

(a) A single technical evaluation factor is typically used for CANs. That evaluation factor should be one of the following: providing research and development or technology transfer, enhancing U.S. competitiveness, or developing a capability among U.S. firms. Award to foreign firms is not precluded if the evaluation factor is

satisfied. Subfactors could include such things as fostering U.S. leadership, potential to advance technologies anticipated to enhance U.S. competitiveness, timeliness of proposed accomplishments, private sector commitment to commercialization, identification of specific potential commercial markets, appropriateness of business risk, potential for broad impact on the U.S. technology and knowledge base, level of commitment (contribution of private resources to the project), appropriateness of team member participation and relationships, (this subfactor should include consideration of the participation of an appropriate mix of small business, small disadvantaged business, and women-owned small business concerns, as well as non-profits and educational institutions, including historically black colleges and universities and minority institutions) appropriateness of management planning, relevant experience, qualifications and depth of management and technical staff, quality and appropriateness of resources committed to the project, performance bench marks, technical approach, business approach/resource sharing, past performance, the articles of collaboration, etc.

(b) *Technical evaluation.* (1) Competitive technical proposal information shall be protected in accordance with 48 CFR (FAR) 15.207, Handling Proposals and Information. Unsolicited proposals shall be protected in accordance with 48 CFR (FAR) 15.608, Prohibitions, and 48 CFR (FAR) 15.609, Limited Use of Data.

(i) Selecting Officials and Grant/Contracting Officers are responsible for protecting sensitive information on the award of a Grant or Cooperative Agreement and for determining who is authorized to receive such information. Sensitive information includes: information contained in proposals; information prepared for NASA's evaluation of proposals; the rankings of proposals for an award; reports and evaluations of source selection panels, boards, or advisory councils; and other information deemed sensitive by the Selecting Official or by the Grant/Contracting Officer.

(ii) No sensitive information shall be disclosed unless the Selecting Official or the Grant/Contracting Officer has approved disclosure based upon an unequivocal ''need-to-know'' and the individual receiving the information has signed a Non-Disclosure Certificate (Exhibit E to subpart A of 14 CFR part 1260). All attendees at formal source selection presentations and briefings shall be required to sign an Attendance Roster. The attendance rosters and certificates shall be maintained in official files for a minimum of six months after award.

(iii) The improper disclosure of sensitive information could result in criminal prosecution or an adverse action.

(2) The technical officer will evaluate proposals in accordance with the criteria in the CAN. Proposals selected for award will be supported by documentation as described in paragraph (c)(1) of this section. When evaluation results in a proposal not being selected, the proposer will be notified in accordance with the CAN.

(3) The technical evaluation of proposals may include peer reviews. Since the business sense of a cooperative agreement proposal is critical to its success, NASA should reserve the right to utilize appropriate outside evaluators to assist in the evaluation of such proposal elements as the business base projections, the market for proposed products, and/or the impact of anticipated product price reductions. The use of outside evaluators shall be approved in accordance with 48 CFR (NFS) 1815.207–70(b). A cover sheet with the following legend shall be affixed to data provided to outside evaluators:

Government Notice for Handling Proposals

This proposal shall be used and disclosed for evaluation purposes only, and a copy of this Government notice shall be applied to any reproduction or abstract thereof. Any authorized restrictive notices which the submitter places on this proposal shall also be strictly complied with.

(4) *Unsolicited proposals.* Evaluation of unsolicited proposals must consider whether: the subject of the proposal is available to NASA from another source without restriction; the proposal closely resembles a pending competitive acquisition; and the research proposed demonstrates an innovative and unique method, approach, or concept. Organizations submitting unaccepted proposals will be notified in writing.

(c) *Documentation requirements.* For proposals selected for award, the technical officer will prepare and furnish to the grant officer the following documentation:

(1) For a competitively selected proposal, a signed selection statement and technical evaluation based on the evaluation criteria stated in the solicitation.

(2) For an unsolicited proposal, a justification for acceptance of an unsolicited proposal (JAUP) prepared by the cognizant technical office. The JAUP shall be submitted for the approval of the grant officer after review and concurrence at a level above the technical officer. The evaluator shall consider the following factors, in addition to any others appropriate for the particular proposal:

(i) Unique and innovative methods, approaches or concepts demonstrated by the proposal.

(ii) Overall scientific or technical merits of the proposal.

(iii) The offeror's capabilities, related experience, facilities, techniques, or unique combinations of these which are integral factors for achieving the proposal objectives.

(iv) The qualifications, capabilities, and experience of the proposed key personnel who are critical in achieving the proposal objectives.

(v) Current, open solicitations under which the unsolicited proposal could be evaluated.

(d) *Cost evaluation.* (1) The grant officer and technical team will determine whether the overall proposed cost of the project is reasonable and that the Recipient's contribution is valid, verifiable, and available. Commitments should be obtained and verified to the extent practical from the offeror or members of the consortia that the proposed contributions can and will be made as specified in the proposal or statement of work.

(i) If the Recipient's verified share on a cooperative agreement equals or exceeds 50 percent of the total cost of the agreement and the total value of the agreement is less than $5 million, the cost evaluation of the offeror's proposal should focus on the overall reasonableness and timing of the proposer's contribution. Cost or pricing data should not be required and information other than cost or pricing data (defined in 48 CFR (FAR) 15.403–3) should not normally be required.

(ii) If the Recipient's share is projected to be less than 50 percent or the total value of the agreement is more than $5 million, a more in-depth analysis of the proposed costs should be undertaken. Only information other than cost or pricing data should be required. An analysis consistent with 48 CFR (FAR) 15.404–1 through 15.404–2 should be performed.

(2) As part of the evaluation of the cost proposal, the source of the recipient's contribution should be determined. Each of the cost elements contributed by the recipient and their amounts should be identified. If the contribution will consist at least in part of IR&D, the extent to which the IR&D may be recoverable from Government awards should be established. This will involve using the estimated Government

participation rate of the recipient's General and Administrative indirect cost base for the period of the cooperative agreement. An analysis consistent with 48 CFR (FAR) 15.404–1 and 15.404–2 should be performed.

(e) If the cooperative agreement is to be awarded to a consortium, a completed, formally executed Articles of Collaboration is required prior to award.

(f) *Printing, binding, and duplicating.* Proposals for effort which involve printing, binding, and duplicating in excess of 25,000 pages are subject to the regulations of the Congressional Joint Committee on Printing. The technical office will refer such proposals to the Installation Central Printing Management Officer (ICPMO) to ensure compliance with NPD 1490.1. The grant officer will be advised in writing of the results of the ICPMO review.

§ 1274.205 Award procedures.

(a) *General.* Multiple year cooperative agreements are encouraged, but normally they should not extend beyond two years.

(b) *Award above proposed amount.* Awards of cooperative agreements in response to competitive solicitations will not result in providing more NASA funds or resources than was anticipated in the Recipient's proposal. If additional funds or resources are deemed necessary, they will be provided by the Recipient and the Government cost share percentage will be adjusted downward.

(c) *Changes to cooperative agreements.* Cost growth or in-scope changes shall not increase the amount of NASA's contribution. Additional costs which arise during the performance of the cooperative agreement are the responsibility of the Recipient. Funding for work required beyond the scope of the cooperative agreement must be sought through the submission of a proposal which will be treated as an unsolicited proposal.

(d) *Bilateral award.* All cooperative agreements awarded under this part will be awarded on a bilateral basis.

(e) *Certifications and representations.* (1) Unless prohibited by statute or codified regulation, Recipients will be encouraged to submit certifications and representations required by statute, executive order, or regulation on an annual basis, if the Recipients have ongoing and continuing relationships with the agency. Annual certifications and representations shall be signed by responsible officials with the authority to ensure Recipients' compliance with the pertinent requirements.

(2) Civil rights requirements—nondiscrimination in certain Federally-funded programs. Recipients must furnish assurances of compliance with civil rights statutes specified in 14 CFR parts 1250 through 1252. Such assurances are not required for each cooperative agreement, if they have previously been furnished and remain current and accurate. Certifications to NASA are normally made on NASA Form 1206, which may be obtained from the grant officer. Upon acceptance, the grant officer will forward assurances to the NASA Office of Equal Opportunity Programs for recording and retention purposes.

(3) NASA cooperative agreements are subject to the provisions of 14 CFR part 1265, Government-wide Debarment and Suspension (Nonprocurement) and Government-wide requirements for Drug-Free Workplace (Grants), unless excepted by §§ 1265.110 and 1265.610.

(4) Lobbying Certification. A Lobbying Certification in accordance with 14 CFR part 1271 will be obtained prior to award.

(f) Indemnification under Public Law 85–804 is not authorized for cooperative agreements.

(g) The standard operating procedures for the Office of Public Affairs will be followed when notifying Congress and releasing information to the news media about awards. Grant/Contracting Officers must approve any exceptions to this policy.

§ 1274.206 Document format and numbering.

(a) Formats. Grant officers are authorized to use the format set forth in Exhibit B to subpart A of 14 CFR part 1260, with minimum modification, as the standard cooperative agreement cover page for the award of all cooperative agreements.

(b) Cooperative agreement numbering prior to Integrated Financial Management Project (IFMP) implementation shall conform to 48 CFR (NFS) 1804.7102–3, except that a NCC prefix will be used in lieu of the NAS prefix.

(c) There will be a phase-in term for Center implementation of the IFMP. For Centers using IFMP Performance Purchasing, the following cooperative agreement numbering system shall be used:

(1) Document Type for cooperative agreements. Cooperative agreements will use the prefix CO.

(2) Agency Identifier. The Agency identifier NAS shall follow the document number.

(3) Center Smart Codes. The Center identifier shall follow the document type:

Installation	Smart code
Ames Research Center	A
Dryden Flight Research Center	D
Glen Research Center	C
Goddard Space Flight Center	G
Headquarters	H
Johnson Space Center	J
Kennedy Space Center	K
Langley Research Center	L
Marshall Space Flight Center	M
NASA Management Office-JPL	P
Stennis Space Center	S

(4) Fiscal Year. The fiscal year shall be represented as two digits.

(5) Procurement Code. Cooperative Agreements will be identified using ''A'' as the procurement code.

(6) Serial Numbers. Installations shall number cooperative agreements with commercial firms serially by fiscal year, within the same number series used for grants and cooperative agreements with non-profit organizations. The serial number shall be six digits commencing with ''000001'' and continuing in succession.

§ 1274.207 Distribution of cooperative agreements.

Copies of cooperative agreements and modifications will be provided to: payment office, technical officer, administrative grant officer when delegation has been made, NASA Center for Aerospace Information (CASI), Attn: Document Processing Section, 7121 Standard Drive, Hanover, MD 21076, and any other appropriate recipient. Copies of the statement of work, contained in the Recipient's proposal and accepted by NASA, will be provided to the administrative grant officer and CASI. The cooperative agreement file will contain a record of the addresses for distributing agreements and supplements.

Subpart C—Administration

§ 1274.301 Delegation of administration.

Normally, cooperative agreements will be administered by the awarding activity. NASA Form 1678, NASA Technical Officer Delegation for Cooperative Agreements with Commercial Firms, will be used to delegate responsibilities to the NASA Technical Officer.

§ 1274.302 Transfers, novations, and change of name agreements.

(a) *Transfer of cooperative agreements.* Novation is the only means by which a cooperative agreement may

be transferred from one Recipient to another.

(b) *Novation and change of name.* All novation agreements and change of name agreements of the Recipient, prior to execution, shall be reviewed by NASA legal counsel for legal sufficiency prior to approval.

Subpart D—Government Property

§ 1274.401 Government property.

The accomplishment of a cooperative agreement may require the purchase of equipment for a wide range of purposes. If this equipment is purchased with Government funds, *i.e.*, as part of the Government contribution to the cooperative agreement, it becomes Government property and must be disposed of in accordance with 48 CFR (FAR) part 45 at the conclusion of the cooperative agreement. In some cases, this may meet the needs of the parties. If, however, the Recipient may need the equipment to continue commercial efforts following the cooperative agreement, it should be purchased by the Recipient and included as a non-cash contribution of the Recipient. In this way, it is not procured, not even in part, with Government funds and the Government acquires no ownership interest. Procurement by the Recipient may be before or during the performance of the cooperative agreement.

Subpart E—Procurement Standards

§ 1274.501 Subcontracts.

Recipients (individual firms or consortia) are not authorized to issue grants or cooperative agreements to subrecipients. All contracts, including small purchases, awarded by Recipients and their contractors shall contain the procurement provisions of appendix A to this part, as applicable and may be subject to approval requirements cited in § 1274.925.

Subpart F—Reports and Records

§ 1274.601 Retention and access requirements for records.

(a) This subpart sets forth requirements for record retention and access to records for awards to Recipients.

(b) Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of three years from the date of submission of the final invoice. The only exceptions are the following:

(1) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.

(2) Records for real property and equipment acquired with Federal funds shall be retained for 3 years after final disposition.

(3) When records are transferred to or maintained by NASA, the 3-year retention requirement is not applicable to the Recipient.

(4) Indirect cost rate proposals, cost allocations plans, etc. as specified in paragraph (g) of this section.

(c) Copies of original records may be substituted for the original records if authorized by NASA.

(d) NASA shall request transfer of certain records to its custody from Recipients when it determines that the records possess long term retention value. However, in order to avoid duplicate record keeping, NASA may make arrangements for Recipients to retain any records that are continuously needed for joint use.

(e) NASA, the Inspector General, Comptroller General of the United States, or any of their duly authorized representatives, have the right of timely and unrestricted access to any books, documents, papers, or other records of Recipients that are pertinent to the awards, in order to make audits, examinations, excerpts, transcripts and copies of such documents. This right also includes timely and reasonable access to a Recipient's personnel for the purpose of interview and discussion related to such documents. The rights of access in this paragraph are not limited to the required retention period, but shall last as long as records are retained.

(f) Unless required by statute, NASA shall not place restrictions on Recipients that limit public access to the records of Recipients that are pertinent to an award, except when NASA can demonstrate that such records shall be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) if the records had belonged to NASA.

(g) Indirect cost rate proposals, cost allocations plans, etc. This paragraph applies to the following types of documents, and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(1) If submitted for negotiation. If the Recipient submits to NASA or the subrecipient submits to the Recipient the proposal, plan, or other computation to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts on the date of such submission.

(2) If not submitted for negotiation. If the Recipient is not required to submit to NASA or the subrecipient is not required to submit to the Recipient the proposal, plan, or other computation for negotiation purposes, then the 3-year retention period for the proposal, plan, or other computation and its supporting records starts at the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

Subpart G—Suspension and Termination

§ 1274.701 Suspension or termination.

A cooperative agreement provides both NASA and the Recipient the ability to terminate the agreement if it is in their best interests to do so. For example, NASA may terminate the agreement if the Recipient is not making anticipated technical progress, if the Recipient materially fails to comply with the terms of the agreement, if the Recipient materially changes the objective of the agreement, or if appropriated funds are not available to support the program. Similarly, the Recipient may terminate the agreement if, for example, technical progress is not being made, if the firms are shifting their technical emphasis, or if other technological advances have made the effort obsolete. NASA or the Recipient may also suspend the cooperative agreement for a short period of time if an assessment needs to be made as to whether the agreement should be terminated.

Subpart H—After-the-Award Requirements

§ 1274.801 Purpose.

Sections 1274.802 and 1274.803 contain closeout procedures and other procedures for subsequent disallowances and adjustments.

§ 1274.802 Closeout procedures.

(a) Recipients shall submit, within 90 calendar days after the date of completion of the cooperative agreement, all financial, performance, and other reports as required by the terms and conditions of the award. Extensions may be approved when requested by the Recipient.

(b) The Recipient shall account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with subpart D of this part.

§ 1274.803 Subsequent adjustments and continuing responsibilities.

The closeout of an award does not affect any of the following:

(a) Audit requirements in § 1274.932.

(b) Property management requirements in subpart D of this part.

(c) Records retention as required in § 1274.601.

Subpart I—Provisions and Special Conditions

§ 1274.901 Provisions and special conditions.

The provisions set forth in this subpart are to be incorporated in and made a part of all cooperative agreements. The provisions at §§ 1274.902 through 1274.909 and the provision at 1274.933 are to be incorporated in full text substantially as stated in this subpart. The provisions at §§ 1274.910 through 1274.932 and § 1274.934 will be incorporated by reference in an enclosure to each cooperative agreement. For inclusion of provisions in subcontracts, see subpart E, Procurement Standards, of this part.

§ 1274.902 Purpose.

Purpose (Date)

The purpose of this cooperative agreement is to conduct a shared resource project that will lead to _____. This cooperative agreement will advance the technology developments and research which have been performed on _____. The specific objective is to _____. This work will culminate in _____.

[End of provision]

§ 1274.903 Responsibilities.

Responsibilities (Date)

(a) This cooperative agreement will include substantial

NASA participation during performance of the effort. NASA and the Recipient agree to the following Responsibilities, a statement of cooperative interactions to occur during the performance of this effort. NASA and the Recipient shall exert all reasonable efforts to fulfill the responsibilities stated below.

(b) NASA Responsibilities. The following NASA responsibilities are hereby set forth with anticipated start and ending dates, as appropriate:

Responsibility *Start* *End*

(c) Recipient Responsibilities. The Recipient shall be responsible for particular aspects of project performance as set forth in the technical proposal dated _____, attached hereto (or Statement of Work dated _____, attached hereto.). The following responsibilities are hereby set forth with anticipated start and ending dates, as appropriate:

Responsibility *Start* *End*

(d) Since NASA contractors may obtain certain intellectual property rights arising from work for NASA in support of this agreement, NASA will inform Recipient whenever NASA intends to use NASA contractors to perform technical engineering services in support of this agreement.

[End of provision]

§ 1274.904 Resource sharing requirements.

Resource Sharing Requirements (Date)

(a) NASA and the Recipient will share in providing the resources necessary to perform the agreement. NASA funding and non-cash contributions (personnel, equipment, facilities, etc.) and the dollar value of the Recipient's cash and/or non-cash contribution will be on a ____ (NASA) ____ (Recipient) basis. Criteria and procedures for the allowability and allocability of cash and non-cash contributions shall be governed by Section 23, ''Cost Sharing or Matching,'' of OMB Circular A–110. The ''applicable federal cost principles'' cited in OMB Circular A–110 shall be determined in accordance with 1274.919.

(d) The Recipient's share shall not be charged to the Government under this agreement or under any other contract, grant, or cooperative agreement, except to the extent that the Recipient's contribution may be allowable IR&D costs pursuant to 48 CFR (NFS) 1831.205–18.

[End of provision]

§ 1274.905 Rights in Data.

(As noted in § 1274.203(h)(1), the following provision assumes a substantially equal cost sharing relationship where collaborative research, experimental, developmental, engineering, demonstration, or design activities are to be carried out, such that it is likely that ''proprietary'' information will be developed and/or exchanged under the agreement. If cost sharing is unequal or no extensive research, experimental, developmental, engineering, demonstration, or design activities are likely, a different set of provisions may be appropriate.

The grant officer is expected to complete and/or select the appropriate bracketed language under the provision for those paragraphs dealing with data first produced under the cooperative agreement. In addition, the grant officer may, in consultation with the Center's Patent or Intellectual Property Counsel, tailor the provision to fit the particular circumstances of the program and/or the recipient's need to protect specific proprietary information.)

Rights in Data (Date)

(a) Definitions.

''Data,'' means recorded information, regardless of form, the media on which it may be recorded, or the method of recording. The term includes, but is not limited to, data of a scientific or technical nature, computer software and documentation thereof, and data comprising commercial and financial information.

(b) Data Categories.

(1) *General:* Data exchanged between NASA and Recipient under this cooperative agreement will be exchanged without restriction as to its disclosure, use or duplication except as otherwise provided below in this provision.

(2) *Background Data:* In the event it is necessary for Recipient to furnish NASA with Data which existed prior to, or produced outside of, this cooperative agreement, and such Data embodies trade secrets or comprises commercial or financial information which is privileged or confidential, and such Data is so identified with a suitable notice or legend, the Data will be maintained in confidence and disclosed and used by NASA and its contractors (under suitable protective conditions) only for the purpose of carrying out NASA's responsibilities under this cooperative agreement. Upon completion of activities under this agreement, such Data will be disposed of as requested by Recipient.

(3) *Data first produced by Recipient:* In the event Data first produced by Recipient in carrying out Recipient's responsibilities under this cooperative agreement is furnished to NASA, and Recipient considers such Data to embody trade secrets or to comprise commercial or financial information which is privileged or confidential, and such Data is so identified with a suitable notice or legend, the Data will be maintained in confidence for a period of [insert ''two'' to ''five''] years after development of the data and be disclosed and used by [''NASA'' or ''the Government,'' as appropriate] and its contractors (under suitable protective conditions) only for [insert appropriate purpose; for example: experimental; evaluation; research; development, etc.] by or on behalf of [''NASA'' or ''the Government'' as appropriate] during that period. In order that [''NASA'' or the ''Government'', as appropriate] and its contractors may exercise the right to use such Data for the purposes designated above, NASA, upon request to the Recipient, shall have the right to review and request delivery of Data first produced by Recipient. Delivery shall be made within a time period specified by NASA.

(4) *Data first produced by NASA:* As to Data first produced by NASA in carrying out NASA's responsibilities under this cooperative agreement and which Data would embody trade secrets or would comprise commercial or financial information that is privileged or confidential if it had been obtained from the Recipient, will be marked with an appropriate legend and maintained in confidence for an agreed to period of up to ( ) years [INSERT A PERIOD UP TO 5 YEARS] after development of the information, with the express understanding that during the aforesaid period such Data may be disclosed and used (under suitable protective conditions) by or on behalf of the Government for Government purposes only, and thereafter for any purpose whatsoever without restriction on disclosure and use. Recipient agrees not to disclose such Data to any third party without NASA's written approval until the aforementioned restricted period expires.

(5) *Copyright.*

(i) In the event Data is exchanged with a notice indicating the Data is protected under copyright as a published copyrighted work, or are deposited for registration as a published work in the U.S. Copyright Office, the following paid-up licenses shall apply:

(A) If it is indicated on the Data that the Data existed prior to, or was produced outside of, this agreement, the receiving party and others acting on its behalf, may reproduce, distribute, and prepare derivative works for the purpose of carrying out the receiving party's responsibilities under this cooperative agreement; and

(B) If the furnished Data does not contain the indication of paragraph (b)(5)(i)(A) of this section, it will be assumed that the Data was first produced under this agreement, and the receiving party and others acting on its behalf, shall be granted a paid up, nonexclusive, irrevocable, world-wide license for all such Data to reproduce, distribute copies to the public, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the receiving party. For Data that is computer software, the right to distribute shall be limited to potential users in the United States.

(ii) When claim is made to copyright, the Recipient shall affix the applicable copyright notice of 17 U.S.C. 401 or 402 and acknowledgment of Government sponsorship to the data when and if the data are delivered to the Government.

(6) *Oral and visual information.* If information which the Recipient considers to embody trade secrets or to comprise commercial or financial information which is privileged or confidential is disclosed orally or visually to NASA, such information must be reduced to tangible, recorded form (*i.e.*, converted into Data as defined herein), identified and marked with a suitable notice or legend, and furnished to NASA within 10 days after such oral or visual disclosure, or NASA shall have no duty to limit or restrict, and shall not incur any liability for, any disclosure and use of such information.

(7) *Disclaimer of Liability.* Notwithstanding the above, NASA shall not be restricted in, nor incur any liability for, the disclosure and use of:

(i) Data not identified with a suitable notice or legend as set in paragraph (b)(2) of this section; nor

(ii) Information contained in any Data for which disclosure and use is restricted under paragraphs (b)(2) or (3) of this section, if such information is or becomes generally known without breach of the above, is known to or is generated by NASA independently of carrying out responsibilities under this agreement, is rightfully received from a third party without restriction, or is included in data which Participant has, or is required to furnish to the U.S. Government without restriction on disclosure and use.

(c) *Marking of Data.* Any Data delivered under this cooperative agreement, by NASA or the Recipient, shall be marked with a suitable notice or legend indicating the data was generated under this cooperative agreement.

(d) *Lower Tier Agreements.* The Recipient shall include this provision, suitably modified to identify the parties, in all subcontracts or lower tier agreements, regardless of tier, for experimental, developmental, or research work.

[End of provision]

§ 1274.906 Designation of new technology representative and patent representative.

Designation of New Technology Representative and Patent Representative (Date)

(a) For purposes of administration of the clause of this cooperative agreement entitled ''PATENT RIGHTS—RETENTION BY THE CONTRACTOR (LARGE BUSINESS)'' or ''PATENT RIGHTS—RETENTION BY THE CONTRACTOR (SMALL BUSINESS)'' the following named representatives are hereby designated by the Grant Officer to administer such clause:

Title	Office code	Address
New Technology Representative		
Patent Representative		

(b) Reports of reportable items, and disclosure of subject inventions, interim reports, final reports, utilization reports, and other reports required by the clause, as well as any correspondence with respect to such matters, should be directed to the New Technology Representative unless transmitted in response to correspondence or request from the Patent Representative. Inquiries or requests regarding disposition of rights, election of rights, or related matters should be directed to the Patent Representative. This clause shall be included in any subcontract hereunder requiring ''PATENT RIGHTS—RETENTION BY THE CONTRACTOR (LARGE BUSINESS)'' clause or ''PATENT RIGHTS—RETENTION BY THE CONTRACTOR (SMALL BUSINESS)'' clause, unless otherwise authorized or directed by the Grant Officer. The respective responsibilities and authorities of the above-named representatives are set forth in 48 CFR (NFS) 1827.305–70.

[End of provision]

§ 1274.907 Disputes.

Disputes (Date)

(a) In the event that a disagreement arises, representatives of the parties shall enter into discussions in good faith and in a timely and cooperative manner to seek resolution. If these discussions do not result in a satisfactory solution, the aggrieved party may seek a decision from the Dispute Resolution Official under paragraph (b) of this provision. This request must be presented no more than (3) three months after the events giving rise to the disagreement have occurred.

(b) The aggrieved party may submit a written request for a decision to the _____ [Suggest this be the Center Ombudsman], who is designated as the Dispute Resolution Official. The written request shall include a statement of the relevant facts, a discussion of the unresolved issues, and a specification of the clarification, relief, or remedy sought.

A copy of this written request and all accompanying materials must be provided to the other party at the same time. The other party shall submit a written position on the matters in dispute within thirty (30) calendar days after receiving this notification that a decision has been requested. The Dispute Resolution Official shall conduct a review of the matters in dispute and render a decision in writing within thirty (30) calendar days of receipt of such written position.

[End of provision]

§ 1274.908 Milestone payments.

Milestone Payments (Date)

(a) By submission of the first invoice, the Recipient is certifying that it has an established accounting system which complies with generally accepted accounting principles, with the requirements of this agreement, and that appropriate arrangements have been made for receiving, distributing, and accounting for Federal funds received under this agreement.

(b) Payments will be made upon the following milestones: [The schedule for payments may be based upon the Recipient's completion of specific tasks, submission of specified reports, or whatever is appropriate.]

Date Payment Milestone Amount

(c) Upon submission by the Recipient of invoices in accordance with the provisions of the agreement and upon certification by NASA of completion of the payable milestone, the grant officer shall authorize payment.

(d) A payment milestone may be successfully completed in advance of the date appearing in paragraph (b) of this section. However, payment shall not be made prior to that date without the written consent of the Grant Officer.

(e) The Recipient is not entitled to partial payment for partial completion of a payment milestone.

(f) Unless approved by the grant officer, all preceding payment milestones must be completed before payment can be made for the next payment milestone.

(g) Invoices hereunder shall be submitted in the original and five copies to the Grant Officer for certification.

[End of provision]

§ 1274.909 Term of this agreement.

Term of this Agreement (Date)

The agreement commences on the effective date indicated on the attached cover sheet and continues until the expiration date indicated on the attached cover sheet unless terminated by either party. If all resources are expended prior to the expiration date of the agreement, the parties have no obligation to continue performance and may elect to cease at that point. The parties may extend the expiration date if additional time is required to complete the milestones at no increase in Government resources. Provisions of this Agreement, which, by their express terms or by necessary implication, apply for periods of time other than that specified as the agreement term, shall be given effect, notwithstanding expiration of the term of the agreement.

[End of provision]

§ 1274.910 Authority.

Authority (Date)

This is a cooperative agreement as defined in 31 U.S.C. 6305 (the Chiles Act) and is entered into pursuant to the authority of 42 U.S.C. 2451, *et seq.* (the Space Act).

[End of provision]

§ 1274.911 Patent rights.

Patent Rights (Date)

(a) Definitions.

(1) ''Administrator'' means the Administrator or Deputy Administrator of NASA.

(2) ''Invention'' means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code.

(3) ''Made'' when used in relation to any invention means the conception or first actual reduction to practice such invention.

(4) ''Nonprofit organization'' means a domestic university or other institution of higher education or an organization of the type described in Section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under Section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)), or any domestic nonprofit scientific or educational organization qualified under a State nonprofit organization statute.

(5) ''Practical application'' means to manufacture, in the case of a composition or product; to practice, in the case of a process or method; or to operate, in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

(6) ''Recipient'' means:

(i) the signatory Recipient party or parties or;

(ii) the Consortium, where a Consortium has been formed for carrying out Recipient responsibilities under this agreement.

(7) ''Small Business Firm'' means a domestic small business concern as defined at 15 U.S.C. 632 and implementing regulations (see 13 CFR 121.401 through 121.413) of the Administrator of the Small Business Administration.

(8) ''Subject Invention'' means any invention of a Recipient and/or Government employee conceived or first actually reduced to practice in the performance of work under this Agreement.

(b) Allocation of Principal Rights.

(1) Recipient Inventions. For other than Small Business Firm or Nonprofit organization Recipients, the ''PATENT RIGHTS—RETENTION BY RECIPIENT (LARGE BUSINESS)'' provision applies. For Small Business Firm and Nonprofit organization Recipients, the ''PATENT RIGHTS—RETENTION BY RECIPIENT (SMALL BUSINESS)'' provision applies.

(2) NASA Inventions. NASA will use reasonable efforts to report inventions made by NASA employees as a consequence of, or which bear a direct relation to, the performance of specified NASA activities under this cooperative agreement and, upon timely request, NASA will use its best efforts to grant the Recipient or designated Consortium Member (if applicable) the first option to acquire either an exclusive or partially exclusive, revocable, royalty-bearing license, on terms to be subsequently negotiated, for any patent applications and patents covering such inventions, and subject to the license reserved in paragraph (b)(5)(i) of this section. Upon application in compliance with 37 CFR part 404—Licensing of Government Owned Inventions, the Recipient or each Consortium Member (if applicable), shall be granted a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a subject invention and any resulting patent in which the Government acquires title. Each nonexclusive license may extend to subsidiaries and affiliates, if any, within the corporate structure of the licensee and includes the right to grant sublicenses of the same scope to the extent the licensee was legally obligated to do so at the time the cooperative agreement was signed.

(3) NASA Contractor Inventions. In the event NASA contractors are tasked to perform work in support of specified NASA activities under this cooperative agreement and inventions are made by contractor employees, the recipient will normally retain title to its employee inventions in accordance with 35 U.S.C. 202, 14 CFR part 1245, and Executive Order 12591. In the event the recipient decides not to pursue right to title in any such invention and NASA obtains title to such inventions, NASA will use reasonable efforts to report such inventions and, upon timely request, NASA will use its best efforts to grant the Recipient or designated Consortium Member (if applicable) the first option to acquire either an exclusive or partially exclusive, revocable, royalty-bearing license, upon terms to be subsequently negotiated, for any patent applications and patents covering such inventions, and subject to the license reserved in paragraph (b)(5)(ii) of this section. Upon application in compliance with 37 CFR part 404—Licensing of Government Owned Inventions, the Recipient or each Consortium Member (if applicable), shall be granted a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a subject invention and any resulting patent in which the Government acquires title. Each nonexclusive license may extend to subsidiaries and affiliates, if any, within the corporate structure of the licensee and includes the right to grant sublicenses of the same scope to the extent the licensee was legally obligated to do so at the time the cooperative agreement was signed.

(4) Joint NASA and Recipient Inventions. NASA and Recipient agree to use reasonable efforts to identify and report to each other any inventions made jointly between NASA employees (or employees of NASA contractors) and employees of Recipient.

(i) For other than small business firms and nonprofit organizations the Administrator may agree that the United States will refrain from exercising its undivided interest in a manner inconsistent with Recipient's commercial interest and to cooperate with Recipient in obtaining patent protection on its undivided interest on any waived inventions subject, however, to the condition that Recipient makes its best efforts to bring the invention to the point of practical application at the earliest practicable time. In the event that the Administrator determines that such efforts are not undertaken, the Administrator may void NASA's agreement to refrain from exercising its undivided interest and grant licenses for the practice of the invention so as to further its development. In the event that the Administrator decides to void NASA's agreement to refrain from exercising its undivided interest and grant licenses for this reason, notice shall be given to the Inventions and Contributions Board as to why such action should not be taken. Either alternative will be subject to the applicable license or licenses reserved in paragraph (b)(5) of this section.

(ii) For small business firms and nonprofit organization, NASA may assign or transfer whatever rights it may acquire in a subject invention from its employee to the Recipient as authorized by 35 U.S.C. 202(e).

(5) Minimum rights reserved by the Government. Any license or assignment granted Recipient pursuant to paragraphs (b)(2), (3), or (4) of this section will be subject to the reservation of the following licenses:

(i) As to inventions made solely or jointly by NASA employees, the irrevocable, royalty-free right of the Government of the United States to practice and have practiced the invention by or on behalf of the United States; and

(ii) As to inventions made solely by, or jointly with, employees of NASA contractors, the rights in the Government of the United States as set forth in paragraph (b)(5)(i) of this section, as well as the revocable, nonexclusive, royalty-free license in the contractor as set forth in 14 CFR 1245.108.

(6) Preference for United States manufacture. The Recipient agrees that any products embodying subject inventions or produced through the use of subject inventions shall be manufactured substantially in the United States. However, in individual cases, the requirement to manufacture substantially in the United States may be waived by the Associate Administrator for Procurement (Code HS) with the concurrence of the Associate General Counsel for Intellectual Property upon a showing by the Recipient that under the circumstances domestic manufacture is not commercially feasible.

(7) Work performed by the Recipient under this cooperative agreement is considered undertaken to carry out a public purpose of support and/or stimulation rather than for acquiring property or services for the direct benefit or use of the Government. Accordingly, such work by the Recipient is not considered ''by or for the United States'' and the Government assumes no liability for infringement by the Recipient under 28 U.S.C. 1498.

[End of provision]

§ 1274.912 Patent rights—retention by the Recipient (large business).

Patent Rights—Retention by the Recipient (Large Business) (Date)

(a) *Definitions.*

(1) *Administrator,* as used in this clause, means the Administrator of the National Aeronautics and Space Administration (NASA) or duly authorized representative.

(2) *Invention,* as used in this clause, means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code.

(3) *Made,* as used in relation to any invention, means the conception or first actual reduction to practice such invention.

(4) *Nonprofit organization,* as used in this clause, means a domestic university or other institution of higher education or an organization of the type described in Section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under Section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)), or any domestic nonprofit scientific or educational organization qualified under a State nonprofit organization statute.

(5) *Practical application,* as used in this clause, means to manufacture, in the case of a composition or product; to practice, in the case of a process or method; or to operate, in case of a machine or system; and, in each, case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

(6) *Reportable item,* as used in this clause, means any invention, discovery, improvement, or innovation of the Recipient, whether or not the same is or may be patentable or otherwise protectable under Title 35 of the United States Code, conceived or first actually reduced to practice in the performance of any work under this contract or in the performance of any work that is reimbursable under any clause in this contract providing for reimbursement of costs incurred prior to the effective date of this contract.

(7) *Small business firm,* as used in this clause, means a domestic small business concern as defined at 15 U.S.C. 632 and implementing regulations (see 13 CFR 121.401 through 121. 413) of the Administrator of the Small Business Administration.

(8) *Subject invention,* as used in this clause, means any reportable item which is or may be patentable or otherwise protectable under Title 35 of the United States Code, or any novel variety of plant that is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321, *et seq*).

(b) Allocation of principal rights.

(1) Presumption of title.

(i) Any reportable item that the Administrator considers to be a subject invention shall be presumed to have been made in the manner specified in paragraph (1) or (2) of Section 305(a) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457(a)) (hereinafter called ''the Act''), and the above presumption shall be conclusive unless at the time of reporting the reportable item the Recipient submits to the Grant Officer a written statement, containing supporting details, demonstrating that the reportable item was not made in the manner specified in paragraph (1) or (2) of Section 305(a) of the Act.

(ii) Regardless of whether title to a given subject invention would otherwise be subject to an advance waiver or is the subject of a petition for waiver, the Recipient may nevertheless file the statement described in paragraph (b)(1)(i) of this section. The Administrator will review the information furnished by the Recipient in any such statement and any other available information relating to the circumstances surrounding the making of the subject invention and will notify the Recipient whether the Administrator has determined that the subject invention was made in the manner specified in paragraph (1) or (2) of Section 305(a) of the Act.

(2) Property rights in subject inventions. Each subject invention for which the presumption of paragraph (b)(1)(i) of this section is conclusive or for which there has been a determination that it was made in the manner specified in paragraph (1) or (2) of Section 305(a) of the Act shall be the exclusive property of the United States as represented by NASA unless the Administrator waives all or any part of the rights of the United States, as provided in paragraph (b)(3) of this section.

(3) Waiver of rights.

(i) Section 305(f) of the Act provides for the promulgation of regulations by which the Administrator may waive the rights of the United States with respect to any invention or class of inventions made or that may be made under conditions specified in paragraph (1) or (2) of Section 305(a) of the Act. The promulgated NASA Patent Waiver Regulations, 14 CFR part 1245, subpart 1, have adopted the Presidential memorandum on Government Patent Policy of February 18, 1983, as a guide in acting on petitions (requests) for such waiver of rights.

(ii) As provided in 14 CFR part 1245, Subpart 1, Recipients may petition, either prior to execution of the Agreement or within 30 days after execution of the Agreement, for advance waiver of rights to any or all of the inventions that may be made under an Agreement. If such a petition is not submitted, or if after submission it is denied, the Recipient (or an employee inventor of the Recipient may petition for waiver of rights to an identified subject invention within eight months of first disclosure of invention in accordance with paragraph (e)(2) of this section or within such longer period as may be authorized in accordance with 14 CFR 1245.105. Further procedures are provided in the REQUESTS FOR WAIVER OF RIGHTS—LARGE BUSINESS provision.

(c) Minimum rights reserved by the Government.

(1) With respect to each Recipient subject invention for which a waiver of rights is applicable in accordance with 14 CFR part 1245, subpart 1, the Government reserves—

(i) An irrevocable, royalty-free license for the practice of such invention throughout the world by or on behalf of the United States or any foreign government in accordance with any treaty or agreement with the United States; and

(ii) Such other rights as stated in 14 CFR 1245.107.

(2) Nothing contained in this paragraph shall be considered to grant to the Government any rights with respect to any invention other than a subject invention.

(d) *Minimum rights to the Recipient.*

(1) The Recipient is hereby granted a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a Recipient subject invention and any resulting patent in which the Government acquires title, unless the Recipient fails to disclose the subject invention within the times specified in paragraph (e)(2) of this section. The Recipient's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the Recipient is a party and includes the right to grant sublicenses of the same scope to the extent the Recipient was legally obligated to do so at the time the contract was awarded. The license is transferable only with the approval of the Administrator except when transferred to the successor of that part of the Recipient's business to which the invention pertains.

(2) The Recipient's domestic license may be revoked or modified by the Administrator to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with 14 CFR part 1245, subpart 2, Licensing of NASA Inventions. This license will not be revoked in that field of use or the geographical areas in which the Recipient has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the Administrator to the extent the Recipient, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, the Recipient will be provided a written notice of the Administrator's intention to revoke or modify the license, and the Recipient will be allowed 30 days (or such other time as may be authorized by the Administrator for good cause shown by the Recipient) after the notice to show cause why the license should not be revoked or modified. The Recipient has the right to appeal, in accordance with 14 CFR 1245.211, any decision concerning the revocation or modification of its license.

(e) Invention identification, disclosures, and reports.

(1) The Recipient shall establish and maintain active and effective procedures to assure that reportable items are promptly identified and disclosed to Recipient personnel responsible for the administration of this clause within six months of conception and/or first actual reduction to practice, whichever occurs first in the performance of work under this contract. These procedures shall include the maintenance of laboratory notebooks or equivalent records and other records as are

reasonably necessary to document the conception and/or the first actual reduction to practice of the reportable items, and records that show that the procedures for identifying and disclosing reportable items are followed. Upon request, the Recipient shall furnish the Grant Officer a description of such procedures for evaluation and for determination as to their effectiveness.

(2) The Recipient will disclose each reportable item to the Grant Officer within two months after the inventor discloses it in writing to Recipient personnel responsible for the administration of this clause or, if earlier, within six months after the Recipient becomes aware that a reportable item has been made, but in any event for subject inventions before any on sale, public use, or publication of such invention known to the Recipient. The disclosure to the agency shall be in the form of a written report and shall identify the Agreement under which the reportable item was made and the inventor(s) or innovator(s). It shall be sufficiently complete in technical detail to convey a clear understanding, to the extent known at the time of the disclosure, of the nature, purpose, operation, and physical, chemical, biological, or electrical characteristics of the reportable item. The disclosure shall also identify any publication, on sale, or public use of any subject invention and whether a manuscript describing such invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the agency, the Recipient will promptly notify the agency of the acceptance of any manuscript describing a subject invention for publication or of any on sale or public use planned by the Recipient for such invention.

(3) The Recipient shall furnish the Grant Officer the following:

(i) Interim reports every 12 months (or such longer period as may be specified by the Grant Officer) from the date of the Agreement, listing reportable items during that period, and certifying that all reportable items have been disclosed (or that there are no such inventions) and that the procedures required by paragraph (e)(1) of this section have been followed.

(ii) A final report, within three months after completion of the work, listing all reportable items or certifying that there were no such reportable items, and listing all subcontracts at any tier containing a patent rights clause or certifying that there were no such subcontracts.

(4) The Recipient agrees, upon written request of the Grant Officer, to furnish additional technical and other information available to the Recipient as is necessary for the preparation of a patent application on a subject invention and for the prosecution of the patent application, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions.

(5) The Recipient agrees, subject to 48 CFR (FAR) 27.302(j), that the Government may duplicate and disclose subject invention disclosures and all other reports and papers furnished or required to be furnished pursuant to this clause.

(f) Examination of records relating to inventions.

(1) The Grant Officer or any authorized representative shall, pursuant to the Retention and Examination of Records provision of this cooperative agreement, have the right to examine any books (including laboratory notebooks), records, and documents of the Recipient relating to the conception or first actual reduction to practice of inventions in the same field of technology as the work under this contract to determine whether—

(i) Any such inventions are subject inventions;

(ii) The Recipient has established and maintained the procedures required by paragraph (e)(1) of this section; and

(iii) The Recipient and its inventors have complied with the procedures.

(2) If the Grant Officer learns of an unreported Recipient invention that the Grant Officer believes may be a subject inventions, the Recipient may be required to disclose the invention to the agency for a determination of ownership rights.

(3) Any examination of records under this paragraph will be subject to appropriate conditions to protect the confidentiality of the information involved.

(g) Subcontracts.

(1) Unless otherwise authorized or directed by the Grant Officer, the Recipient shall—

(i) Include this Clause Patent Rights—Retention by the Recipient—(Large Business) (suitably modified to identify the parties) in any subcontract hereunder (regardless of tier) with other than a small business firm or nonprofit organization for the performance of experimental, developmental, or research work; and

(ii) Include the clause Patent Right—Retention by the Recipient—(Small Business) (suitably modified to identify the parties) in any subcontract hereunder (regardless of tier) with a small business firm or nonprofit organization for the performance of experimental, developmental, or research work.

(2) In the event of a refusal by a prospective subcontractor to accept such a clause the Recipient—

(i) Shall promptly submit a written notice to the Grant Officer setting forth the subcontractor's reasons for such refusal and other pertinent information that may expedite disposition of the matter; and

(ii) Shall not proceed with such subcontract without the written authorization of the Grant Officer.

(3) The Recipient shall promptly notify the Grant Officer in writing upon the award of any subcontract at any tier containing a patent rights clause by identifying the subcontractor, the applicable patent rights clause, the work to be performed under the subcontract, and the dates of award and estimated completion. Upon request of the Grant Officer, the Recipient shall furnish a copy of such subcontract, and, no more frequently than annually, a listing of the subcontracts that have been awarded.

(4) The subcontractor will retain all rights provided for the Recipient in the clause of paragraph (g)(1)(i) or (1)(ii) of this section, whichever is included in the subcontract, and the Recipient will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(5) Notwithstanding paragraph (g)(4) of this section, and in recognition of the contractor's substantial contribution of funds, facilities and/or equipment to the work performed under this cooperative agreement, the Recipient is authorized, subject to the rights of NASA set forth elsewhere in this clause, to:

(i) Acquire by negotiation and mutual agreement rights to a subcontractor's subject inventions as the Recipient may deem necessary to obtaining and maintaining of such private support; and

(ii) Request, in the event of inability to reach agreement pursuant to paragraph (g)(5)(i) of this section, that NASA invoke exceptional circumstances as necessary pursuant to 37 CFR 401.3(a)(2) if the prospective subcontractor is a small business firm or organization, or for all other organizations, request that such rights for the Recipient be included as an additional reservation in a waiver granted pursuant to 14 CFR part 1245, subpart 1. Any such requests to NASA should be prepared in consideration of the following guidance and submitted to the contract officer.

(A) *Exceptional circumstances:* A request that NASA make an ''exceptional circumstances'' determination pursuant to 37 CFR 401.3(a)(2) must state the scope of rights sought by the Recipient pursuant to such determination; identify the proposed subcontractor and the work to be performed under the subcontract; and state the need for the determination.

(B) *Waiver petition:* The subcontractor should be advised that unless it requests a waiver of title pursuant to the NASA Patent Waiver Regulations (14 CFR part 1245, subpart 1), NASA will acquire title to the subject invention (42 U.S.C. 2457, as amended, Sec. 305). If a waiver is not requested or granted, the Recipient may request a license from NASA (see licensing of NASA inventions, 14 CFR part 1245, subpart 2). A subcontractor requesting a waiver must follow the procedures set forth in the attached clause REQUESTS FOR WAIVER OF RIGHTS—LARGE BUSINESS.

(h) Preference for United States manufacture. The Recipient agrees that any products embodying subject inventions or produced through the use of subject inventions shall be manufactured substantially in the United States. However, in individual cases, the requirement to manufacture substantially in the United States may be waived by the Associate Administrator for Procurement (Code HS) with the concurrence of the Associate General Counsel for Intellectual Property upon a showing by the Recipient that under the circumstances domestic manufacture is not commercially feasible.

(i) March-in rights. The Recipient agrees that, with respect to any subject invention in which it has acquired title, NASA has the right in accordance with the procedures in 37 CFR 401.6 and any supplemental regulations of the agency to require the Recipient, an assignee or exclusive licensee of a subject

invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Subcontractor, assignee, or exclusive licensee refuses such a request NASA has the right to grant such a license itself if the Federal agency determines that—

(1) Such action is necessary because the Recipient or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use;

(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Recipient, assignee, or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Recipient, assignee, or licensees; or

(4) Such action is necessary because the agreement required by paragraph (i) of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

[End of provision]

§ 1274.913 Patent rights—retention by the Recipient (small business).

Patent Rights—Retention by the Recipient (Small Business) (Date)

(a) Definitions.

(1) ''Invention,'' as used in this clause, means any invention or discovery which is or may be patentable or otherwise protectable under title 35 of the U.S.C.

(2) ''Made,'' as used in this clause, when used in relation to any invention means the conception or first actual reduction to practice such invention.

(3) ''Nonprofit organization,'' as used in this clause, means a university or other institution of higher education or an organization of the type described in Section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under Section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

(4) ''Practical application,'' as used in this clause, means to manufacture, in the case of a composition of product; to practice, in the case of a process or method, or to operate, in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

(5) ''Small business firm,'' as used in this clause, means a small business concern as defined at Section 2 of Public Law 85–536 (15 U.S.C. 632) and implementing regulations (see 13 CFR 121.401 through 121.413 of the Administrator of the Small Business Administration.

(6) ''Subject invention,'' as used in this clause, means any invention of the Subcontractor conceived or first actually reduced to practice in the performance of work under this Agreement.

(b) Allocation of principal rights. The Recipient may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the Recipient retains title, the Federal Government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

(c) Invention disclosure, election of title, and filing of patent application by Recipient.

(1) The Recipient will disclose each subject invention to NASA within two months after the inventor discloses it in writing to Recipient personnel responsible for patent matters. The disclosure to the agency shall be in the form of a written report and shall identify the contract under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the agency, the Recipient will promptly notify the agency of the acceptance of any manuscript describing the invention for publication or of any sale or public use planned by the Recipient.

(2) The Recipient will elect in writing whether or not to retain title to any such invention by notifying NASA within two years of disclosure to the Federal agency. However, in any case where publication, on sale or public use has initiated the one-year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by the agency to a date that is no more than 60 days prior to the end of the statutory period.

(3) The Recipient will file its initial patent application on a subject invention to which it elects to retain title within one year after election of title or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. The Recipient will file patent applications in additional countries or international patent offices within either 10 months of the corresponding initial patent application of six months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) Requests for extension of the time for disclosure election, and filing under paragraphs (c)(1), (2), and (3) of this section may, at the discretion of the agency, be granted.

(d) Conditions when the Government may obtain title. The Recipient will convey to NASA, upon written request, title to any subject invention—

(1) If the Recipient fails to disclose or elect title to the subject invention within the times specified in paragraph (c) of this section, or elects not to retain title; provided, that the agency may only request title within 60 days after learning of the failure of the Recipient to disclose or elect within the specified times.

(2) In those countries in which the Recipient fails to file patent applications within the times specified in paragraph (c) of this section; provided, however, that if the Recipient has filed a patent application in a country after the times specified in paragraph (c) of this section, but prior to its receipt of the written request of the Federal agency, the Recipient shall continue to retain title in that country.

(3) In any country in which the Recipient decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceeding on, a patent on a subject invention.

(e) Minimum rights to Recipient and protection of the Recipient right to file.

(1) The Recipient will retain a nonexclusive, royalty-free license throughout the world in each subject invention to which the Government obtains title, except if the Recipient fails to disclose the invention within the times specified in paragraph (c) of this section. The Recipient's license extends to its domestic subsidiary and affiliates, if any, within the corporate structure of which the Recipient is a party and includes the right to grant sublicenses of the same scope to the extent the Recipient was legally obligated to do so at the time the agreement was awarded. The license is transferable only with the approval of NASA, except when transferred to the successor of that part of the Recipient's business to which the invention pertains.

(2) The Contractor's domestic license may be revoked or modified by NASA to the extent necessary to achieve expeditious practical application of subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions at 37 CFR part 404 and agency licensing regulations (if any). This license will not be revoked in that field of use or the geographical areas in which the Subcontractor has achieved practical application and continues to make the benefits of the invention reasonable accessible to the public. The license in any foreign country may be revoked or modified at the discretion of NASA to the extent the Subcontractor, its licensees, or the domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, NASA will furnish the Recipient a written notice of its intention to revoke or modify the license, and the Recipient will be allowed 30 days (or such other time as may be authorized by NASA for good cause shown by the Recipient) after the notice to show cause why the license should not be revoked or modified. The Recipient has the right to appeal, in accordance with applicable regulations in 37 CFR part 404,

concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of the license.

(f) Recipient action to protect the Government's interest.

(1) The Recipient agrees to execute or to have executed and promptly deliver to NASA all instruments necessary to:

(i) establish or confirm the rights the Government has throughout the world in those subject inventions to which the Subcontractor elects to retain title, and,

(ii) convey title to the Federal agency when requested under paragraph (d) of this section and to enable the Government to obtain patent protection throughout the world in that subject invention.

(2) The Recipient agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Recipient each subject invention made under contract in order that the Recipient can comply with the disclosure provisions of paragraph (c) of this section, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by paragraph (c)(1) of this section. The Recipient shall instruct such employees, through employee agreements or other suitable educational programs, on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) The Recipient will notify NASA of any decisions not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than 30 days before the expiration of the response period required by the relevant patent office.

(4) The Recipient agrees to include, within the specification of any United States patent application and any patent issuing thereon covering a subject invention the following statement, ''This invention was made with Government support under (identify the agreement) awarded by NASA. The Government has certain rights in the invention.''

(5) The Recipient shall provide the Grant Officer the following:

(i) A listing every 12 months (or such longer period as the Grant Officer may specify) from the date of the Agreement, of all subject inventions required to be disclosed during the period.

(ii) A final report prior to closeout of the Agreement listing all subject inventions or certifying that there were none.

(iii) Upon request, the filing date, serial number, and title, a copy of the patent application, and patent number and issue date for any subject invention in any country in which the Recipient has applied for patents.

(iv) An irrevocable power to inspect and make copies of the patent application file, by the Government, when a Federal Government employee is a co-inventor.

(g) Subcontracts.

(1) Unless otherwise authorized or directed by the Grant Officer, the Recipient shall—

(i) Include this clause (Patent Rights—Retention by the Recipient (Small Business)), suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental, or research work to be performed by a small business firm or domestic nonprofit organization; and

(ii) Include in all other subcontracts, regardless of tier, for experimental, developmental, or research work the patent rights clause (Patent Rights—Retention by the Recipient (Large Business).

(2) In the event of a refusal by a prospective subcontractor to accept such a clause the Recipient—

(i) Shall promptly submit a written notice to the Grant Officer setting forth the subcontractor's reasons for such refusal and other pertinent information that may expedite disposition of the matter; and

(ii) Shall not proceed with such subcontract without the written authorization of the Grant Officer.

(3) The Recipient shall promptly notify the Grant Officer in writing upon the award of any subcontract at any tier containing a patent rights clause by identifying the subcontractor, the applicable patent rights clause, the work to be performed under the subcontract, and the dates of award and estimated completion. Upon request of the Grant Officer, the Recipient shall furnish a copy of such subcontract, and, no more frequently than annually, a listing of the subcontracts that have been awarded.

(4) The subcontractor will retain all rights provided for the Recipient in the clause under paragraph (g)(1)(i) or (ii) of this section, whichever is included in the subcontract, and the Recipient will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(5) Notwithstanding paragraph (g)(4) of this section, and in recognition of the contractor's substantial contribution of funds, facilities and/or equipment to the work performed under this cooperative agreement, the Recipient is authorized, subject to the rights of NASA set forth elsewhere in this clause, to—

(i) Acquire by negotiation and mutual agreement rights to a subcontractor's subject inventions as the Recipient may deem necessary to obtaining and maintaining of such private support; and

(ii) Request, in the event of inability to reach agreement pursuant to paragraph (g)(5)(i) of this section that NASA invoke exceptional circumstances as necessary pursuant to 37 CFR 401.3(a)(2) if the prospective subcontractor is a small business firm or organization, or for all other organizations, request that such rights for the Recipient be included as an additional reservation in a waiver granted pursuant to 14 CFR part 1245, subpart 1. Any such requests to NASA should be prepared in consideration of the following guidance and submitted to the contract officer.

(A) *Exceptional circumstances:* A request that NASA make an ''exceptional circumstances'' determination pursuant to 37 CFR 401.3(a)(2) must state the scope of rights sought by the Recipient pursuant to such determination; identify the proposed subcontractor and the work to be performed under the subcontract; and state the need for the determination.

(B) *Waiver petition:* The subcontractor should be advised that unless it requests a waiver of title pursuant to the NASA Patent Waiver Regulations (14 CFR part 1245, subpart 1), NASA will acquire title to the subject invention (42 U.S.C. 2457, as amended, Sec. 305). If a waiver is not requested or granted, the Recipient may request a license from NASA (see licensing of NASA inventions, 14 CFR part 1245, subpart 2). A subcontractor requesting a waiver must follow the procedures set forth in the REQUESTS FOR WAIVER OF RIGHTS—LARGE BUSINESS provision.

(h) Reporting on utilization of subject inventions. The Recipient agrees to submit, on request, periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the Recipient or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Recipient, and such other data and information as the agency may reasonably specify. The Recipient also agrees to provide additional reports as may be requested by the agency in connection with any march-in proceeding under-taken by the agency in accordance with paragraph (i) of this section. As required by 35 U.S.C. 202(c)(5), the agency agrees it will not disclose such information to persons outside the Government without permission of the Recipient.

(i) Preference for United States manufacture. The Recipient agrees that any products embodying subject inventions or produced through the use of subject inventions shall be manufactured substantially in the United States. However, in individual cases, the requirement to manufacture substantially in the United States may be waived by the Associate Administrator for Procurement (Code HS) with the concurrence of the Associate General Counsel for Intellectual Property upon a showing by the Recipient that under the circumstances domestic manufacture is not commercially feasible.

(j) March-in rights. The Recipient agrees that, with respect to any subject invention in which it has acquired title, NASA has the right in accordance with the procedures in 37 CFR 401.6 and any supplemental regulations of the agency to require the Recipient, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Subcontractor, assignee, or exclusive licensee refuses such a request NASA has the right to grant such a license itself if the Federal agency determines that—

(1) Such action is necessary because the Recipient or assignee has not taken, or is not expected to take within a reasonable time,

effective steps to achieve practical application of the subject invention in such field of use;

(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Recipient, assignee, or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Recipient, assignee, or licensees; or

(4) Such action is necessary because the agreement required by paragraph (i) of this section has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

(k) Special provisions for Agreements with nonprofit organizations. If the Recipient is a nonprofit organization, it agrees that—

(1) Rights to a subject invention in the United States may not be assigned without the approval of NASA, except where such assignment is made to an organization which has one of its primary functions the management of inventions; *provided*, that such assignee will be subject to the same provisions as the Recipient;

(2) The Recipient will share royalties collected on a subject invention with the inventor, including Federal employee co-inventors (when NASA deems it appropriate) when the subject invention is assigned in accordance with 35 U.S.C. 202(e) and 37 CFR 401.10;

(3) The balance of any royalties or income earned by the Recipient with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions will be utilized for the support of scientific research or education; and

(4) It will make efforts that are reasonable under the circumstances to attract licensees of subject inventions that are small business firms, and that it will give a preference to a small business firm when licensing a subject invention if the Recipient determines that the small business firm has a plan or proposal for marketing the invention which, if executed, is equally as likely to bring the invention to practical application as any plans or proposals from applicants that are not small business firms; *provided* that the Recipient is also satisfied that the small business firm has the capability and resources to carry out its plan or proposal. The decision whether to give a preference in any specific case will be at the discretion of the Recipient. However, the Recipient agrees that the Secretary of Commerce may review the Contractor's licensing program and decisions regarding small business applicants, and the Recipient will negotiate changes to its licensing policies, procedures, or practices with the Secretary of Commerce when the Secretary's review discloses that the Recipient could take reasonable steps to more effectively implement the requirements of this paragraph.

(l) A copy of all submissions or requests required by this clause, plus a copy of any reports, manuscripts, publications, or similar material bearing on patent matters, shall be sent to the installation Patent Counsel in addition to any other submission requirements in the cooperative agreement. If any reports contain information describing a ''subject invention'' for which the Recipient has elected or may elect title, NASA will use reasonable efforts to delay public release by NASA or publication by NASA in a NASA technical series, in order for a patent application to be filed, provided that the Recipient identify the information and the ''subject invention'' to which it relates at the time of submittal. If required by the Grant Officer, the Recipient shall provide the filing date, serial number and title, a copy of the patent application, and a patent number and issue date for any ''subject invention'' in any country in which the Recipient has applied for patents.

[End of provision]

§ 1274.914 Requests for waiver of rights—large business.

Requests for Waiver of Rights—Large Business (Date)

(a) In accordance with the NASA Patent Waiver Regulations, 14 CFR part 1245, subpart 1, waiver of rights to any or all inventions made or that may be made under a NASA agreement, contract or subcontract with other than a small business firm or a domestic nonprofit organization may be requested at different time periods. Advance waiver of rights to any or all inventions that may be made under a contract or subcontract may be requested prior to the execution of the agreement, contract or subcontract, or within 30 days after execution by the selected Recipient. In addition, waiver of rights to an identified invention made and reported under an agreement, contract or subcontract may be requested, even though a request for an advance waiver was not made or, if made, was not granted.

(b) Each request for waiver of rights shall be by petition to the Administrator and shall include an identification of the petitioner; place of business and address; if petitioner is represented by counsel, the name, address, and telephone number of the counsel; the signature of the petitioner or authorized representative; and the date of signature. No specific forms need be used, but the request should contain a positive statement that waiver of rights is being requested under the NASA Patent Waiver Regulations; a clear indication of whether the request is for an advance waiver or for a waiver of rights for an individual identified invention; whether foreign rights are also requested and, if so, the countries, and a citation of the specific section or sections of the regulations under which such rights are requested; and the name, address, and telephone number of the party with whom to communicate when the request is acted upon. Requests for advance waiver of rights should, preferably, be included with the proposal, but in any event in advance of negotiations.

(c) Petitions for advance waiver, prior to agreement execution, must be submitted to the Grant Officer. All other petitions will be submitted to the Patent Representative designated in the contract.

(d) Petitions submitted with proposals selected for negotiation of an agreement will be forwarded by the Grant Officer to the installation Patent Counsel for processing and then to the Inventions and Contributions Board. The Board will consider these petitions and where the Board makes the findings to support the waiver, the Board will recommend to the Administrator that waiver be granted, and will notify the petitioner and the Grant Officer of the Administrator's determination. The Grant Officer will be informed by the Board whenever there is insufficient time or information or other reasons to permit a decision to be made without unduly delaying the execution of the agreement. In the latter event, the petitioner will be so notified by the Grant Officer. All other petitions will be processed by installation Patent Counsel and forwarded to the Board. The Board shall notify the petitioner of its action and if waiver is granted, the conditions, reservations, and obligations thereof will be included in the Instrument of Waiver. Whenever the Board notifies a petitioner of a recommendation adverse to, or different from, the waiver requested, the petitioner may request reconsideration under procedures set forth in the Regulations.

[End of provision]

§ 1274.915 Restrictions on sale or transfer of technology to foreign firms or institutions.

Restrictions on Sale or Transfer of Technology to Foreign Firms or Institutions (Date)

(a) The parties agree that access to technology developments under this Agreement by foreign firms or institutions must be carefully controlled. For purposes of this clause, a transfer includes a sale of the company, or sales or licensing of the technology. Transfers do not include—

(1) Sales of products or components;

(2) Licenses of software or documentation related to sales of products or components; or

(3) Transfers to foreign subsidiaries of the Recipient for purposes related to this Agreement.

(b) The Recipient shall provide timely notice to the Grant Officer in writing of any proposed transfer of technology developed under this Agreement. If NASA determines that the transfer may have adverse consequences to the national security interests of the United States, or to the establishment of a robust United States industry, NASA and the Recipient shall jointly endeavor to find alternatives to the proposed transfer which obviate or mitigate potential adverse consequences of the transfer.

[End of provision]

§ 1274.916 Liability and risk of loss.

Liability and Risk of Loss (Date)

(a) With regard to activities undertaken pursuant to this agreement, neither party shall make any claim against the other, employees of the other, the other's related entities (*e.g.*, contractors, subcontractors, etc.), or employees of the other's related entities for any injury to or death of its own

employees or employees of its related entities, or for damage to or loss of its own property or that of its related entities, whether such injury, death, damage or loss arises through negligence or otherwise, except in the case of willful misconduct.

(b) To the extent that a risk of damage or loss is not dealt with expressly in this agreement, each party's liability to the other party arising out of this Agreement, whether or not arising as a result of an alleged breach of this Agreement, shall be limited to direct damages only, and shall not include any loss of revenue or profits or other indirect or consequential damages.

[End of provision]

§ 1274.917 Additional funds.

Additional Funds (Date)

Pursuant to this agreement, NASA is providing a fixed amount of funding for activities to be undertaken under the terms of this cooperative agreement. NASA is under no obligation to provide additional funds. Under no circumstances shall the Recipient undertake any action which could be construed to imply an increased commitment on the part of NASA under this cooperative agreement.

[End of provision]

§ 1274.918 Incremental funding.

Incremental Funding (Date)

(a) Of the award amount indicated on the cover page of this agreement, only the obligated amount indicated on the cover page of this agreement is available for payment. NASA anticipates making additional allotments of funds as required,

(b) These funds will be obligated as appropriated funds become available without any action required of the Recipient. NASA is not obligated to make payments in excess of the total funds obligated.

[End of provision]

§ 1274.919 Cost principles and accounting standards.

Cost Principles and Accounting Standards (Date)

The expenditure of Government funds by the Recipient and the allowability of costs recognized as a resource contribution by the Recipient (See clause entitled ''Resource Sharing Requirements'') shall be governed by the FAR cost principles, 48 CFR part 31. (If the Recipient is a consortium which includes non-commercial firm members, cost allowability for those members will be determined as follows: Allowability of costs incurred by State, local or federally-recognized Indian tribal governments is determined in accordance with the provisions of OMB Circular A–87, ''Cost Principles for State and Local Governments.'' The allowability of costs incurred by non-profit organizations is determined in accordance with the provisions of OMB Circular A–122, ''Cost Principles for Non-Profit Organizations.'' The allowability of costs incurred by institutions of higher education is determined in accordance with the provisions of OMB Circular A–21, ''Cost Principles for Educational Institutions.'' The allowability of costs incurred by hospitals is determined in accordance with the provisions of appendix E of 45 CFR part 74, ''Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals.'') Recipient's method for accounting for the expenditure of funds must be consistent with Generally Accepted Accounting Principles.

[End of provision]

§ 1274.920 Responsibilities of the NASA Technical Officer.

Responsibilities of the NASA Technical Officer (Date)

(a) The NASA Grant Administrator and Technical Officer for this cooperative agreement are identified on the cooperative agreement cover sheet.

(b) The Grant Specialist shall serve as NASA's authorized representative for the administrative elements of all work to be performed under the agreement.

(c) The Technical Officer shall have the authority to issue written Technical Advice which suggests redirecting the project work (*e.g.*, by changing the emphasis among different tasks), or pursuing specific lines of inquiry likely to assist in accomplishing the effort. The Technical Officer shall have the authority to approve or disapprove those technical reports, plans, and other technical information the Recipient is required to submit to NASA for approval. The Technical Officer is not authorized to issue and the Recipient shall not follow any Technical Advice which constitutes work which is not contemplated under this agreement; which in any manner causes an increase or decrease in the resource sharing or in the time required for performance of the project; which has the effect of changing any of the terms or conditions of the cooperative agreement; or which interferes with the Recipient's right to perform the project in accordance with the terms and conditions of this cooperative agreement.

[End of provision]

§ 1274.921 Publications and reports: Non-proprietary research results.

Publications and Reports: Non-Proprietary Research Results (Date)

(a) NASA encourages the widest practicable dissemination of research results at all times during the course of the investigation consistent with the other terms of this agreement.

(b) All information disseminated as a result of the cooperative agreement shall contain a statement which acknowledges NASA's support and identifies the cooperative agreement by number.

(c) Prior approval by the NASA Technical Officer is required only where the Recipient requests that the results of the research be published in a NASA scientific or technical publication. Two copies of each draft publication shall accompany the approval request.

(d) Reports shall contain full bibliographic references, abstracts of publications and lists of all other media in which the research was discussed. The Recipient shall submit the following technical reports:

(1) A progress report for every year of the cooperative agreement (except the final year). Each report is due 60 days before the anniversary date of the cooperative agreement and shall describe research accomplished during the report period.

(2) A summary of research is due by 90 days after the expiration date of the cooperative agreement, regardless of whether or not support is continued under another cooperative agreement. This report is intended to summarize the entire research accomplished during the duration of the cooperative agreement.

(e) Progress reports and summaries of research shall display the following on the first page:

(1) Title of the cooperative agreement.

(2) Type of report.

(3) Period covered by the report.

(4) Name and address of the Recipient's organization.

(5) Cooperative agreement number.

(f) An original and two copies, one of which shall be of suitable quality to permit micro-reproduction, shall be sent as follows:

(1) Original—Grant Officer.

(2) Copy—Technical Officer.

(3) Micro-reproducible copy—NASA Center for Aerospace Information (CASI), Parkway Center, Attn: Document Processing Section, 7121 Standard Drive, Hanover, MD 21076.

(g) The requirements set forth under this provision may be modified by the Grant Officer based on specific report needs for the particular grant or cooperative agreement.

[End of provision]

§ 1274.922 Suspension or termination.

Suspension or Termination (Date)

(a) This cooperative agreement may be suspended or terminated in whole or in part by the Recipient or by NASA after consultation with the other party. NASA may terminate the agreement, for example, if the Recipient is not making anticipated technical progress, if the Recipient materially fails to comply with the terms of the agreement, if the Recipient materially changes the objective of the agreement, or if appropriated funds are not available to support the program.

(b) Upon fifteen (15) days written notice to the other party, either party may temporarily suspend the cooperative agreement, pending corrective action or a decision to terminate the cooperative agreement. The notice should express the reasons why the agreement is being suspended.

(c) In the event of termination by either party, the Recipient shall not be entitled to additional funds or payments except as may be required by the Recipient to meet NASA's share of commitments which had in the judgment of NASA become firm prior to the effective date of termination and are otherwise appropriate. In no event, shall these additional funds or payments exceed the amount of the next payable milestone billing amount.

[End of provision]

§ 1274.923 Equipment and other property.

Equipment and Other Property (Date)

(a) NASA cooperative agreements permit acquisition of special purpose equipment required for the conduct of research. Acquisition of special purpose equipment costing in excess of $5,000 and not included in the approved proposal budget requires the prior approval of the Grant Officer unless the item is merely a different model of an item shown in the approved proposal budget.

(b) Recipients may not purchase, as a direct cost to the cooperative agreement, items of general purpose equipment, examples of which include but are not limited to office equipment and furnishings, air conditioning equipment, reproduction and printing equipment, motor vehicles, and automatic data processing equipment. If the Recipient requests an exception, the Recipient shall submit a written request for Grant Officer approval, prior to purchase by the Recipient, stating why the Recipient cannot charge the general purpose equipment to indirect costs.

(c) Under no circumstances shall cooperative agreement funds be used to acquire land or any interest therein, to acquire or construct facilities (as defined in 48 CFR (FAR) 45.301), or to procure passenger carrying vehicles.

(d) The government shall have title to equipment and other personal property acquired with government funds. Such property shall be disposed of pursuant to 48 CFR (FAR) 45.603. The Recipient shall have title to equipment and other personal property acquired with Recipient funds. Such property shall remain with the Recipient at the conclusion of the cooperative agreement.

(e) Title to Government furnished equipment (including equipment, title to which has been transferred to the Government prior to completion of the work) will remain with the Government.

(f) The Recipient shall establish and maintain property management standards for Government property and otherwise manage such property as set forth in 48 CFR (FAR) 45.5 and 48 CFR (NFS) 1845.5.

(g) Recipients shall submit annually a NASA Form 1018, NASA Property in the Custody of Contractors, in accordance with the instructions on the form, the provisions of 18 CFR (NFS) 1845.71 and any supplemental instructions that may be issued by NASA for the current reporting period. The original NF 1018 shall be submitted to the center Deputy Chief Financial Officer, Finance, with three copies sent concurrently to the center Industrial Property Officer. The annual reporting period shall be from October 1 of each year through September 30 of the following year. The report shall be submitted in time to be received by October 31. Negative reports (*i.e.* no reportable property) are required. The information contained in the reports in entered into the NASA accounting system to reflect current asset values for agency financial statement purposes. Therefore, it is essential that required reports be received no later than October 31. A final report is required within 30 days after expiration of the agreement.

[End of provision]

§ 1274.924 Civil rights.

Civil Rights (Date)

Work on NASA cooperative agreements is subject to the provisions of Title VI of the Civil Rights Act of 1964 (Public Law 88–352; 42 U.S.C. 2000d–l), Title IX of the Education Amendments of 1972 (20 U.S.C. 1680 *et seq.*), Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), the Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*), and the NASA implementing regulations (14 CFR parts 1250, 1251, 1252 and 1253).

[End of provision]

§ 1274.925 Subcontracts.

Subcontracts (Date)

(a) Recipients are not authorized to issue grants or cooperative agreements.

(b) NASA Grant Officer consent is required for subcontracts over $100,000, if not accepted by NASA in the original proposal. The Recipient shall provide the following information to the Grant Officer:

(1) A copy of the proposed subcontract.

(2) Basis for subcontractor selection.

(3) Justification for lack of competition when competitive bids or offers are not obtained.

(4) Basis for award cost or award price.

(c) The Recipient shall utilize small business concerns, small disadvantaged business concerns, Historically Black Colleges and Universities, minority educational institutions, and women-owned small business concerns as subcontractors to the maximum extent practicable.

[End of provision]

§ 1274.926 Clean Air-Water Pollution Control Acts.

Clean Air-Water Pollution Control Acts (Date)

If this cooperative agreement or supplement thereto is in excess of $100,000, the Recipient agrees to notify the Grant Officer promptly of the receipt, whether prior or subsequent to the Recipient's acceptance of this cooperative agreement, of any communication from the Director, Office of Federal Activities, Environmental Protection Agency (EPA), indicating that a facility to be utilized under or in the performance of this cooperative agreement or any subcontract thereunder is under consideration to be listed on the EPA ''List of Violating Facilities'' published pursuant to 40 CFR part 15. By acceptance of a cooperative agreement in excess of $100,000, the Recipient—

(a) Stipulates that any facility to be utilized thereunder is not listed on the EPA ''List of Violating Facilities'' as of the date of acceptance;

(b) Agrees to comply with all requirements of Section 114 of the Clean Air Act, as amended (42 U.S.C. 1857 *et seq.* as amended by Public Law 91–604) and Section 308 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 *et seq.* as amended by Public Law 92–500) relating to inspection, monitoring, entry, reports and information, and all other requirements specified in the aforementioned sections, as well as all regulations and guidelines issued thereunder after award of and applicable to the cooperative agreement; and

(c) agrees to include the criteria and requirements of this clause in every subcontract hereunder in excess of $100,000, and to take such action as the Grant Officer may direct to enforce such criteria and requirements.

[End of provision]

§ 1274.927 Debarment and suspension and Drug-Free Workplace.

Debarment and Suspension and Drug-Free Workplace (Date)

NASA cooperative agreements are subject to the provisions of 14 CFR part 1265, Government-wide Debarment and Suspension (Nonprocurement) and Government-wide requirements for Drug-Free Workplace, unless excepted by 14 CFR 1265.110 or 1265.610.

[End of provision]

§ 1274.928 Foreign national employee investigative requirements.

Foreign National Employee Investigative Requirements (Date)

(a) The Recipient shall submit a properly executed Name Check Request (NASA Form 531) and a completed applicant fingerprint card (Federal Bureau of Investigation Card FD–258) for each foreign national employee requiring access to a NASA Installation. These documents shall be submitted to the Installation's Security Office at least 75 days prior to the estimated duty date. The NASA Installation Security Office will request a National Agency Check (NAC) for foreign national employees requiring access to NASA facilities. The NASA Form 531 and fingerprint card may be obtained from the NASA Installation Security Office.

(b) The Installation Security Office will request from NASA Headquarters, Office of External Relations (Code I), approval for each foreign national's access to the Installation prior to providing access to the Installation. If the access approval is obtained from NASA Headquarters prior to completion of the NAC and performance of the cooperative agreement requires a foreign national to be given access immediately, the Technical Officer may submit an escort request to the Installation's Chief of Security.

[End of provision]

§ 1274.929 Restrictions on lobbying.

Restrictions on Lobbying (Date)

This award is subject to the provisions of 14 CFR part 1271 ''New Restrictions on Lobbying.''

[End of provision]

§ 1274.930 Travel and transportation.

Travel and Transportation (Date)

(a) For travel funded by the government under this agreement, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires the Recipient to use U.S.-flag air carriers for international air transportation of personnel

and property to the extent that service by those carriers is available.

(b) Department of Transportation regulations, 49 CFR part 173, govern Recipient shipment of hazardous materials and other items.

[End of provision]

§ 1274.931 Electronic funds transfer payment methods.

Electronic Funds Transfer Payment Methods (Date)

Payments under this cooperative agreement will be made by the Government by electronic funds transfer through the Treasury Fedline Payment System (FEDLINE) or the Automated Clearing House (ACH), at the option of the Government. After award, but no later than 14 days before an invoice is submitted, the Recipient shall designate a financial institution for receipt of electronic funds transfer payments, and shall submit this designation to the Grant Officer or other Government official, as directed.

(a) For payment through FEDLINE, the Recipient shall provide the following information:

(1) Name, address, and telegraphic abbreviation of the financial institution receiving payment.

(2) The American Bankers Association 9-digit identifying number for wire transfers of the financing institution receiving payment if the institution has access to the Federal Reserve Communication System.

(3) Payee's account number at the financial institution where funds are to be transferred.

(4) If the financial institution does not have access to the Federal Reserve Communications System, name, address, and telegraphic abbreviation of the correspondent financial institution through which the financial institution receiving payment obtains wire transfer activity. Provide the telegraphic abbreviation and American Bankers Association identifying number for the correspondent institution.

(b) For payment through ACH, the Recipient shall provide the following information:

(1) Routing transit number of the financial institution receiving payment (same as American Bankers Association identifying number used for FEDLINE).

(2) Number of account to which funds are to be deposited.

(3) Type of depositor account (''C'' for checking, ''S'' for savings).

(4) If the Recipient is a new enrollee to the ACH system, a ''Payment Information Form,'' SF 3881, must be completed before payment can be processed.

(c) In the event the Recipient, during the performance of this cooperative agreement, elects to designate a different financial institution for the receipt of any payment made using electronic funds transfer procedures, notification of such change and the required information specified above must be received by the appropriate Government official 30 days prior to the date such change is to become effective.

(d) The documents furnishing the information required in this clause must be dated and contain the signature, title, and telephone number of the Recipient official authorized to provide it, as well as the Recipient's name and contract number.

(e) Failure to properly designate a financial institution or to provide appropriate payee bank account information may delay payments of amounts otherwise properly due.

[End of provision]

§ 1274.932 Retention and examination of records.

Retention and Examination of Records (Date)

Financial records, supporting documents, statistical records, and all other records (or microfilm copies) pertinent to this cooperative agreement shall be retained for a period of 3 years, except that records for non-expendable property acquired with cooperative agreement funds shall be retained for 3 years after its final disposition and, if any litigation, claim, or audit is started before the expiration of the 3-year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved. The retention period starts from the date of the submission of the final invoice. The Administrator of NASA and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers, and records of the Recipient and of subcontractors to make audits, examinations, excerpts, and transcripts. All provisions of this clause shall apply to any subcontractor performing substantive work under this cooperative agreement.

[End of provision]

§ 1274.933 Summary of recipient reporting responsibilities.

Summary of Recipient Reporting Responsibilities (Date)

This cooperative agreement requires the recipient to submit a number of reports. These reporting requirements are summarized below. In the event of a conflict between this provision and other provisions of the cooperative agreement requiring reporting, the other provisions take precedence.

[The Grant Officer may add/delete reporting requirements as appropriate.]

Report	Frequency	Reference
Report of Joint NASA/Recipient Inventions	As required	§ 1274.911 Patent Rights (Paragraph (b)(4))
Interim Report of Reportable Items	Every 12 months	Patent Rights—Retention by the Recipient (Large Business) (Paragraph (e)(3)(i))
Final Report of Reportable Items	3 months after completion	§ 1274.912 Patent Rights—Retention by the Recipient (Large Business) (Paragraph (e)(3)(ii)).
Disclosure of Subject Inventions	Within 2 months after inventor discloses it to Recipient.	Patent Rights Retention by the (Large Recipient Business) (Paragraph (e)(2)) or § 1274.913 Patent Rights—Retention by the Recipient (Small Business) (Paragraph (c)(1)).
Election of Title to a Subject Invention	1 year after disclosure of the the subject invention if a statutory bar exists, otherwise within 2 years.	Patent Rights—Retention by Recipient (Small Business) (Paragraph (c)(2)).
Listing of Subject Inventions	Every 12 months from the date of the agreement.	Patent Rights—Retention by the Recipient (Small Business) (Paragraph (f)(5)(i)).
Subject Inventions Final Report	Prior to close-out of the agreement	§ 1274.913 Retention by the Recipient (Small Business) (Paragraph (f)(5)(ii).
Notification of Decision to Forego Patent Protection.	30 days before expiration of response period	Patent Rights—Retention by the Recipient (Small Business) (Paragraph (f)(3)).
Notification of a Subcontract Award	Promptly upon award of a subcontract	Patent Rights—Retention by the Recipient (Large Business) (Paragraph (g)(3)) or § 1274.913 Patent Rights—Retention by the Recipient (Small Business) (Paragraph (g)(3).
Utilization of Subject Invention	Annually	Patent Rights—Retention by the Recipient (Small Business) (Paragraph (h)).

Report	Frequency	Reference
Notice of Proposed Transfer of Technology	Prior to transferring technology to foreign firm or institution.	§ 1274.915 Restrictions on Sale or Transfer of Technology to Foreign Firms or Institutions (Paragraph (b)).
Progress Report	60 days prior to the anniversary date of the agreement (except final year).	Publications and Reports: Non-Proprietary Research Results (Paragraph (d)(1)).
Summary of Research	90 days after completion of agreement	Publications and Reports: Non-Proprietary Research Results (Paragraph (d)(2)).
NASA Form 1018 Property in Custody of Contractors.	Annually by October 31	Equipment and Other Property (Paragraph (g)).
NASA Form 1018 Property in the Custody of Contractors..	60 days after expiration date of agreement	Equipment and Other Property (Paragraph (g)).

[End of provision]

§ 1274.934 Safety.

Safety (Date)

(a) The recipient shall act responsibly in matters of safety and shall take all reasonable safety measures in performing under this grant or cooperative agreement. The recipient shall comply with all applicable federal, state, and local laws relating to safety. The recipient shall maintain a record of, and will notify the NASA Grant Officer of any accident involving death, disabling injury or substantial loss of property. The recipient will advise NASA of hazards that come to its attention as a result of the work performed through routine status reports furnished in compliance with this grant or cooperative agreement.

(b) Where the work under this grant or cooperative agreement involves flight hardware, the hazardous aspects, if any, of such hardware will be identified, in writing, by the recipient. Compliance with this provision by subcontractors shall be the responsibility of the recipient.

[End of provision]

Appendix to Part 1274—Listing of Exhibits

Exhibit A to Part 1274—Contract Provisions

All contracts awarded by a Recipient, including small purchases, shall contain the following provisions if applicable:

1. *Equal Employment Opportunity.* All contracts shall contain a provision requiring compliance with Executive Order 11246, ''Equal Employment Opportunity,'' as amended by Executive Order 11375, ''Amending Executive Order 11246 Relating to Equal Employment Opportunity,'' and as supplemented by regulations at 41 CFR Chapter 60, ''Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.''

2. *Copeland ''Anti-Kickback'' Act (18 U.S.C. 874 and 40 U.S.C. 276c).* All contracts in excess of $50,000 for construction or repair awarded by Recipients and subRecipients shall include a provision for compliance with the Copeland ''Anti-Kickback'' Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, ''Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States''). The Act provides that each Recipient or subRecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The Recipient shall report all suspected or reported violations to NASA.

3. *Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333).* Where applicable, all contracts awarded by Recipients in excess of $2,000 for construction contracts and in excess of $50,000 for other contracts, other than contracts for commercial items, that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Subsection 102 of the Act, each Recipient shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

4. *Rights to Inventions Made Under a Contract or Agreement.* Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the Recipient in any resulting invention in accordance with 37 CFR part 401, ''Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,'' and any implementing regulations issued by the awarding agency.

5. *Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended.* Contracts, other than contracts for commercial items, of amounts in excess of $100,000 shall contain a provision that requires the Recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 *et seq.*) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 *et seq.*). Violations shall be reported to NASA and the Regional Office of the Environmental Protection Agency (EPA).

6. *Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).* Contractors who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Recipient.

7. Debarment and Suspension (Executive Orders 12549 and 12689). No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with Executive Orders 12549 and 12689, ''Debarment and Suspension.'' This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than Executive Order 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

Exhibit B to Part 1274—Reports

1. Individual Procurement Action Report (NASA Form 507)

The grant officer is responsible for submitting NASA Form 507 for all cooperative agreement actions.

2. Property Reporting

As provided in paragraph (g) of 1274.923, an annual NASA Form (NF) 1018, NASA Property in the Custody of Contractors, will be submitted by October 31 of each year. Negative annual reports are required. A final report is required within 30 days after expiration of the agreement.

3. Disclosure of Lobbying Activities (SFLLL)

(a) Grant officers shall provide one copy of each SF LLL furnished under 14 CFR

1271.110 to the Procurement Officer for transmittal to the Director, Analysis Division (Code HC).

(b) Suspected violations of the statutory prohibitions implemented by 14 CFR part 1271 shall be reported to the Director, Contract Management Division (Code HK).

[FR Doc. 99–23031 Filed 9–15–99; 8:45 am]

BILLING CODE 7510–01–P

federal register

Thursday
September 16, 1999

Part III

Department of Education

34 CFR Parts 74, 75, 76, 77, and 80

Administration of Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations et al; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 74, 75, 76, 77, and 80

Administration of Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations; Direct Grant Programs; State-Administered Programs; Definitions That Apply to Department Regulations; Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

AGENCY: Office of the Chief Financial Officer, Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary announces the applicability of revised Office of Management and Budget (OMB) Circular A–21, ''Cost Principles for Educational Institutions,'' and Circular A–122, ''Cost Principles for Non-Profit Organizations.'' The Secretary also announces that the interim final regulations the Department issued for 34 CFR 74.26 and 80.26 on August 29, 1997 (62 FR 45937) are adopted without changes. Finally, the Secretary amends the definition of the Education Department General Administrative Regulations (EDGAR) in 34 CFR 77.1 to include the existing 34 CFR Parts 97, 98, and 99 within the scope of EDGAR and make technical changes and update citations in EDGAR.

DATES: These regulations are effective September 16, 1999.

Applicability Date: The revised circulars and other changes made by this document apply to new and continuation grants and subgrants awarded on or after September 16, 1999.

FOR FURTHER INFORMATION CONTACT: Ronelle Holloman, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3652, ROB–3, Washington, D.C. 20202–4248. Telephone: (202) 205–3501. Fax: (202) 205–0667. E-mail Address: grantspolicy@ed.gov. If you use a telecommunications device for the deaf (TDD) you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:

I. Introduction

In fiscal year 1998 OMB made final revisions to Circular A–21, ''Cost Principles for Educational Institutions,'' and Circular A–122, ''Cost Principles for Non-Profit Organizations.'' You may request a recompilation of OMB Circulars A–21 and A–122 with all their amendments by calling OMB Publication's Office at (202) 395–7332 or you can obtain the circulars in electronic form on the OMB Home Page at http://www.whitehouse.gov/WH/EOP/omb.

II. Revisions to 34 CFR Parts 74 and 80

A. Revision That Affects Educational Institutions

On June 1, 1998, (63 FR 29786) OMB published in the **Federal Register** interim final revisions to OMB Circular A–21 to allow trustees' travel expenses. On October 27, 1998, (63 FR 57332) OMB adopted the interim final revisions without change. The Secretary adopts the changes made by OMB on those dates in the Department's regulations at 34 CFR Parts 74 and 80. The changes adopted in these final regulations bind all recipients of Department grants and cooperative agreements to the requirements of Circular A–21 as amended through October 27, 1998. These cost principles apply to educational institutions, except to the extent program regulations or the EDGAR require a different outcome.

B. Revision That Affects Non-Profit Organizations

On June 1, 1998, (63 FR 29794) OMB published in the **Federal Register** a full revision of OMB Circular A–122. OMB amended OMB Circular A–122 by: revising the definition for equipment; requiring the breakout of indirect costs into two categories (facilities and administration) for certain non-profit organizations; modifying the multiple allocation basis; and clarifying the treatment of certain cost items. The Secretary adopts the changes made by OMB on June 1, 1998 in the Department's regulations at 34 CFR Parts 74 and 80. The changes adopted in these final regulations bind all recipients of Department grants and cooperative agreements to the requirements of Circular A–122 as amended through June 1, 1998. These cost principles apply to non-profit organizations, except to the extent program regulations or the EDGAR require a different outcome.

C. Other Revisions to OMB Circulars and the Common Rule

On August 10, 1998, (63 FR 42645) OMB announced the final revision of OMB Circular A–110, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.'' The August 10, 1998, OMB notice adopted for OMB Circular A–110 the final amendments that had been published as interim final revisions on August 29, 1997 (62 FR 45934). The August 29, 1997 interim final rulemaking document published by the Secretary and other participants in the Common Rule (62 FR 45937, 45943) amended both 34 CFR 74.26 and 80.26 to give effect to OMB's rescission of Circular A–128, ''Audits of State and Local Governments,'' and OMB's consolidation into A–133 of the requirements for State and local governments that had formerly been in Circular A–128. The Secretary adopts these changes to 34 CFR parts 74 and 80 as final regulations of the Department.

III. Other Technical Changes

The Secretary makes technical changes to various sections in 34 CFR Parts 75, 76, 77 and 80 to remove obsolete references and make other, nonsubstantive clarifying changes. Included in these changes is an amendment to 34 CFR Part 77 amending the definition of EDGAR to include 34 CFR Part 97, Protection of Human Subjects; 34 CFR Part 98, Student Rights in Research, Experimental Programs and Testing; and 34 CFR Part 99, Family Educational Rights and Privacy. The effect of this amendment is to include these three parts in future publications of EDGAR.

The Department's discretionary and formula grant program regulations currently refer to EDGAR under sections that carry headings such as ''What regulations apply to this program?'' These program regulations are not amended by this document to include references to 34 CFR parts 97–99 of EDGAR as amended by this final rulemaking document. The Secretary will amend these program regulations in the future to add the appropriate references. However, parts 97 through 99 apply to the grant programs of the Department as a matter of law as specified in parts 97–99. Thus, the amendment in these final regulations to the definition of ''EDGAR'' does not affect the applicability of parts 97–99 to those programs.

Waiver of Proposed Rulemaking and Delayed Effective Date

It is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations in accordance with the Administrative Procedure Act (5 U.S.C. 553) and to delay the effective date of final regulations under that Act. However, since OMB has previously provided the public an opportunity for comment on

the revision of Circulars A–21 and A–122, and the technical amendments made in this document are not substantive, the Secretary finds that soliciting further public comment with respect to adopting the amendments made by this document is unnecessary and contrary to the public interest under 5 U.S.C. 553(b)(B). Since changes to the relevant circulars has already been made final by OMB and the other changes made by this document are only technical in nature, the Secretary also waives the delayed effective date for these amendments under 5 U.S.C. 553(d).

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations would not have a significant economic impact on a substantial number of small entities. These regulations would not have a significant economical impact on any entities affected because they do not make any substantive changes.

Paperwork Reduction Act of 1995

These regulations do not contain any information collection requirements.

Assessment of Educational Impact

Based on our own review, we have determined that these final regulations do not require transmission of information that any other agency or authority of the United States gathers or makes available.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at either of the following sites: http://ocfo.ed.gov/fedreg.htm.http://www.ed.gov/news.html

To use the PDF, you must have the Adobe Acrobat Reader 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 (GPO), toll free, at 1–888–293–6498; or in the Washington, D.C. area, at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html

(Catalog of Federal Domestic Assistance Number does not apply)

List of Subjects

34 CFR Part 74

Accounting, Colleges and universities, Grant programs, Hospitals, Non-profit organizations, Reporting and recordkeeping requirements.

34 CFR Part 75

Accounting, Administrative practice and procedure, Copyright, Education, Grant programs-education, Inventions and patents, Private schools, Reporting and recordkeeping requirements.

34 CFR Part 76

Accounting, Administrative practice and procedure, American Samoa, Education, Grant programs-education, Guam, Northern Mariana Islands, Pacific Islands Trust Territory, Private Schools, Reporting and recordkeeping requirements, Virgin Islands.

34 CFR Part 77

Education, Grant programs-education.

34 CFR Part 80

Accounting, Grant programs, Indians, Intergovernmental relations, Loan programs, Reporting and recordkeeping requirements.

Dated: August 18, 1999.

Richard W. Riley,

Secretary of Education.

For the reasons discussed in the preamble, the Secretary adopts as final without change the interim rule amending 34 CFR 74.26 and 80.26 published on August 29, 1997, and amends parts 75, 76, 77, and 80 of title 34 of the Code of Federal Regulations as follows:

PART 75—DIRECT GRANT PROGRAMS

1. The authority citation for part 75 continues to read as follows:

Authority: 20 U.S.C. 1221e–3 and 3474, unless otherwise noted.

§ 75.118 [Amended]

2. Section 75.118 paragraph (a) is amended by removing ''74.82'' and adding, in its place, ''74.51'' and amending the cross-reference that follows the section by removing ''74.82 Performance Reports under non-construction grants'' and adding in its place ''74.51 Monitoring and reporting program performance''

§ 75.215 [Amended]

3. The cross-reference following § 75.215 is amended by removing ''(e)'' and adding, in its place, ''(c)''.

4. Section 75.220 is amended by revising paragraph (b)(2) to read as follows:

§ 75.220 Procedures the Department uses under § 75.219(a).

* * * * *

(b) * * *

(2) An employee from the Office of the Chief Financial Officer (OCFO) with responsibility for grant policy; and

* * * * *

5. Section 75.511 is amended by revising the cross-reference that follows the section to read as follows:

§ 75.511 Waiver of requirement for a full-time project director.

* * * * *

CROSS REFERENCE: See 34 CFR 74.25, Revision of budget and program plans; and 34 CFR 80.30, Changes.

§ 75.517 [Amended]

6. Section 75.517 is amended by removing ''34 CFR 74.103(c)(2)'' and adding, in its place, ''34 CFR 74.25(c)(2)''.

§ 75.524 [Amended]

7. Section 75.524(b) is amended by removing ''34 CFR 74.3'' and adding, in its place, ''34 CFR 80.3'' and removing the note that follows paragraph (b).

8. Section 75.530 is revised to read as follows:

§ 75.530 General cost principles.

The general principles to be used in determining costs applicable to grants and cost-type contracts under grants are specified at 34 CFR 74.27 (for administration of grants to institutions of higher education, and other non-profit organizations) and 34 CFR 80.22 (for uniform administrative requirements for grants and cooperative agreements to State and local governments).

(Authority: 20 U.S.C. 1221e–3 and 3474)

CROSS REFERENCE: See 34 CFR part 74, Subpart D—After-the-Award Requirements and 34 CFR part 80, Subpart C—Post-Award Requirements.

(Authority: 20 U.S.C. 1221e–3 and 3474)

9. The cross-reference preceding § 75.618 and following the center heading ''EQUIPMENT AND SUPPLIES'' is revised to read as follows:

CROSS REFERENCE: See 34 CFR 74.32 Real property; 34 CFR 74.35 Supplies and other expendable property; 34 CFR 74.36 Intangible property; 34 CFR 74.2 Definitions; 34 CFR 80.31 Real property; 34 CFR 80.32 Equipment; 34 CFR 80.33 Supplies; and 34 CFR 80.34 Copyrights.

10. Section 75.621 is amended by revising the cross-reference following the section to read as follows:

§ 75.621 Copyright policy for grantees.

* * * * *

CROSS REFERENCE: See 34 CFR 74.22 Payment; 34 CFR 74.24 Program income; and

34 CFR 74.36 Intangible property; 34 CFR 80.25 Program income; and 34 CFR 80.34 Copyrights.

11. The cross-reference preceding § 75.626 and following the center heading ''INVENTIONS AND PATENTS'' is revised to read as follows:

CROSS REFERENCE: See 34 CFR 74.25, Program income and 34 CFR 80.25, Program income.

12. The cross-reference preceding § 75.650 and following the center heading ''OTHER REQUIREMENTS FOR CERTAIN PROJECTS'' is revised to read as follows:

CROSS REFERENCE: See 34 CFR 74.21, Standards for financial management systems; 34 CFR 74.48, Contract provisions; 34 CFR 80.20, Standards for financial management and 34 CFR 80.36, Procurement.

13. Section 75.702 is amended by revising the cross-reference following the section to read as follows:

§ 75.702 Fiscal control and fund accounting procedures.

* * * * *

CROSS REFERENCE: See 34 CFR part 74, Subpart C—Post-Award Requirements and Subpart D—After-the-Award Requirements and 34 CFR part 80, Subpart C—Post-Award Requirements and Subpart D—After-the-Grant Requirements.

14. Section 75.708 is amended by revising paragraph (b) to read as follows:

§ 75.708 Prohibition of subgrants.

* * * * *

(b) A grantee may contract for supplies, equipment, construction, and other services, in accordance with 34 CFR part 74, Subpart C—Post-Award Requirements (Procurement Standards §§ 74.40–74.48) and 34 CFR part 80, Subpart C—Post-Award Requirements (§ 80.36 Procurement).

15. The cross-reference following the center heading ''REPORTS'' and preceding § 75.720 is revised to read as follows:

CROSS REFERENCE: See 34 CFR 74.51, Monitoring and reporting program performance; 34 CFR 74.52, Financial reporting; 34 CFR 80.40, Monitoring and reporting program performance; and 34 CFR 80.41 Financial reporting.

16. Section 75.720 is amended by revising paragraphs (a)(1) and (c) to read as follows:

§ 75.720 Financial and performance reports.

(a) * * *

(1) 34 CFR 74.51 (Monitoring and reporting program performance) and 34 CFR 74.52 (Financial reporting); and

* * * * *

(c) The Secretary may require a grantee to report more frequently than annually under 34 CFR 74.14 (Special award conditions), 34 CFR 74.21 (Standards for financial management systems), 34 CFR 80.12 (Special grant or subgrant conditions for ''high-risk'' grantees) or 34 CFR 80.20 (Standards for financial management systems).

17. The cross-reference preceding § 75.730 and following the center heading ''RECORDS'' is revised to read as follows:

CROSS REFERENCE: See 34 CFR 74.53, Retention and access requirements for records and 34 CFR 80.42, Retention and access requirements for records.

18. Section 75.732 is amended, by revising the cross-reference following the section to read as follows:

§ 75.732 Records related to performance.

* * * * *

CROSS REFERENCE: See 34 CFR 74.25, Revision of budget and program plans.

PART 76—STATE–ADMINISTERED PROGRAMS

19. The authority citation for part 76 continues to read as follows:

Authority: 20 U.S.C. 1221e–3, 3474, and 6511(a), unless otherwise noted.

20. Section 76.132 is amended, by revising paragraph (a)(5) to read as follows:

§ 76.132 What assurances must be in a consolidated grant application?

(a) * * *

(5) Submit an annual report to the Secretary containing information covering the program or programs for which the grant is used and administered, including the financial and program performance information required under 34 CFR 74.51–74.52 and 34 CFR 80.40–80.41.

* * * * *

21. Section 76.530 is revised to read as follows:

§ 76.530 General cost principles.

Both 34 CFR 74.27 and 34 CFR 80.22 reference the general cost principles that apply to grants, subgrants and cost type contracts under grants and subgrants.

(**Authority:** 20 U.S.C. 1221e–3, 3474 and 6511(a))

22. The cross-reference preceding § 76.681 and following the center heading ''OTHER REQUIREMENTS FOR CERTAIN PROGRAMS'' is removed.

PART 77—DEFINITIONS THAT APPLY TO DEPARTMENT REGULATIONS

23. The authority citation for part 77 continues to read as follows:

Authority: 20 U.S.C. 1221e–3(a)(1), 2831(a), 2974(b), and 3474, unless otherwise noted.

24. The definition of ''EDGAR'' in § 77.1 is revised to read as follows:

§ 77.1 Definitions that apply to all Department programs.

* * * * *

EDGAR means the Education Department General Administrative Regulations (34 CFR parts 74, 75, 76, 77, 79, 80, 81, 82, 85, 86, 97, 98, and 99.)

* * * * *

PART 80—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

25. The authority citation for part 80 continues to read as follows:

Authority: 20 U.S.C. 1221e–3 and 3474; OMB Circular A–102, unless otherwise noted.

§ 80.42 [Amended]

26. Section 80.42(b)(4) is amended, by removing ''five'' and adding, in its place, ''three''.

[FR Doc. 99–22350 Filed 9–15–99; 8:45 am]

BILLING CODE 4000–01–U

federal register

Thursday
September 16, 1999

Part IV

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 223

Endangered and Threatened Species; Threatened Status for Two Chinook Salmon Evolutionarily Significant Units (ESUs) in California; Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223

[Docket No. 990303060–9231–03; I.D. 022398C]

RIN 0648–AM54

Endangered and Threatened Species; Threatened Status for Two Chinook Salmon Evolutionarily Significant Units (ESUs) in California

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

ACTION: Final rule; notice of determination.

SUMMARY: Previously, NMFS completed a comprehensive status review of west coast chinook salmon (*Oncorhynchus tshawytscha*) populations in Washington, Oregon, Idaho, and California and identified 15 ESUs within this range. After soliciting additional data to resolve scientific disagreements, NMFS now issues a final rule to list two ESUs as threatened under the Endangered Species Act (ESA). The Central Valley spring-run ESU was originally proposed as endangered, but new information indicates that the ESU should instead be considered a threatened species. The California Coastal ESU was originally proposed as threatened, as part of a larger Southern Oregon and California Coastal ESU, but new information supports a threatened listing for a revised ESU consisting of California coastal chinook salmon populations from Redwood Creek (Humboldt County) south through the Russian River. Other coastal populations to the north of this ESU (and originally proposed as threatened) are now considered part of a separate Southern Oregon and Northern California Coastal ESU that does not warrant listing at this time.

NMFS is also making final listing determinations for two other chinook salmon ESUs originally proposed as threatened. It has considered new information about the Central Valley fall and late fall-run ESU and has determined that listing is not warranted at this time, but it will consider it a candidate species. In the case of the proposed ESU expansion for threatened Snake River fall-run chinook salmon, NMFS has determined that the ESU does not include Deschutes River populations and that listing this latter population is not warranted at this time.

In the two ESUs identified as threatened, only naturally spawned populations of chinook salmon are listed. At this time, no hatchery populations are deemed essential for recovery in either of the two listed ESUs, so no hatchery populations are part of this final listing determination.

NMFS intends to issue protective regulations under section 4(d) of the ESA for these threatened ESUs. Even though NMFS is not now issuing protective regulations for the threatened ESUs, Federal agencies are required under section 7 to consult with NMFS if any activity they authorize, fund, or carry out may affect listed chinook salmon in these ESUs.

DATES: Effective November 15, 1999.

ADDRESSES: Branch Chief, NMFS, Northwest Region, Protected Resources Division, 525 NE. Oregon St., Suite 500, Portland, OR 97232–2737; Assistant Regional Administrator, Protected Resources Division, NMFS, Southwest Region, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213; Salmon Coordinator, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

Reference materials regarding this listing determination can also be obtained from the internet at www.nwr.noaa.gov.

FOR FURTHER INFORMATION CONTACT: Garth Griffin at (503) 231–2005, Craig Wingert at (562) 980–4021, or Chris Mobley at (301) 713–1401.

SUPPLEMENTARY INFORMATION:

Species Background

Chinook salmon are anadromous and semelparous, i.e., as adults they migrate from the marine environment into the freshwater rivers and streams of their birth (anadromous) where they spawn and die (semelparous). They are the largest of the Pacific salmon species and are distributed in freshwater and marine areas from California to Asia. The four ESUs considered in this determination spawn and rear in coastal and interior rivers in California and Oregon and forage in vast nearshore and marine zones of the North Pacific Ocean. More detailed biological information for west coast chinook salmon can be found in species' status assessments by NMFS (Matthews and Waples, 1991; Waples *et al*., 1991; NMFS, 1995; Waknitz *et al*., 1995; Myers *et al*., 1998; NMFS, 1998a; NMFS, 1999a), Oregon Department of Fish and Wildlife (ODFW, 1991; Nickelson *et al*., 1992; Kostow *et al*., 1995), California Department of Fish and Game (CDFG)(Clark, 1929; CDFG, 1965; Hallock and Fry, 1967; Reynolds *et al*., 1993; Yoshiyama *et al*., 1996), and for species life history summaries (Miller and Brannon, 1982; Healey, 1991), and in previous **Federal Register** documents (56 FR 29542, June 27, 1991; 63 FR 11482, March 9, 1998).

Previous Federal ESA Actions Related to West Coast Chinook Salmon

Descriptions of previous Federal ESA actions pertaining to west coast chinook salmon are summarized in the proposed rule (63 FR 11482, March 9, 1998), and recent final rule (63 FR 14308, March 24, 1999) for several chinook salmon ESUs. NMFS initially announced its intention to conduct a coastwide review of chinook salmon status in response to a petition to list several Puget Sound chinook salmon stocks on September 12, 1994 (59 FR 46808). Having received on February 1, 1995, a more comprehensive petition from the Oregon Natural Resources Council and from Dr. Richard Nawa, NMFS reconfirmed its intention to conduct a coastwide review (60 FR 30263, June 8, 1995). During that review, NMFS requested public comment and assessed the best available scientific and commercial data, including technical information from Pacific Salmon Biological Technical Committees (PSBTCs) and from other interested parties. The PSBTCs consisted primarily of scientists (from Federal, state, and local resource agencies, Indian tribes, industries, universities, professional societies, and public interest groups) possessing technical expertise relevant to chinook salmon and their habitats. The NMFS Biological Review Team (BRT), composed of staff from NMFS' Northwest, Southwest, and Auke Bay Fisheries Science Centers, Northwest and Southwest Regions, as well as staff from the National Biological Survey, reviewed and evaluated scientific information provided by the PSBTCs and other sources. Early drafts of the BRT review were distributed to state and tribal fisheries managers and peer reviewers who are experts in the field to ensure that NMFS' evaluation was as accurate and complete as possible. The BRT then incorporated all comments into the coastwide chinook salmon status review.

Based on the results of the completed status report on west coast chinook salmon (Myers *et al*., 1998), NMFS identified 15 ESUs of chinook salmon from Washington, Oregon, Idaho, and California, including 11 new ESUs, and 1 redefined ESU (63 FR 11482, March 9, 1998). After assessing information concerning chinook salmon abundance, distribution, population trends, and risks and after considering efforts being made to protect chinook salmon, NMFS

determined that several chinook salmon ESUs did not warrant listing under the ESA. The chinook salmon ESUs not requiring ESA protection included the Upper Klamath and Trinity River ESU, Oregon Coast ESU, Washington Coast ESU, Middle Columbia River spring-run ESU, and Upper Columbia River summer- and fall-run ESU.

Also based on this evaluation, and after considering efforts being made to protect chinook salmon, NMFS proposed that seven chinook salmon ESUs warranted listing as either endangered or threatened species under the ESA. The chinook salmon ESUs proposed as endangered species included California Central Valley spring-run and Washington's Upper Columbia River spring-run chinook salmon. The chinook salmon ESUs proposed as threatened species included California Central Valley fall and late fall-run, Southern Oregon and California Coastal, Puget Sound, Lower Columbia River, and Upper Willamette River spring-run chinook salmon. Additionally, NMFS found that fall-run chinook salmon from the Deschutes River in Oregon shared a strong genetic and life history affinity to currently listed Snake River fall-run chinook. Based on this affinity, NMFS proposed to revise the existing listed Snake River fall-run ESU to include fall-run chinook salmon in the Deschutes River. The resulting revised ESU would be listed as threatened.

Following these proposed listings, NMFS conducted 21 public hearings within the range of the proposed chinook salmon ESUs in California, Oregon, Washington, and Idaho. NMFS accepted and reviewed public comments solicited during a 112-day public comment period. Also during the comment period, NMFS solicited peer and co-manager review of NMFS' proposal and received comments and new scientific information concerning the status of the chinook salmon ESUs proposed for listing. NMFS also received information regarding the relationship of existing hatchery stocks to native populations in each ESU. This new information was evaluated by NMFS' BRT and published in an updated status review for these chinook salmon entitled ''Status Review Update for West Coast Chinook Salmon (*Oncorhynchus tshawytscha*) from Puget Sound, Lower Columbia River, Upper Willamette River, and Upper Columbia River Spring-run ESUs.'' (NMFS, 1998a).

Based on these public hearings, comments, and additional technical meetings with Indian tribes and the states, NMFS found that listing was warranted for four ESUs (Upper Columbia River spring-run, Puget Sound, Lower Columbia River, and Upper Willamette River spring-run ESUs) (63 FR 14308, March 24, 1999). However, substantial scientific disagreements precluded the agency from making final determinations for California's Central Valley spring-run and Central Valley fall and late fall-run, Southern Oregon and California Coastal, and Snake River fall-run ESUs. Therefore, in accordance with section 4(b)(6)(B)(i) of the ESA, NMFS extended the period for making final determinations for these ESUs by 6 additional months (63 FR 14329, March 24, 1999).

During the 6 month period, NMFS received new scientific information concerning the boundaries, population structure, and status of the deferred ESUs and met with the affected states, Indian Tribes, and Federal co-managers. This new information was considered by NMFS' BRT, and NMFS has now completed an updated status review that analyzes this new information as well as the ESU status of existing hatchery stocks (NMFS, 1999a). Based on this updated status review and other information, NMFS now issues its final determinations for these four proposed ESUs. Copies of NMFS' updated status review reports and related documents are available upon request (see **ADDRESSES**).

Summary of Comments and Information Received in Response to the Proposed Rule

NMFS held 21 public hearings in California, Oregon, Idaho, and Washington to solicit comments on this and other salmonid listing proposals (63 FR 16955, April 7, 1998; 63 FR 30455, June 4, 1998). During the 112-day public comment period, NMFS received nearly 300 written comments regarding the west coast chinook salmon proposed rule. A number of comments addressed issues pertaining to the proposed critical habitat designation for west coast chinook salmon. NMFS will address these comments in a forthcoming **Federal Register** document announcing the agency's conclusions about critical habitat for all listed chinook salmon ESUs.

NMFS also sought new data and analyses from tribal, state, and Federal co-managers and met with them to formally discuss technical issues associated with the deferred chinook salmon ESUs. This new information and analysis were considered by NMFS' BRT in its re-evaluation of ESU boundaries and species' status; this information is discussed in an updated status review report for these chinook salmon ESUs (NMFS, 1999a).

In addition to soliciting and reviewing public comments, NMFS sought peer review of its listing proposals. On July 1, 1994, NMFS, jointly with the U.S. Fish and Wildlife Service (FWS), published a series of policies regarding listings under the ESA, including a policy for peer review of scientific data (59 FR 34270). In accordance with this policy, NMFS solicited 13 individuals to take part in a peer review of its west coast chinook salmon proposed rule. All individuals solicited are recognized experts in the field of chinook salmon biology and represent a broad range of interests, including Federal, state, and tribal resource managers and academia. Four individuals took part in the peer review of this action; new information and comments provided by the public and comments from peer reviewers were considered by NMFS' BRT and are summarized in the updated status review documents (NMFS, 1998a; NMFS, 1999a). Copies of these documents are available upon request (see **ADDRESSES**).

A summary of comments received in response to the proposed rule follows.

Issue 1: Sufficiency and Accuracy of Scientific Information and Analysis

Comment 1: Some commenters questioned the sufficiency and accuracy of data NMFS employed in the listing proposal. In contrast, peer reviewers commented that the agency's status review was both credible and comprehensive, even though they may not have concurred with all of NMFS' conclusions.

Response: Section 4(b)(1)(A) of the ESA requires that NMFS make its listing determinations solely on the basis of the best available scientific and commercial data, after reviewing the status of the species and taking into account any efforts being made to protect such species. NMFS believes that information contained in the agency's status review (Myers *et al*., 1998), together with more recent information obtained in response to the proposed rule (NMFS, 1998a; NMFS, 1999a), represents the best scientific and commercial information presently available for the chinook salmon ESUs addressed in this final rule. NMFS has made every effort to conduct an exhaustive review of all available information and has solicited information and opinion from all interested parties, including peer reviewers as described previously. If new data become available to change these conclusions, NMFS will act accordingly.

Comment 2: Several of the comments received suggested that the ESA does not provide for the creation of ESUs and that ESUs do not correspond to species, subspecies, or distinct population segments (DPSs) that are specifically identified in the ESA. Further, NMFS' use of genetic information (allozyme- or DNA-derived) to determine ESU boundaries was criticized by several commenters. It was argued that allozyme-based electrophoretic data cannot be used to imply either evolutionary significance or local adaptation. Other commenters indicated that NMFS used genetic distances inconsistently in determining the creation of ESUs. Several commenters argued that there was insufficient scientific information presented to justify the establishment of the chinook salmon ESUs discussed. Information was lacking concerning a number of ''key'' criteria for defining ESUs, such as phenotypic differences, evolutionary significance, or ecological significance of various chinook populations. Commenters contended that NMFS did not find any life history, habitat, or phenotypic characteristics that were unique to any of the ESUs discussed. Disagreement within the BRT regarding ESU delineations was also given as a reason for challenging the proposed listing decision.

Response: General issues relating to ESUs, DPSs, and the ESA have been discussed extensively in past **Federal Register** documents as described in this paragraph. Regarding application of its ESU policy, NMFS relies on its policy describing how it will apply the ESA definition of ''species'' to anadromous salmonid species published in 1991 (56 FR 58612, November 20, 1991). More recently, NMFS and FWS published a joint policy, that is consistent with NMFS' policy, regarding the definition of ''distinct population segments'' (DPSs)(61 FR 4722, February 7, 1996). The earlier policy is more detailed and applies specifically to Pacific salmonids and, therefore, was used for this determination. This policy indicates that one or more naturally reproducing salmonid populations will be considered to be distinct and, hence, a species under the ESA, if they represent an ESU of the biological species. To be considered an ESU, a population must satisfy two criteria: (1) It must be reproductively isolated from other population units of the same species, and (2) it must represent an important component in the evolutionary legacy of the biological species. The first criterion, reproductive isolation, needs not be absolute but must have been strong enough to permit evolutionarily important differences to occur in different population units. The second criterion is met if the population contributes substantially to the ecological or genetic diversity of the species as a whole. Guidance on applying this policy is contained in a NOAA Technical Memorandum entitled ''Definition of 'Species' Under the Endangered Species Act: Application to Pacific Salmon'' (Waples, 1991) and in a more recent scientific paper by Waples (1995).

The National Research Council (NRC) has recently addressed the issue of defining species under the ESA (NRC, 1995). Its report found that protecting DPSs is soundly based on scientific evidence, and recommends applying an ''Evolutionary Unit'' (EU) approach in describing these segments. The NRC report describes the high degree of similarity between the EU and ESU approaches (differences being largely a matter of application between salmon and other vertebrates), and concludes that either approach would lead to similar DPS descriptions most of the time.

ESUs were identified using the best available scientific and commercial information. As discussed in the status review, genetic data were used primarily to evaluate the criterion regarding reproductive isolation, not evolutionary significance. In some cases, there was a considerable degree of confidence in the ESU determinations; in other cases, more uncertainty was associated with this process. Similarly, the risk analysis necessarily involved a mixture of quantitative and qualitative information and scientific judgement. NMFS' process for conducting its risk assessment has evolved over time as the amount and complexity of information has changed, and NMFS continues to seek and incorporate comments and suggestions to improve this process. NMFS believes that there is evidence to support the identification of DPSs for chinook salmon. The chinook salmon status reviews describe a variety of characteristics that support the ESU delineations for this species, including ecological and life history parameters. NMFS also assessed available genetic data for the proposed ESUs and concludes that sufficient genetic differences existed between these and adjacent ESUs to support separate delineations. As described later in this notice, new information has resulted in significant changes in the configurations of some proposed ESUs.

Issue 2: Status Assessments for Chinook Salmon ESUs

Comment 3: Some comments suggested that risk assessments were made in an arbitrary manner and that NMFS did not rely on the best available science. Several commenters questioned NMFS' methodology for determining whether a given chinook salmon ESU warranted listing. In some cases, such commenters also expressed opinions regarding whether listing was warranted for a particular chinook salmon ESU.

Response: Throughout the status review of west coast chinook salmon, NMFS has solicited and evaluated the best available scientific and commercial data for the species. The agency believes that this review, coupled with considerable input from the public, comanagers, peer reviewers, and other species experts, clearly demonstrates that the listing determinations are not arbitrary but instead are based on an open and rigorous scientific assessment. Section 3 of the ESA defines the term ''endangered species'' as ''any species which is in danger of extinction throughout all or a significant portion of its range.'' The term ''threatened species'' is defined as ''any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' NMFS has identified a number of factors that should be considered in evaluating the level of risk faced by an ESU, including: (1) absolute numbers of fish and their spatial and temporal distribution; (2) current abundance in relation to historical abundance and current carrying capacity of the habitat; (3) trends in abundance; (4) natural and human-influenced factors that cause variability in survival and abundance; (5) possible threats to genetic integrity (e.g., from strays or outplants from hatchery programs); and (6) recent events (e.g., a drought or changes in harvest management) that have predictable short-term consequences for abundance of the ESU. A more detailed discussion of the status of individual ESUs is provided later in this document under Issues 5 through 8.

Issue 3: Factors Contributing to the Decline of West Coast Chinook Salmon

Comment 4: Some comments identified factors for decline that were either not identified in the status review or which they believed were not given sufficient weight in the risk analysis. Other commenters contended that recent declines in chinook salmon abundance were related to natural factors such as predation and changes in

ocean productivity. Furthermore, these commenters contend that NMFS did not show how the present declines were significantly different from natural variability in abundance, nor that abundances were below the current carrying capacity of the marine environment and freshwater habitat.

Response: The status review did not attempt to exhaustively identify factors for decline, except insofar as they contributed directly to the risk analysis. Nevertheless, NMFS agrees that a multitude of factors, past and present, have contributed to the decline of west coast chinook salmon. Many of the identified factors were specifically cited as risk agents in NMFS's status review (Myers *et al*., 1998) and listing proposal (63 FR 11482, March 9, 1998). NMFS recognizes that natural environmental fluctuations have likely played a role in the species' recent declines. However, NMFS believes other human-induced impacts (e.g., harvest in certain fisheries, artificial propagation, and widespread habitat modification) have played an equally significant role in the decline of chinook salmon.

NMFS' status review briefly addressed the impact of adverse marine conditions and climate change, but concluded that there is considerable uncertainty regarding the role of these factors in chinook salmon abundance. At this time, we do not know whether these climate conditions represent a long-term shift in conditions that will continue into the future or short-term environmental fluctuations that can be expected to reverse soon. A recent review by Hare *et al*. (1999) suggests that these conditions could be part of an alternating 20– to 30-year long regime pattern. These authors concluded that, while at-risk salmon stocks may benefit from a reversal in the current climate/ocean regime, fisheries management should continue to focus on reducing impacts from harvest and artificial propagation and improving freshwater and estuarine habitats.

NMFS believes there is ample evidence to suggest that the elimination and degradation of freshwater habitats have contributed to the decline of these chinook salmon ESUs. The past destruction, modification, and curtailment of freshwater habitat was reviewed in a recent NMFS coastwide assessment for steelhead (NMFS, 1996), and, more recently, for chinook salmon (NMFS, 1998b). Many of the identified risks and conclusions apply specifically to these chinook salmon. Examples of habitat alterations affecting chinook salmon include: water withdrawal, conveyance, storage, and flood control (resulting in insufficient flows, stranding, juvenile entrainment, and increased stream temperatures); and logging and agriculture (resulting in loss of large woody debris, sedimentation, loss of riparian vegetation, and habitat simplification)(NMFS, 1996; Spence *et al*., 1996; Myers *et al*., 1998; NMFS, 1998b). These human-induced impacts in freshwater ecosystems have likely reduced the species' resiliency to natural factors for decline such as drought and poor ocean conditions. A critical next step in restoring listed chinook salmon will be identifying and ameliorating specific factors for decline at both the ESU and population level.

With respect to predation issues raised by some commenters, NMFS has recently published reports describing the impacts of California sea lions and Pacific harbor seals upon salmonids and on the coastal ecosystems of Washington, Oregon, and California (NMFS, 1997 and 1999b). These reports conclude that in certain cases where pinniped populations co-occur with depressed salmonid populations, salmon populations may experience severe impacts due to predation. An example of such a situation is at the Ballard Locks, Washington, where sea lions are known to consume significant numbers of adult winter steelhead. These reports further conclude that data regarding pinniped predation are quite limited and that substantial additional research is needed to fully address this issue. Existing information on the seriously depressed status of many salmonid stocks is sufficient to warrant actions to remove pinnipeds in areas of co-occurrence where pinnipeds prey on depressed salmonid populations (NMFS, 1997 and 1999b).

Issue 4: Consideration of Existing Conservation Measures

Comment 5: Several comments expressed concerns about NMFS' reliance and characterization of the efficacy of the Northwest Forest Plan (NFP), citing significant differences in management practices between various Federal land management agencies. Numerous commenters noted that an array of state and Federal conservation measures were underway for this and other species (particularly in California) and asked that NMFS give them more consideration in its listing determination.

Response: In the listing proposal, NMFS noted that the NFP requires specific management actions on Federal lands, including actions in key watersheds in southern Oregon and northern California that comply with special standards and guidelines designed to preserve their refugia functions for at-risk salmonids (i.e., watershed analysis must be completed prior to timber harvests and other management actions, road miles should be reduced, no new roads can be built in roadless areas, and restoration activities are prioritized). In addition, the most significant element of the NFP for anadromous fish is its Aquatic Conservation Strategy (ACS), a regional-scale aquatic ecosystem conservation strategy that includes: (1) Special land allocations (such as key watersheds, riparian reserves, and late-successional reserves) to provide aquatic habitat refugia; (2) special requirements for project planning and design in the form of standards and guidelines; and (3) new watershed analysis, watershed restoration, and monitoring processes. These ACS components collectively ensure that Federal land management actions achieve a set of nine ACS objectives that strive to maintain and restore ecosystem health at watershed and landscape scales to protect habitat for fish and other riparian-dependent species and resources and to restore currently degraded habitats. NMFS will continue to support the NFP strategy and address Federal land management issues via ESA section 7 consultations in concert with this strategy.

Additional consideration was given to various conservation efforts in California and elsewhere within the range of proposed chinook ESUs that have been implemented or are expected to be initiated. See ''Efforts Being Made to Protect West Coast Chinook Salmon'' later in this document.

Comment 6: Several comments expressed concern over the need to list these chinook salmon ESUs and the effects of these listings on Indian resources, programs, land management, and associated Trust responsibilities. Particular concern was expressed about the effects of listing Deschutes River chinook salmon on tribal fishing for this and other species.

Response: NMFS acknowledges that ESA listings may impact Indian resources, programs, land management and associated Trust responsibilities. NMFS will continue to work closely with affected Indian tribes through government to government consultation as harvest and other management issues arise and will continue to support the development of sound, strong tribal and state conservation efforts to restore listed chinook salmon and other west coast salmon populations.

Issue 5: ESU Delineation and Status of Central Valley Spring-run Chinook Salmon

Comment 7: Some commenters questioned this ESU's configuration and felt that NMFS was inconsistent in separating spring and fall runs in the Central Valley. A peer reviewer stated that the genetic information presented was not sufficient to justify the creation of a separate spring-run chinook salmon ESU. The majority of commenters agreed that this ESU is currently at risk, but there were disparate views as to whether the risks warranted an endangered listing under the ESA. For example, one commenter believed that Central Valley spring-run populations have remained stable (although at low levels of abundance) and that current fluctuations are consistent with natural terrestrial and ocean productivity cycles. This commenter suggested that information on cohort replacement rates, the level of interaction between fall and spring runs, and the impact of various factors relating to the survival of emigrating juveniles and returning adults need to be further investigated before a listing determination can be made. Another commenter felt that listing was warranted, but that a threatened status was more appropriate, given the relatively stable population sizes for most spring-run fish over the last 20 years and the increasing abundance found in Butte Creek.

Recent large returns to Butte Creek prompted a number of comments specific to spring-run chinook salmon in this Sacramento River tributary. One commenter suggested that the recent increases were due to high flows through the Sutter Bypass during the recent wet years. Spring-run adults returning to the upper Sacramento River would be attracted to the Bypass and routed up into Butte Creek. Therefore, the commenters contend that spring-run fish currently spawning in Butte Creek represent an amalgamation of fish from the upper Sacramento River and its tributaries. Another commenter believed that NMFS incorrectly suggested that the Butte Creek populations were the product of hatchery releases. Similarly, two commenters presented genetic information that indicates that the spring-run chinook salmon population in Butte Creek is not the result of strays from the Feather River Hatchery as was speculated by NMFS. They also noted that the 1998 abundance estimate for the Butte Creek spring run is approximately 19,000 spawners and that, if these fish are included in the total abundance estimate for the Central Valley spring-run chinook salmon ESU, there is a several fold increase in abundance.

Several commenters cited specific factors for decline that impact the fall run: predation by non-native species, dam and reservoir operations, catastrophic stranding, incorporation of naturally produced salmon into hatchery broodstocks, and competition and predation by hatchery chinook salmon and steelhead on naturally produced chinook salmon. Some contended that a variety of existing conservation efforts aimed at addressing factors for decline (e.g., the Bay-Delta Accord, CALFED, and harvest and hatchery reforms) were sufficient to prevent this ESU from becoming extinct. In addition, some commenters believed that significant benefits would accrue to spring-run chinook salmon as a result of the State of California's ESA listing for the species, as well as actions by NMFS and the Pacific Fishery Management Council (PFMC) to protect winter-run chinook salmon. Others disagreed with these contentions and asserted that efforts had clearly failed to adequately protect chinook salmon in the Central Valley.

Since the initial status review, NMFS has received new data and information which have helped resolve the scientific uncertainties associated with the proposed listing for this ESU (NMFS, 1999a), and are summarized as follows.

Response - ESU Delineation: NMFS recently analyzed new genetic data collected for California chinook salmon. In 1998 and 1999, NMFS, CDFG, FWS, and the U.S. Forest Service (USFS) collected samples of spawned adult chinook salmon from 13 rivers and hatcheries in the Central Valley and Klamath River Basin. The new samples were analyzed along with allozyme data for California and southern Oregon chinook salmon that were previously used in the NMFS coastwide status review (Myers *et al.*, 1998). The population structure revealed by the new analysis of allozyme data was consistent with the delineations of major genetic groups described in previous genetic studies of California and southern Oregon chinook salmon (Utter *et al.*, 1989; Bartley *et al.*, 1992; Myers *et al.*, 1998). The most genetically divergent group of samples was from the Central Valley. Within the Central Valley, the most genetically divergent sample was from the Coleman National Fish Hatchery (CNFH) winter-run population. Spring-run chinook salmon sampled from Deer and Butte Creeks were distinct from the winter-run fish sample and also from samples of fall- and late fall-run chinook salmon from the Central Valley. The Deer Creek and Butte Creek samples were genetically distinct from each other. The sample of spring-run chinook salmon from the Feather River Hatchery was genetically intermediate between spring- and fall-run samples and most similar to the sample of Feather River Hatchery fall-run chinook salmon. Samples of fall-run and late fall-run populations formed a diverse subcluster that included samples from both Sacramento and San Joaquin populations.

Banks *et al.* (1999) studied 5 to 11 microsatellite loci in 41 samples to assess genetic diversity among winter-, spring-, fall-, and late fall-run chinook salmon in California's Central Valley. Five homogeneous subpopulations were found: (1) wild and hatchery broodstock winter run, (2) wild spring run from Deer and Mill Creeks, (3) wild spring run from Butte Creek, (4) wild and hatchery fall run, and (5) wild and hatchery late-fall run. Winter-run samples were the most genetically divergent. Butte Creek spring-run chinook salmon were the next most divergent, followed by spring-run samples from Deer and Mill Creeks. Fall and late-fall runs were separated by a very small genetic distance. It is noteworthy that the sample of Butte Creek spring-run fish did not show evidence of introgression from Feather River hatchery fall-run stock. However, fewer alleles and lower heterozygosities in both winter-run and Butte Creek spring-run samples indicate that these populations may have experienced past reductions in population size.

Banks *et al.* (1999) used five microsatellite loci to investigate genetic relationships among 11 fall- and spring-run chinook salmon populations in the Klamath River and to compare these populations to chinook salmon from the Central Valley. Despite extensive sampling and analysis, no homogeneous population pools were found. Overall, Klamath River Basin populations were differentiated from Central Valley populations, and winter-run chinook salmon were genetically distinct and did not cluster with other populations.

Nielsen *et al.* (1994) and Nielsen (1995) examined mitochondrial DNA (mtDNA) variation in 14 samples of chinook salmon from Central Valley rivers and hatcheries and one sample from Guadalupe River, a southern tributary of San Francisco Bay. Nielsen *et al.* (1999) concluded that their data support their earlier conclusions (Nielsen *et al.*, 1994) that fall, late fall, spring, and winter runs of Central Valley chinook salmon show consistently significant differences for the mtDNA locus, indicating infrequent

straying and limited gene flow among the temporal spawning runs.

Kim *et al.* (1999) examined genetic variation in winter-, spring-, fall-, and late fall-run adult chinook salmon taken from the upper Sacramento River between 1991 and 1995. An analysis of population structure indicated that winter-run chinook salmon were the most genetically distinct, while fall- and late fall-run samples were closely related to each other. Spring-run samples were genetically intermediate between the winter and fall and late-fall runs. A sample of Butte Creek spring-run chinook salmon was genetically similar to Sacramento River mainstem spring-run samples.

Ecological and life history information for this ESU was also re-evaluated, particularly historical and current information concerning Butte Creek populations. Yoshiyama *et al.* (1996) reported that spring, fall, and probably late-fall runs of chinook salmon historically utilized Butte Creek. Gold mining, logging activities, and irrigation withdrawals have all had a considerable impact on habitat quality (Clark, 1929; Hanson *et al.*, 1940). In 1917, two diversion dams were constructed by Pacific Gas and Electric. The Centerville Diversion Dam eliminated access to the upper watershed (Mills and Ward, 1996). Clark (1929) reported that the fall-run fish had declined dramatically and that summer flows in the lower river had been reduced by irrigation withdrawals. There was no mention of the status of a spring run. A survey by Hanson *et al.* (1940) reported that much of the upper watershed had been logged, and that mining operations continued to impact the river flow, and that ''none of the flow of Butte Creek except perhaps a little seepage reaches the Sacramento River during this summer.

Yoshiyama *et al.* (1996) reported that Butte Creek spring-run chinook salmon enter the creek in February through April (compared with May or June for Feather River spring-run chinook salmon). USFS monitoring (which began in 1930) indicated that flows in Butte Creek peak during the February to June period (peaks vary from 1,000 to over 10,000 cubic feet per second (cfs), with a maximum of 25,000 cfs in 1997), but are below 100 cfs during much of the remainder of the year (U.S. Geological Survey, 1999). Although Butte Creek originates in the Sierra Nevada Mountains (2000 m), spring-run adults spawn at a relatively low altitude (300 m), in part because of the absence of passage at the Centerville Dam. Yoshiyama *et al.* (1996) were uncertain if spring-run chinook salmon historically migrated above a 7.6 m waterfall located near the Centerville Dam. Spring-run chinook salmon spawn in September. Juveniles emigrate primarily as fry (December to March) and may rear in the Sacramento River Delta for extended periods (Baracco, 1996). Fall-run chinook salmon are reported to spawn further downstream, below the Parrot-Phelam Dam (Yoshiyama *et al.*, 1996).

Based on a re-assessment of information relevant to the configuration of this ESU, NMFS reiterates its previous decisions that the spring-run populations in the Central Valley constitute a distinct ESU and that the extirpated spring-run populations in the southern portion of this ESU may have constituted their own ESU (based on ecological and biogeographical data). NMFS considered several issues related to the configuration of the Central Valley spring-run chinook salmon ESU. The genetic data indicate that spring-run fish spawning in Butte Creek are not the progeny of Feather River Hatchery spring-run releases, but represent a naturally spawning population distinct from both Feather River fish and spring-run chinook salmon in Deer and Mill Creeks. Further sampling and analysis of mainstem Sacramento River spring-run fish (the only remaining known population that is not presently genetically described) are potentially important to understanding the relationship among Central Valley spring-run chinook salmon populations. Furthermore, NMFS is concerned that hatchery operations at the Feather River Hatchery may have resulted in the hybridization of spring- and fall-run fish. However, NMFS concludes that the Feather River spring run may retain ''spring-run'' life history characteristics and concludes it is still part of this ESU.

Response - ESU Status: NMFS also examined updated risk information for this ESU. Abundance of spring-run chinook salmon has increased in several streams since 1996, the most recent year considered in the previous risk evaluation by NMFS. The Feather River population abundance has been fairly constant at 3,000 to 7,000 fish per year spawning naturally. The 5-year geometric mean abundance of spring-run chinook salmon in the Feather River increased from 4,260 fish through 1996 to 5,013 through 1998. CDFG and other fisheries biologists familiar with Central Valley runs believe that the so-called spring-run fish in the Feather River are not likely to be representative of the historically wild spring-run fish because of the introgression between wild spring-run populations and hatchery spring- and fall-run chinook salmon (CDFG, 1998a). Three streams, Deer, Mill, and Butte Creeks, which contain naturally spawning populations of spring-run chinook salmon in this ESU, have also shown increases in mean abundance. The 5-year geometric mean abundance in Deer Creek increased from 564 through 1997 to 805 through 1998, and, in Mill Creek, the mean abundance increased from 252 through 1996 to 346 through 1998.

The most impressive change in status since the previous NMFS risk evaluation for this ESU was the continuing strong return of spring chinook to Butte Creek. In 1998, 20,259 spring-run chinook salmon returned to the creek, 2.7 times greater than the 1995 parental cohort of 7,500 fish resulting in a 5-year geometric mean abundance of 2,302 fish. The dissimilarity in genetic composition (Banks *et al.*, 1999; Kim *et al.*, 1999) and lack of concordance of trends in abundance (CDFG, 1998b) of Butte Creek and Feather River spring chinook suggest that the recent large escapements of spring chinook to Butte Creek are not the result of fish straying from the Feather River.

The spawning population of spring-run chinook salmon in the mainstem Sacramento River above Red Bluff Diversion Dam has continued to decline in abundance since the previous risk evaluation. The 5-year geometric mean abundance through 1998 is estimated to be around 300 fish, down from a mean of 435 through 1996. CDFG discussed sporadic reports of spring-run chinook salmon in Antelope, Cottonwood, and Big Chico Creeks, but the infrequent occurrence of these fish indicates that they do not represent self-sustaining populations (CDFG, 1998a).

After reviewing additional scientific information regarding the status of this ESU, NMFS concludes that the Central Valley spring-run chinook salmon ESU is not currently at risk of extinction but is likely to become endangered in the foreseeable future. NMFS is encouraged by the increase in abundance in Deer and Butte Creeks. Next to Butte Creek, the largest population of spring-run chinook salmon in the ESU is in the Feather River, and NMFS has concerns regarding the extensive introgression with fall-run fish in the hatchery population. The prospects for using the Feather River stock for conservation purposes in this ESU are unclear. The complete extirpation of the spring run from the San Joaquin River and the loss of historical spawning habitat above the dams in the Sacramento River Basin have resulted in a greatly reduced distribution of spring-run fish in the Central Valley. The primary reasons for

the change in the risk evaluation from ''presently in danger of extinction'' previously proposed by NMFS were the increase in abundance of Butte Creek fish in recent years and the genetic evidence that the spring chinook salmon in Butte Creek are not of hatchery origin.

NMFS also notes a number of recent events that may have improved conditions for the Central Valley spring-run chinook salmon ESU, including reduced ocean and in-river harvest levels, the Federal listing of winter-run chinook salmon and Central Valley steelhead, the state listing of spring-run chinook salmon, and the habitat improvements occurring under the CALFED program. NMFS has considered the impacts of various conservation efforts affecting this ESU under the section ''Efforts Being Made to Protect West Coast Chinook Salmon'' of this document.

Issue 6: ESU Delineation and Status of Central Valley Fall and Late Fall-run Chinook Salmon

Comment 8: The vast majority of public comments on these four chinook salmon listing proposals involved NMFS' assessment of the Central Valley fall and late fall-run ESU. While some commenters agreed with NMFS' listing proposal, most did not agree that this ESU warranted listing as a threatened species. Others believed that NMFS' risk assessment may have been significantly influenced by six recent drought years. One commenter asserted that Central Valley chinook salmon populations have historically undergone extreme fluctuations in abundance due to environmental fluctuations and that NMFS did not adequately take these fluctuations (and the ability of the natural populations to recover) into account when assessing the risk of extinction. Several commenters also highlighted the high overall escapement level for this ESU and felt that there was not sufficient evidence to justify a listing. One commenter asserted that the small river systems that flow into San Francisco Bay did not historically support chinook salmon. Another did not agree that the San Joaquin River Basin constituted a significant portion of the ESU and felt that the depressed nature of San Joaquin fall-run stocks was not an adequate basis for a listing. Others believed that the ESU should be split into two ESUs. Several commenters cited specific factors for decline that impact the fall run: predation by non-native species, dam and reservoir operations, catastrophic stranding, incorporation of naturally produced salmon into hatchery broodstocks, and competition and predation by hatchery chinook salmon and steelhead on naturally produced chinook salmon.

Issues related to hatchery-produced chinook salmon in this ESU were particularly common. Many commenters felt that NMFS did not conclusively show that hatchery-produced fish were a risk to naturally-produced fish. Some felt that NMFS needed to provide a method for distinguishing hatchery and natural production, and justify the exclusion of hatchery fish from the risk determination (given that the majority of the broodstock originated from within the ESU). One commenter argued that, in many instances, hatchery and naturally spawning fish have co-mingled for generations, hence the fish are genetically indistinguishable and effectively represent one population. In many cases the persistence of naturally spawning fish has been dependent on the continued operation of the hatchery program. Under these conditions, the commenter contended, hatchery abundances should be included in the assessment of the risk of extinction for an ESU. Another suggested that, if hatchery impacts were great, NMFS should conclude that the Central Valley fall and late fall-run chinook salmon ESU was similar to the Lower Columbia River coho salmon ESU and exclude the Central Valley chinook salmon ESU from consideration for listing. One commenter argued that NMFS needed to identify which hatchery populations are in the ESU and which are not before making any conclusions on the status of this ESU. Another included data that indicated a rising proportion of coded-wire tag (CWT) fish being recovered in tributaries to the San Joaquin River; these CWT estimates did not take into account the contribution of unmarked hatchery-reared fish. In determining the risks facing this ESU, one commenter suggested that NMFS use the San Joaquin Basin populations as a benchmark. Still another called for more genetic sampling to determine whether the San Joaquin River Basin should be established as a separate ESU.

Finally, numerous commenters highlighted the importance of taking into account habitat restoration programs that are underway throughout the Central Valley and asserted that recent run sizes for the San Joaquin Basin have been increasing partly because of improvements in habitat conditions (e.g., gravel, temperature, and flows). Some believed that demonstrable habitat improvements had and would result from the CALFED program and that these results were predictable given the definitive nature of the program and the guaranteed nature of the funding. However, other commenters were skeptical that these efforts would be sufficient to reduce the risks facing this ESU. Key elements of the programs cited by commenters involved modified flow regimes, improved passage facilities, improved hatchery and harvest practices, and improved monitoring. In addition, some commenters believed that significant benefits would accrue to fall- and late fall-run chinook salmon as a result of the State of California's ESA listing for the spring run, as well as of actions by NMFS and the PFMC to protect winter-run chinook salmon.

Since the initial status review, NMFS has received new data and information which have helped resolve the scientific uncertainties associated with the proposed listing for this ESU (NMFS, 1999a), and are summarized as follows.

Response - ESU Delineation: NMFS recently analyzed new genetic data collected for California chinook salmon. In 1998 and 1999, NMFS, CDFG, FWS, and USFS collected samples of spawned adult chinook salmon from 13 rivers and hatcheries in the Central Valley and Klamath River Basin. The new samples were analyzed along with allozyme data for California and southern Oregon chinook salmon that were previously used in the NMFS coastwide status review (Myers *et al.*, 1998). The population structure revealed by the new analysis of allozyme data was consistent with the delineations of major genetic groups described in previous genetic studies of California and southern Oregon chinook salmon (Utter *et al.*, 1989; Bartley *et al.*, 1992; Myers *et al.*, 1998). The most genetically divergent group of samples was from the Central Valley. Within the Central Valley, the most genetically divergent sample was from the CNFH winter-run population. Spring-run chinook salmon sampled from Deer and Butte Creeks were distinct from the winter-run fish sample and also from samples of fall- and late fall-run chinook salmon from the Central Valley. The Deer Creek and Butte Creek samples were genetically distinct from each other. The sample of spring-run chinook salmon from the Feather River Hatchery was genetically intermediate between spring- and fall-run samples and most similar to the sample of Feather River Hatchery fall-run chinook salmon. Samples of fall- and late fall-run populations formed a diverse subcluster that included samples from both Sacramento and San Joaquin populations.

Microsatellite DNA variation has also been used in recent studies to examine

genetic relationships among populations of chinook salmon in California. Nielsen *et al.* (1994) found significant heterogeneity among fall-run hatchery stocks and also among naturally spawning fall-run populations but there was no significant geographic structure at the basin level for wild fall-run chinook salmon. However, comparisons of wild fall-run carcasses and hatchery stocks suggest that naturally spawning fall-run fish in several basins retain some degree of genetic distinctiveness not found in hatcheries. Allele-frequencies for carcass collections made on the American, Tuolumne, Merced, and Feather Rivers were significantly different from samples of hatchery populations found within the same drainage. The Merced and Mokelumne Rivers were found to be most similar to hatchery populations on their respective rivers. The heterogeneity comparisons for some wild fall-run carcass collections may have been biased by small sample sizes. Fall-run hatchery populations were differentiated from populations of other run times but samples of wild fall-run populations were not compared to populations of winter, spring, or late-fall runs. Naturally spawning late fall-run fish were differentiated in allozyme analysis from all other populations including CNFH late fall-run salmon. The naturally spawning late fall-run population was most genetically similar to either winter-run fish or the CNFH late fall-run population, depending on the genetic distance measure used. Nei's measure of genetic distance indicated that late fall-run populations were most similar to hatchery fall-run populations.

Banks *et al.* (1999) used five microsatellite loci to investigate genetic relationships among 11 fall- and spring-run chinook salmon populations in the Klamath River and to compare these populations to chinook salmon from the Central Valley. Despite extensive sampling and analysis, no homogeneous population pools were found. Klamath River Basin populations were differentiated from Central Valley populations, and winter-run chinook salmon were genetically distinct and did not cluster with other populations.

Nielsen *et al.* (1994) and Nielsen (1995) examined mtDNA variation in 14 samples of chinook salmon from Central Valley rivers and hatcheries and 1 sample from the Guadalupe River, a southern tributary of San Francisco Bay. Nielsen *et al.* (1999) concluded that their data support their earlier conclusions (Nielsen *et al.*, 1994) that fall, late-fall, spring, and winter runs of Central Valley chinook salmon show consistently significant differences for the mtDNA locus, indicating infrequent straying and limited gene flow among the temporal spawning runs. Nielsen *et al.* (1999) concluded that additional sampling is needed to test for significant genetic differences among natural spawning and hatchery populations of fall-run chinook salmon. A sample of chinook salmon from Guadalupe River showed significant haplotype frequency differences from samples of the four spawning runs in the Central Valley, primarily due to a haplotype (CH9) found in 2 fish in the Guadalupe River. This haplotype has not been observed in fish from the Central Valley but has been found in samples of Russian River chinook salmon. The remaining 27 samples from the Guadalupe River could not be differentiated from the chinook salmon in the Merced and Feather River hatcheries through the use of mtDNA.

Kim *et al.* (1999) examined genetic variation in winter-, spring-, fall-, and late fall-run adult chinook salmon taken from the upper Sacramento River between 1991 and 1995. An analysis of population structure indicated that winter-run chinook salmon were the most genetically distinct, while fall- and late fall-run samples were closely related to each other. Spring-run samples were genetically intermediate between the winter and fall/late- fall runs. A sample of Butte Creek spring-run chinook salmon was genetically similar to Sacramento River mainstem spring-run samples.

NMFS also re-examined ecological and life history information for this ESU. The San Joaquin River Basin includes the Mokelumne, Consumnes, Calaveras, Stanislaus, Tuolumne, and Merced Rivers. Historically, salmon also utilized the Kings River during years of high precipitation (Yoshiyama *et al.*, 1996). Ecologically, the Consumnes and Calaveras are distinct from the other San Joaquin River Basin tributaries in that their flows are influenced by rainfall rather than snow melt. Historically, fall-run chinook salmon were present in all of the basins, and there is some evidence that a late-fall run may have existed in the Mokelumne River (Yoshiyama *et al.*, 1993). Furthermore, Reynolds *et al.* (1993) described a ''winter-run'' population that spawned in the Calaveras River from 1972 to 1984; however, this population appears to have been extirpated, and its relationship with other temporal runs in the Central Valley was never established. Impassible dams and water withdrawals have severely reduced the quantity and quality of salmon habitat. Presently, only 45 percent of the total historical chinook salmon habitat is accessible (not including habitat in the Kings River Basin). Much of the habitat lost would have been utilized by spring-run chinook salmon; however, water conditions in the remaining habitat have degraded. Ecologically, rivers in the San Joaquin (including the Mokelumne River) and American River Basins experience peak flows in May, fed primarily by snow melt from the Sierra Nevada Range. Geologically, the Sierra Nevada Range is very different from the volcanic structure of the Cascades that constitute the headwaters for most rivers in the northern portion of the Central Valley.

There is little historical information concerning the life history characteristics of fall-run chinook salmon in the San Joaquin River Basin. Fall-run chinook salmon in the San Joaquin River Basin enter fresh water in late September or October (depending on water conditions) and spawn in November and December, with some spawning continuing into January. The mean date of entry (for the years 1974 to 1995) into the trap at the Merced River Fish Facility is October 21. In 1939, Hatton (1940) reported that the date of river entry for the fall run varied from early and mid-October for the Tuolumne and Merced Rivers, early November for the Mokelumne River, and early December for the Consumnes River. The majority of juveniles emigrate during their first winter (January to March). The run and spawn timing currently exhibited by fall-run fish in the San Joaquin River Basin may not reflect historical timing due, in part, to changes in river flow and temperature conditions over the last century. However, it is clear that the environmental conditions in the San Joaquin River represent the extreme of chinook salmon temperature tolerance. In the 1870s, salmon were observed migrating through the San Joaquin River in July and August (which were probably the historical spring-run chinook salmon) when water temperatures were in excess of 26 degrees Centigrade (U.S. Fish Commission, 1876). Despite an apparent tolerance to high water temperature conditions, San Joaquin River Basin chinook salmon populations continued to deteriorate until only the late portion of the fall run was able to ascend the tributaries (Clark, 1929).

The age at maturation for fall-run chinook salmon varies considerably from year to year due to differential survival of emigrating juveniles and returning adults related to water conditions. Most notably, a number of female San Joaquin River fall-run

chinook salmon mature after only 2 years (Myers *et al*., 1998).

Based on a re-assessment of information relevant to the configuration of this ESU, NMFS maintains that the original description proposed for the Central Valley fall and late fall-run chinook salmon ESU is valid. NMFS believes that the new genetic information on spring-run and winter-run populations in the Central Valley further reinforces the previous decision to establish ESUs for the winter and spring runs distinct from the fall- and late-fall run (Myers *et al*., 1998). NMFS also maintains the agency's previous conclusion that Central Valley fall and late- fall runs are in the same ESU.

NMFS considered the possible existence of a distinct fall/late fall-run ESU in the southern portion of the existing ESU (i.e., San Joaquin River and tributaries). The agency believes that ecological differences in the northern and southern Central Valley were large enough to have historically supported two ESUs of fall- and late fall-run chinook salmon, with fish from the American, Mokelumne, Stanislaus, Tuolumne, Merced, and San Joaquin River Basins in the southern ESU and fish from areas north of the American River in a northern ESU. Allozyme analysis indicated that samples of hatchery and naturally spawning fall-run chinook salmon from the American River and San Joaquin River Basin formed a cluster within the general grouping of Central Valley chinook salmon populations.

The status of chinook salmon spawning in tributaries to San Francisco Bay was also considered. The presence of chinook salmon adults and juveniles (including observed spawning activities) has been recorded in a number of rivers and creeks draining into San Francisco Bay (Leidy, 1984; Myers *et al*., 1998; San Francisco Estuary Project, 1998; Jones, 1999, unpubl. data). However, NMFS was unable to establish if any of these populations were self-sustaining. Although the historical relationship between chinook salmon spawning in San Francisco Bay tributaries and the coastal and Central Valley ESUs is not known, present day adults may have originated from the numerous off-site releases of Central Valley hatchery fall-run chinook salmon into the delta or San Francisco Bay. Additional information on genetic and life history traits for San Francisco Bay chinook salmon and their relationships with Central Valley and coastal chinook salmon populations is necessary to resolve this issue.

Response - ESU Status: NMFS also examined updated risk information for this ESU. Trends in abundance of fall- and late fall-run chinook salmon in this ESU continue to be mixed, but natural spawning abundance is quite high (5-year geometric mean was 190,000 natural spawners for the Sacramento River Basin). The number of mainstem fall-run spawners continues to decline in the upper Sacramento River, as indicated by counts at Red Bluff Diversion Dam (5-year geometric mean abundance through 1996 was 78,996 fish, and mean abundance through 1998 was 26,092 fish). The dam counts represent the total number of fall-run chinook salmon returning to that portion of the river, including hatchery fish. Available evidence suggests that at least 20 to 40 percent of these natural spawners are of hatchery origin (Heberer, 1999). The other Sacramento River Basin streams showing continued declines in abundance of fall-run chinook salmon are Deer and Mill Creeks (short-term trend in abundance through 1998 was –10 percent per year for Mill Creek, long-term trend in abundance through 1998 was –2.8 percent per year for Deer Creek). All other streams for which there are abundance data show increases in abundance over the past 10 years. As discussed in the BRT report (Myers *et al*., 1998), many of the streams with high abundance of fall-run chinook salmon in this ESU are influenced by hatchery programs (especially the Feather and American Rivers and Battle Creek), so the contribution of those populations to the overall persistence of the wild component of the ESU is not clear.

The late-fall component of the Sacramento River run continues to have low, but perhaps stable abundances. Recent estimates up to 1992, when Red Bluff Diversion Dam counts were still accurate, ranged from 6,700 to 9,700. Estimates from 1993 to 1997 were essentially incomplete due to the inability to monitor fish at the Red Bluff Diversion Dam. Beginning in 1998, carcass surveys again allowed a reasonable estimate to be made, and the 1998 abundance estimate (9,717 fish) seems comparable to the early 1990s. Nevertheless, there is considerable uncertainty in estimating the recent trend in abundance due to changes in estimation methods.

Populations of fall-run chinook salmon in the San Joaquin River Basin have exhibited synchronous population booms and busts and currently appear to be on an upward trend in abundance. Aside from a negative short-term trend in abundance in the Stanislaus River (–6.2 percent per year through 1998), the other tributaries to the San Joaquin River are exhibiting increases in abundance over the most recent 10 years. Lindley (NMFS, unpubl. data) developed a series of models relating recruitment of fall chinook in the Tuolomne and Stanislaus Rivers to various factors to see if there was a simple explanation for the high variability in recruitment. Explanatory variables examined included spring river flow, ocean harvest, hatchery releases, sea surface temperature, and spawning stock. The model providing the best fit to empirical data was a logistic growth (stock-recruit) model with the carrying capacity parameter a linear function of river flow during the downstream juvenile migration period (Lindley, NMFS, unpubl. data). The apparent dependency of stock-recruitment relationships on flow does not rule out the potential influences of other factors (e.g., hatchery production) on variability in recruitment (Lindley, NMFS, unpubl. data).

The influence of hatchery fish on natural production in the San Joaquin River Basin is not clear. As in the rest of the Central Valley, the nature of CWT applications and insufficient sampling of natural spawners make quantitative estimation of hatchery influence difficult.

After reviewing additional scientific and commercial information regarding the status of this ESU, NMFS concludes that the Central Valley fall and late fall-run chinook salmon ESU is not presently in danger of extinction, nor is it likely to become so in the foreseeable future. The change in the risk evaluation was due primarily to the increases in abundance in Central Valley streams. The number of natural spawners is quite high (190,000 fish) and numerous streams have seen increases during the past 10 years, with some exceptions. The recent upward trends in fall-run chinook salmon populations in the San Joaquin tributaries are also encouraging, but NMFS is concerned about the high variation in abundance and its strong correspondence with human and naturally impacted flow regimes. The late fall-run chinook salmon escapement appears to be higher than it has been in recent years, but NMFS is concerned about the uncertainty in the escapement estimates.

The major sources of continued threats to the chinook salmon in this ESU are habitat degradation (primarily water withdrawals and stream shifts), water quality, loss of riparian and estuarine habitat, and the influence of hatchery fish. NMFS believes that several recent actions are likely to

mitigate the threats facing chinook salmon in the Central Valley fall and late fall-run chinook salmon ESU, including harvest reductions, the listing of winter-run chinook salmon and steelhead under the Federal ESA, the listing of spring-run chinook salmon under the California ESA (CESA), improvements in water flow and habitat conditions resulting from development and implementation of restoration projects as part of the CALFED and Central Valley Project Improvement Act (CVPIA) programs, implementation of the Vernalis Adaptive Management Plan (VAMP) in the San Joaquin River Basin, and the recently initiated comprehensive review of hatchery programs in the Central Valley by CDFG and FWS. NMFS has considered the impacts of various conservation efforts affecting this ESU under the section ''Efforts Being Made to Protect West Coast Chinook Salmon'' of this document.

Issue 7: ESU Delineation and Status of Southern Oregon and California Coastal Chinook Salmon

Comment 9: Many commenters, disputing the proposed boundaries for this ESU, questioned NMFS' rationale for a separate Upper Klamath and Trinity River chinook salmon ESU within the range of the larger Southern Oregon and California Coastal ESU. For example, one commenter disputed the southern border of the ESU and asserted that there is no definitive proof that chinook salmon populations existed in any of the San Francisco Bay tributaries. Furthermore, they stated that native chinook salmon were now extinct in the Russian River and that the ESU's boundary should extend no farther south than to the limit of extant chinook salmon populations. Another commenter believed that the chinook salmon population in the Russian River was never historically abundant. Several commenters suggested that this ESU be divided into two ESUs, but the suggested configurations varied. Some believed that the existing ESU should be split south of the Klamath River while others believed that the split should be north of the Klamath River. Still another believed that the ESU should be split north of the Eel River. Finally, some commenters believed that NMFS should adopt ESU configurations more similar to those for coho salmon or steelhead, both of which have multiple ESUs within the range of the Southern Oregon and California Coastal chinook salmon ESU. Most commenters suggesting alternative ESU configurations believed that chinook salmon in the ''transboundary'' region of Oregon and California would not require protection under the ESA.

Some commenters and peer-reviewers felt that, in a number of cases where spring- and fall-run chinook salmon were included in the same ESU, separate ESUs should have been established. These recommendations were substantiated with information on ecological differences in spring- and fall-run spawning and juvenile rearing habitat. Furthermore, it was argued that separation in spawning time and location provided a significant amount of reproductive isolation, even in those systems where dams had restricted access to historical spring-run spawning habitat. Several of the commenters highlighted these ecological and life history differences in those ESUs where genetic data were limited or lacking. Furthermore, the commenters stated that the lumping of different runs was inconsistent, given the creation of distinct fall- and spring-run ESUs in the Central Valley of California.

Several commenters highlighted the benefits from various restoration programs underway in the range of the proposed ESU (e.g., the NFP and Oregon Coastal Salmon Restoration Initiative), while others expressed little confidence in the adequacy of existing conservation efforts. One commenter described risks to chinook salmon in the Eel River Basin by the introduction of the Sacramento pikeminnow (*Ptychocheilus grandis*) in the late 1970s, noting increases in the number of pikeminnow in the Eel River Basin which corresponded with declines in chinook salmon during the 1980s and 1990s. Another commenter suggested that NMFS had underestimated the impact of predators (such as cormorants) on chinook salmon populations in the range of the proposed ESU.

Since the initial status review, NMFS has received new data and information which have helped resolve the scientific uncertainties associated with the proposed listing for this ESU (NMFS, 1999a), and are summarized as follows.

Response - ESU Delineation: NMFS recently analyzed new genetic data for California chinook salmon. In 1998 and 1999, NMFS, CDFG, FWS, and USFS collected samples of spawned adult chinook salmon from 13 rivers and hatcheries in the Central Valley and Klamath River Basin. The new samples were analyzed along with allozyme data for California and southern Oregon chinook salmon that were previously used in the NMFS coastwide status review (Myers *et al.*, 1998). The population structure revealed by the new analysis of allozyme data was consistent with the delineations of major genetic groups described in previous genetic studies of California and southern Oregon chinook salmon (Utter *et al.*, 1989; Bartley *et al.*, 1992; Myers *et al.*, 1998). The most genetically divergent group of samples was from the Central Valley. The remaining samples formed two large genetic groups composed of samples from the Klamath River Basin and those from coastal rivers. The single sample from the lower Klamath River, Blue Creek, was included in the cluster of coastal samples. The samples from coastal rivers were further differentiated into two subclusters of samples from rivers south of the Klamath River and from those to the north (including Blue Creek).

Several subclusters appeared within the samples of chinook salmon from the Klamath River Basin. The sample from Blue Creek in the lower Klamath River was the most genetically distinct of all the samples from the Klamath River Basin. Samples from the Trinity and Salmon Rivers (both fall- and spring-run populations) clustered separately from samples from rivers farther upstream.

Nielsen *et al.* (1994) reported that mtDNA haplotypes from some of the fall-run chinook salmon smolts captured in 1993 and 1994 from the Russian River did not match haplotypes from the Russian River hatchery (Warm Springs Hatchery) population; in fact, there was a rare haplotype that was found only in chinook salmon from the Russian and Guadalupe (San Francisco Bay) Rivers. In 1999, several naturally produced chinook salmon juveniles were collected in the Russian River Basin by the Sonoma County Water Agency, and a subset of these were genetically analyzed by the Bodega Bay Marine Laboratory (Banks, 1999, unpubl. data).

Banks *et al.* (1999) used five microsatellite loci to investigate genetic relationships among 11 fall- and spring-run chinook salmon populations in the Klamath River and to compare these populations to chinook salmon from the Central Valley. Results revealed two large clusters with Klamath River Basin populations differentiated from Central Valley populations. Within the Klamath River Basin, Blue Creek from the lower Klamath River was the most genetically divergent population and was found to be more similar to southern Oregon and California coastal chinook populations than to upper Klamath/Trinity River populations. The most upstream populations from the Klamath River (Scott River, Shasta River, and Iron Gate Hatchery) were differentiated from subclusters of fall- and spring-run populations in the Trinity and Salmon Rivers.

Little new information on life history traits is available for this ESU. Comparisons of the timing of adult chinook salmon passage over dams on the Mad River (Sweasey Dam) and South Fork Eel River (Benbow Dam) in 1948 to 1949 (Murphy and Shapovalov, 1950) does not reveal a shift in run timing when compared with recent information presented in Myers *et al*. (1998), indicating that introductions of out-of-basin stocks have had little observable impact. A review of ocean distribution information collected from 1986 to 1989 (Gall *et al*., 1989) suggests that there may be geographic and timing differences in the ocean distribution of chinook salmon from the Smith River and southern Oregon relative to Eel River and other coastal stocks.

There was little information available on the southern limit of self-sustaining chinook populations in this ESU. Cobb (1930) discussed the existence of fall-run populations in the Noyo and Mattole Rivers; furthermore, the Noyo River fall-run population was large enough to sustain a small fishery early in this century. Clark (1940) estimated that the salmon catch in the Eel River during 1916 was nearly 450,000 kg, and 32,000 kg in the Mad River during 1918. Snyder (1908) described the presence of chinook salmon in the Russian River; however, Shapavalov (1944) made no mention of the presence of chinook salmon in the Russian River. In October of 1972, a number of salmon (no identification of the species was possible) were observed spawning in the Russian River below Dry Creek (Holman, 1972).

Within San Francisco Bay there are a number of streams where chinook salmon have been observed (Jones, 1999). Spawning chinook salmon or redds have been observed in the Guadalupe River, Napa River, Petaluma River, Walnut Creek, and Green Valley Creek (Jones, 1999). There is very little information on the origin or sustainability of chinook salmon ''populations'' in these systems. South of San Francisco Bay, chinook salmon have historically been documented in the San Lorenzo and Pajaro Rivers (Snyder, 1913) and in the Ventura River (Jordan and Gilbert, 1881). However, it is unclear if coastal populations south of the Russian River were historically persistent or if they were merely colonized by more northerly populations on an intermittent basis during favorable climatic periods (Myers *et al*., 1998). Recently, adult chinook salmon have also been observed in Scott Creek, but in low numbers and only on an intermittent basis (Streig, Monterey Bay Salmon & Trout Project, pers. comm.). Currently, there are no known persistent populations of chinook salmon on the coast south of San Francisco Bay.

Based on a re-assessment of information relevant to the configuration of this ESU, NMFS concludes that the proposed Southern Oregon and California Coastal chinook salmon ESU should be split into two ESUs: a Southern Oregon and Northern California Coastal chinook salmon ESU, extending from Euchre Creek through the Lower Klamath River (inclusive), and a California Coastal chinook salmon ESU, extending from Redwood Creek south through the Russian River (inclusive). This new ESU boundary is similar to that designated between Klamath Mountains Province and Northern California steelhead ESUs. At this time, NMFS concludes that the Russian River Basin presently contains the most southern persistent population of chinook salmon on the California coast.

NMFS reconsidered the reconfiguration of this proposed ESU based on a number of issues. The acquisition of new genetic samples from the Central Valley, California coastal streams, and Upper Klamath and Trinity Rivers made possible a new analysis indicating distinct clusters of coastal populations north and south of the Klamath River. The genetic distances between these clusters correspond roughly to the differences observed between Central Valley spring- and fall and late fall-run chinook salmon ESUs, and the Washington and Oregon coast chinook salmon ESUs.

Ecological differences between the northern and southern portions of the Southern Oregon and California Coastal chinook salmon ESU were also discussed. Rivers to the north (especially the Rogue River) tended to be larger than those to the south. River flows in the northern portion tend to peak in January, while those to the south peak in February (Myers *et al*., 1998). Annual precipitation is considerably higher in the northern portion than in the south. These geographic and ecological differences may be responsible for the presence of a limited proportion of yearling outmigrants (less than 10 percent) in the northern portion of the ESU compared with the apparent absence of yearling outmigrants in the southern portion. Furthermore, soils in the southern portion are highly erodible, causing high silt loads that result in berms which close off the mouths of many of the rivers during summer low flows. River conditions in most of these coastal basins, especially in the south, have very limited temporal windows for adult access and juvenile emigration. Given these conditions, it is unlikely that substantial differences in the life history traits normally measured (e.g., run timing, spawn timing, juvenile emigration) could evolve among most rivers in the northern and southern portions of the proposed ESU. However, NMFS did consider the presence of spring-run chinook salmon in the northern portion of the ESU, Rogue and Smith Rivers, as a further indicator of geographic and life history differences (although there may have historically been a spring run in the Eel River). Finally, there was some ocean harvest information that indicated differences in the migration pattern of populations from the northern (Rogue and Smith Rivers) and southern (Eel River) portions of the proposed ESU (Gall *et al*., 1989).

Response - ESU Status: New abundance information was provided by several commenters and co-managers for a number of streams in the Southern Oregon and Northern California Coastal chinook salmon ESU (Howard and Albro, 1997; Howard, 1998 and 1999; USFS, 1997 and 1999; Waldvogel, 1997 and 1999; Yurok Tribal Fisheries Program, 1997 and 1999; ODFW, 1999). Recent total estimated escapement of fall- and spring-run chinook salmon in Oregon streams is close to 100,000 fish. The largest run of fall chinook salmon in the ESU occurs in the Rogue River, and ODFW recently has revised its estimates of abundance to average over 51,000 fish in the run during the most recent 5 years. In addition, ODFW estimated that the escapement of fall chinook to the Chetco River in 1995 and 1996 was 8,500 and 3,500 fish, respectively. In spite of the high estimated abundances in the Chetco River, between 31 and 58 percent of those naturally spawning fish were estimated to be of hatchery origin.

Although trends in abundance are mixed over the long term, most short-term trends in abundance of fall chinook salmon are positive in the smaller coastal streams in the ESU. Spawning ground surveys from a number of smaller coastal and tributary streams from Euchre Creek to the Smith River show declines in abundance from the late 1970s through the early 1990s, but recently, the peak counts predominantly show increases. In addition to adult counts, downstream migrant trapping generally shows increases in production in fall chinook juveniles over the last 4 years in the Pistol and Winchuck Rivers and in Lobster Creek, a tributary to the lower Rogue River. Short- and long-term

trends in abundance for the Rogue River fall chinook are declining, but as mentioned above, the overall run size is still large.

Northern coastal California streams support small, sporadically monitored populations of fall-run chinook salmon. Trends in fall chinook salmon abundance in those California streams that are monitored are mixed; in general, the trends tend to be more negative in streams that are farther south along the coast (i.e., populations in the Eel, Mattole, and Russian Rivers). Estimates of absolute population abundance are not available for most populations in the California portion of the region encompassing this ESU.

The release of hatchery fall chinook salmon into some southern Oregon coastal streams recently has been reduced or discontinued. Releases of fall chinook salmon into the lower Rogue River were reduced to 75,000 smolts and 75,000 unfed fry, and the Chetco River program recently was reduced to 150,000 smolts. ODFW also has provided NMFS with new estimates of the percentage of hatchery fall chinook salmon spawning naturally in the Chetco River. In 1995 and 1996, the percentage of naturally spawning hatchery fish was 31 and 58 percent, respectively. During those same years, the estimated numbers of naturally spawning adults returning to the Chetco River were 8,530 and 3,561 fall chinook salmon, respectively.

Most spring-run chinook salmon in this ESU continue to be distributed in a few populations that are declining in abundance. The run size of spring-run chinook salmon in the Rogue River above Gold Ray Dam has averaged 7,709 over the last 5 years, and the estimated percentage of hatchery fish in the run has ranged from 25 to 30 percent over that time period. The Smith River contains the only known populations of spring-run chinook salmon on the California coast, and those runs continue to decline in the Middle Fork, but are increasing in the South Fork. ODFW believes that spring-run chinook populations in the Smith River probably have always been small, based on in-river fishery landings, historical cannery records, and the judgement of local biologists.

In the California Coastal chinook salmon ESU, fall chinook salmon occur in relatively low numbers in northern streams and, only sporadically, in streams in the southern portion of the ESU's range. Estimates of absolute population abundance are not available for most populations in this ESU. The 5-year geometric mean abundance of fall chinook passing Cape Horn Dam on the upper Eel River is 36 fish, but those counts are considered to be a small and variable fraction of the run in the Eel River.

Trends in fall chinook salmon abundance in those California streams that are monitored are mixed; in general, the trends tend to be more negative in streams that are farther south along the coast (i.e., populations in the Eel, Mattole, and Russian Rivers). Trends in abundance in several tributaries in the Redwood Creek drainage have been monitored since 1995; these numbers will be useful in assessing the status of chinook salmon in those streams in the future. Trends in abundance in the Mad River Basin have been declining over the long term, but they are showing signs of increase in recent years. Peak index counts and carcass surveys have been conducted since the mid-1960s in Sprowl and Tomki Creeks, both tributaries to the Eel River. The long-term trend in abundance in Sprowl Creek is –4.4 percent per year, but recent years show increases. In contrast, both the long- and short-term trends in abundance in Tomki Creek are severely declining. Shorter-term monitoring has occurred in other Eel River tributaries since the late 1980s; abundance in Hollow Tree and Redwood Creeks has been declining precipitously. Recent monitoring of index areas in the Mattole and Russian River Basins indicates declining trends in abundance, with the exception of the increasing abundance at the Coyote Valley Fish Facility on the Russian River from 1992 to 1998. Hatchery chinook salmon occur in the Russian and North Fork Mad Rivers, but the contribution of hatchery fish to natural spawning escapements is not known.

After reviewing additional scientific and commercial information regarding the status of these revised ESUs, NMFS concludes that the revised California Coastal chinook salmon ESU is likely to become endangered in the foreseeable future. Most of NMFS' concerns regarding the status of this ESU are related to abundance and trends/productivity risks. NMFS believes that widespread declines in abundance of chinook salmon relative to historical levels and the present distribution of small populations with sometimes sporadic occurrences contribute to the risks faced by this ESU. Overall, NMFS is concerned about the paucity of information on the presence or abundance of chinook salmon in the geographic area encompassing this ESU. The abundance data series are short-term for most of the streams in this ESU, and there are no current data for the long time series at Benbow Dam for the population that may have been historically the largest (South Fork Eel River).

NMFS believes that habitat degradation and water withdrawals in the river drainages in coastal California have contributed to the continued reduction in abundance and distribution of chinook salmon in this ESU. Smaller coastal drainages, such as the Noyo, Navarro, Garcia, and Gualala Rivers, likely supported chinook salmon runs historically, but they contain few or no fish today. The Russian River probably contains some natural production, but the origin of those fish is not clear because of a number of non-native introductions of hatchery fish over the last century. NMFS is concerned about the possible extinction of the spring run in the upper Eel River, which represents an important loss of life history diversity in this ESU.

NMFS believes that the following factors are likely to have improved the conditions for chinook salmon in the California Coastal chinook salmon ESU: Reductions in the Klamath Management Zone (KMZ) and Central Valley harvest index, the listing of coho salmon and steelhead under the Federal ESA, changes in harvest regulations by the States of Oregon and California to protect coho salmon and steelhead, improvements in stream water quality due to enhanced enforcement of Clean Water Act standards, and changes in timber and land-use practices resulting from completed Habitat Conservation Plans (HCPs).

In contrast, NMFS concludes that chinook salmon in the revised Southern Oregon and Northern California Coastal chinook salmon ESU are not presently in danger of extinction, nor are they likely to become so in the foreseeable future. NMFS is encouraged by the overall numbers of chinook salmon in this ESU and by the recent increases in abundance in many of the smaller coastal streams. In addition to the large runs returning to the Rogue River, chinook salmon appear to be well distributed in a number of coastal streams throughout the geographic region encompassing this ESU. Although many of the new data sets received by NMFS are of short duration, NMFS is encouraged by recent efforts by the co-managers to improve monitoring of chinook salmon in this region. Risks associated with the presence of hatchery fish in this ESU are relatively low; nevertheless, NMFS is concerned about the high percentages of naturally spawning hatchery fish in the Chetco River and in the spring-run chinook salmon population in the Rogue River. In addition, the restricted distribution of

spring-run chinook salmon to the Rogue and Smith River Basins and their significant decline in the Rogue River could represent an important threat to the total diversity of fish in this ESU.

NMFS believes several factors are likely to have improved the conditions for chinook salmon in the Southern Oregon and Northern California Coastal chinook salmon ESU, including reductions in the KMZ troll fishery, the ESA listing of coho salmon, changes in harvest regulations by the States of Oregon and California to protect naturally produced coho salmon and steelhead, and changes in timber and land-use practices on Federal public lands resulting from the NFP. NMFS has considered the impacts of various conservation efforts affecting this ESU under the section ''Efforts Being Made to Protect West Coast Chinook Salmon'' of this document.

Issue 8: ESU Delineation and Status of Snake River Fall Chinook Salmon

Comment 10: Several commenters, including state and tribal co-managers, disagreed with the inclusion of the Deschutes River fall-run chinook salmon in this ESU. They argued that the Deschutes River and Snake River Basins are ecologically distinct. Furthermore, the geographic distance between these basins would preclude any significant genetic exchange, especially if one considers the historical spawning distribution of Snake River chinook salmon. There were a number of scenarios given to explain the genetic similarity between the Deschutes River and Snake River fall-run populations. One scenario suggested that, with the loss of the majority of their historical spawning habitat, the existing Snake River fall-run chinook salmon ESU no longer represented the historical population. An alternative view was that the genetic differences among all ocean-type chinook salmon above the Dalles Dam were relatively small and that the clustering of populations was subject to possible bias depending on the procedures used. It was also stressed that the existing allozyme information was acquired after the Columbia River Basin had undergone considerable alterations (mainstem dam construction) and many of the native populations had been extirpated. It was also suggested that the marine CWT recovery information for the Deschutes River fall run was potentially biased due to the limited number of tags recovered and the limited number of broodyears that were tagged. Two commenters asserted that an ocean-type summer run existed (and may still exist) in the Deschutes River, and this would evolutionarily link the Deschutes River ocean-type fish more closely with ocean-type fish in the Upper Columbia River summer- and fall-run chinook salmon ESU. Some reviewers suggested that all ocean-type chinook salmon above the historical location of Celilo Falls should be considered one ESU. The most commonly suggested alternative ESU configuration included the Deschutes River and the now extinct populations that were in the John Day, Umatilla, and Walla Walla Rivers as a separate ESU.

Several other commenters challenged the NMFS exclusion of hatchery fish abundances from the risk assessment. They argued that, in many instances, hatchery and naturally spawning fish have co-mingled for generations. These fish are genetically indistinguishable and effectively represent one population. In many cases, the persistence of naturally spawning fish has been dependent on the continued operation of the hatchery program. Under these conditions, they contend, hatchery abundances should be included in the risk assessment for an ESU.

Since the initial status review, NMFS has received new data and information which have helped resolve the scientific uncertainties associated with the proposed listing for this ESU (NMFS, 1999a), and are summarized as follows.

Response - ESU Delineation: The Confederated tribes of the Warm Springs Reservation (CTWSRO) provided NMFS with a preliminary report of genetic studies of fall-run chinook salmon in the Deschutes River (CTWSRO, 1999). Both allozyme and mtDNA loci were used to determine if the Deschutes fall chinook population is more genetically and demographically related to the Snake River fall chinook populations than to any other population in the Columbia Basin. The authors concluded from the mtDNA and allozyme data that there is little or no geographic organization of the fall-run genetic data and no compelling evidence to support adding the Deschutes River to the Snake River fall-run chinook salmon ESU.

The similarity in life history traits between the Deschutes and Snake River fall-run populations was an important factor in the proposed ESU designation incorporating these two geographically separated basins into one ESU. Since the time of the proposed rule, NMFS has reviewed additional information on ecological and life history traits for this ESU and a CTWSRO analysis of information previously reviewed by the BRT (CTWSRO, 1999). Similarities in ocean distribution, as reflected by CWT recoveries, were observed for wild Deschutes River fall-run and Snake River fall-run chinook salmon. Analysis by CTWSRO (1999) indicates that there was a strong correlation (0.95) in the ocean distributions of Deschutes River and Snake River fish; however, there were equally strong similarities between Deschutes River fish and fall-run fish from a number of lower Columbia River basins. The correlation between the distribution of ocean recoveries for the Deschutes River fall-run and that for upriver ''bright'' fall-run chinook salmon (i.e. Hanford Reach, Priest Rapids) was much weaker (0.61). Because only 35,000 Deschutes River fall-run fish were tagged during each of 3 broodyears (1977 to 1979), and of these only 79 tags were recovered in the ocean fishery, CTWSRO (Patt, 1999) cautioned the use of this information to establish the ESU configuration.

Age structure information was also used in the initial NMFS decision to group fall-run chinook salmon in the same ESU. In the Coastwide Status Review (Myers *et al.*, 1998) similarities were observed between the Deschutes River and Snake River fall-run populations, relative to Hanford Reach and other upper Columbia River fall-run populations. Age structure for the Deschutes River, Snake River (using Lyons Ferry return data), and Hanford Reach fall-run fish was determined using scale data from several broodyears in the late 1970s and 1980s. CTWSRO (Patt, 1999) also presented run reconstructions provided by Howard Schaller (ODFW). For the Deschutes and Hanford Reach data series, this information, based on scales recovered from returning adults, age-length indices, and CWT recoveries, represented a more complete description of the populations concerned than was presented in Myers *et al.* (1998). However, the Snake River age structure data were not based on the direct measurement of Snake River fish, but rather derived from an index of upriver bright stocks. It was advised that considerable caution be used in employing the Snake River age structure data in any comparisons (Schaller, ODFW, pers. comm.).

Spawn timing differences presented by CTWSRO (1999) indicated that Deschutes River fish spawn primarily in October (in contrast to the November peak spawning cited in Myers *et al.*, 1998), rather than in early and mid-November for fall-run chinook salmon in the Snake River and Hanford Reach of the Columbia River (Myers *et al.*, 1998). This earlier timing may be related to water conditions in the Deschutes River or may be an indicator of the integration of a historical summer run into the fall run. A review of historical

information indicated that fall-run chinook in the Snake River near Salmon Falls (Rkm 922) arrived on the spawning grounds in late August and September and that ripe fish were caught in the fishery in early October (Evermann, 1896). Spawning was nearly complete by the end of October. Differences in the spawning time of present day and historical Snake River fall-run chinook salmon populations may be a response to different temperature and flow regimes in the lower river (the current accessible habitat) or may indicate the extirpation of the earlier, upriver, spawning populations from the ESU.

Fecundity estimates provided an additional life history trait for comparison. Myers *et al.* (1998) cited average fecundity values for Deschutes River fall-run chinook salmon of 4,439 eggs per female, and for Lyons Ferry Hatchery fish (Snake River) 3,102 eggs per female (adjusted to 4,011 eggs per female at a standard length of 740 mm). Fecundity estimates (Howell *et al.*, 1985) for wild Snake River fall-run chinook salmon (trapped at Oxbow Dam) of 4,276 (1961 to 1969) and 4,185 eggs per female (1977 to 1983) were similar to Deschutes River fish, but do not include spawner sizes and are difficult to compare.

Meristic data were also reviewed to assess the similarities of the fall-run stocks under consideration. Of the traits analyzed by Schreck *et al.* (1986), only lateral line scale counts were potentially useful in discriminating among the Deschutes, Snake, and mainstem Columbia River (Hanford Reach) populations. Deschutes River fall-run chinook salmon exhibited a lower mean lateral scale count (136.6) compared with the fall-run fish from Hanford Reach (140.6) and the Snake River (Lyons Ferry Hatchery) (143.3). The Deschutes River lateral line scale counts most closely resembled those from several fall-run populations in the Lower Columbia River (below the location of Celilo Falls); however, these differences may not be statistically significant.

Little documentation is available on the existence of a summer run in the Deschutes River Basin. This issue is relevant to the discussion on ESU configuration due to the ocean-type life history expressed by summer-run fish in the Upper Columbia River and the stream-type life history expressed by summer-run fish in the Snake River Basin. If, as has been asserted by Patt (1999), the summer run in the Deschutes River Basin exhibited an ocean-type life history, it would provide an evolutionary link with the upper Columbia River ocean-type stocks. Information presented by CTWSRO (1999) indicates that there was a significant temporal separation in the arrival of spring-run and summer/fall-run adults at the Pelton Dam Trap (River kilometer (Rkm) 161). Jonasson and Lindsay (1988), Beaty (1996), and Lichatowich (1998) have suggested that summer-run fish existed in the Deschutes River. Whether these summer-run fish historically spawned above the present site of Pelton Dam or above Sherars Falls, which reportedly was impassable during low summer flows early in this century, is not known although both scenarios would have provided for the geographic separation of summer and fall runs. In the 1960s, three returning adults that were tagged while passing Bonneville Dam during July were later recovered in the Metolius River, tributary to the Deschutes River at Rkm 178 (Galbreath, 1966). However, Nehlsen (1995) cited several personal communications which indicate that fall spawning fish were not observed in the Deschutes River Basin above the site of Pelton Dam. Analysis of downstream juvenile migrants (1959 to 1962) through the Pelton project did not detect any subyearling migrants (which would be consistent with the presence of ocean-type fish). Analysis of mtDNA variability from fish sampled at Sherars Falls and the Pelton Dam Trap suggests that genetic differences exist among adults collected at the two sampling locations (CTWSRO, 1999). It has been suggested that the genetic differences are indicative of a vestigial run of summer-run fish that have retained the propensity to migrate farther upstream than do fall-run fish. However, Jonasson and Lindsey (1988) state that there is no correlation between the date of ascending Sherars Falls and the date or location of subsequent spawning. Furthermore, analysis of scales from adults sampled at Sherars Falls in 1978 indicated that stream-type fish constituted 31.2, 25, 4.4, and 2.2 percent of the run passing the Falls in July, August, September, and October, respectively (Aho *et al.*, 1979). During 1979, the percentage of stream-type fish sampled at Pelton Trap during this same period dropped to 14 and 5.5 percent for July and August, respectively. The possibility exists that many of the fish sampled in the mtDNA study (especially at the Pelton Trap) were stream-type fish; further analysis of allozyme variation may resolve this issue.

Ecological differences among the Deschutes River Basin, the upper Columbia River Basin, and the Snake River Basin (especially historical fall-run spawning areas in the upper mainstem Snake River) were reviewed previously (Waples *et al.*, 1991; Myers *et al.*, 1998). Although the mainstem Columbia River and the lower reaches of its tributaries (including the Snake River) are all in the Columbia River Basin Ecoregion (Omernick and Gallant, 1986), the upper Snake River (above the Hells Canyon Dam complex) flows through three different ecoregions. Irving and Bjornn (1981) indicated that prior to 1958 the major spawning area for Snake River fall-run chinook salmon was in a 30–mile section between Swan Falls Dam and Marsing, Idaho, and historically, fall-run chinook salmon spawning extended as far upstream as Shoshone Falls (Howell *et al.*, 1985). Historically, most of the fall-run chinook spawning would have taken place in the Snake River Basin/High Desert Ecoregion.

Fall-run chinook salmon populations in the John Day, Umatilla, and Walla Walla Rivers were thought to have been extirpated (Kostow, 1995). However, there have been recent reports of chinook salmon spawning in the lower mainstem John Day River, but there is no information to establish the source of these fish or whether they were reproductively successful.

Based on its re-assessment of information relevant to the configuration of this ESU, NMFS believes that the proposed ESU configuration, combining ocean-type fish in the Snake and Deschutes River Basins into one ESU, was not supported by the information available. The agency concludes that the Deschutes River summer- and fall-run fish should be considered in a separate ESU, rather than be grouped with either the Snake River fall-run or Upper Columbia River summer- and fall-run chinook salmon ESUs. There is considerable uncertainty on the historical configuration of this new ESU, specifically whether it included fall-run populations in the John Day, Umatilla, and Walla Walla Rivers.

In reaching this conclusion, NMFS considered several scenarios for the configuration of the Snake River fall-run chinook salmon ESU and the potential reconfiguration of the Upper Columbia River summer- and fall-run chinook salmon ESU. NMFS identified four potential configurations: (1) The grouping of all ocean-type chinook salmon above the historical site of Celilo Falls into one ESU, (2) the configuration in the proposed rule, with Deschutes River summer- and fall-run chinook salmon being grouped with the existing Snake River fall-run chinook salmon ESU and a separate Upper Columbia River summer- and fall-run chinook

salmon ESU, (3) the grouping of Deschutes River summer- and fall-run chinook salmon with other ocean-type mainstem and tributary spawners in the Upper Columbia River summer- and fall-run chinook salmon ESU and a separate Snake River fall-run chinook salmon ESU, and (4) the creation of a new Deschutes River chinook salmon ESU, which may or may not have included the extirpated populations that existed in the John Day, Umatilla, and Walla Walla Rivers, along with the existing Snake River fall-run and Upper Columbia River summer- and fall-run chinook salmon ESUs.

There is considerable uncertainty regarding the importance of ecological and geographic factors in providing the basis for reproductive isolation and local adaptation. For example, because the mainstem Columbia River (above Celilo Falls) and the lower reaches of its tributaries are all in the Columbia River Basin Ecoregion, there is an ecological link for the majority of the existing spawning populations of ocean-type fish. Historically, mainstem and tributary spawners may have formed a continuum of populations throughout the upper Columbia River and, to a lesser extent, the Snake River. Furthermore, genetic and life history differences are modest (or the interpretations of the existing data are ambiguous) among ocean-type chinook salmon populations above Celilo Falls, suggesting that perhaps all of the populations are part of a single ESU. Another viewpoint is that the three lines of evidence (genetics, ecology, life history) used in the 1991 status review (Waples *et al.*, 1991) to determine that Snake and Upper Columbia fall chinook salmon are in separate ESUs are still valid. In addition, the historical spawning distribution of most of the Snake River fall-run populations was well separated from Columbia River fall-run chinook salmon (Irving and Bjornn, 1981). NMFS considered all of these factors and believes that none of the new information gives sufficient cause to group all upriver bright fall-run chinook salmon into one ESU.

NMFS reviewed the evidence for including Deschutes River fall-run chinook salmon in the Snake River fall-run chinook salmon ESU. Data provided by co-managers on genetics and ocean recoveries of CWTs were important elements of this review. NMFS is uncertain of the assertion made by CTWSRO (1999) that genetic samples from the Grande Ronde and Clearwater Rivers were representative of Snake River populations. Spawning surveys indicated that prior to 1990, redd counts in the Grande Ronde River were at or near zero, with counts in the Clearwater River numbering in the low tens of redds (Irving and Bjornn, 1981; Howell *et al.*, 1985; Garcia *et al.*, 1999). Recent increases in redd counts in the Snake River Basin, above Lower Granite Dam, have coincided with a large influx of non-Snake River fish (Production Advisory Committee, 1998). NMFS believes that the weight of the genetic evidence, from a number of different sources, indicates a closer relationship of Deschutes River fish with Snake River fish than with Columbia River fish. Data from CWT studies also show Deschutes River fall-run chinook salmon have an ocean distribution and age at capture more similar to Snake River (both Lyons Ferry Hatchery fish and wild Snake River fish) than to Columbia River upriver bright fall-run populations. Additionally, if (as has been suggested by ODFW) the Deschutes River fall-run population was part of a larger historical ESU that included the John Day, Umatilla, and Walla Walla Rivers, these intermediate populations could have provided a link between the Deschutes and Snake River Basins. However, the ecological distinctiveness of the historical Snake River, Umatilla and Walla Walla Rivers, and Deschutes River spawning habitats argues against their being included in the same ESU; for example, the Deschutes River is a spring-fed stream with relatively stable water temperature, which is very different from the mainstem Snake River.

NMFS' re-consideration on the grouping of Deschutes River and Upper Columbia River summer- and fall-run populations focused on the historical distribution of mainstem spawners in the Columbia River, which extended more or less continuously from Celilo Falls to Kettle Falls, thus providing a link between different tributary populations, including the Deschutes River. In contrast, the center of fall-run spawning activity in the Snake River Basin was far removed from the confluence of the Snake and Columbia Rivers. Environmental features of the Deschutes and upper Columbia Rivers are more similar over this entire area than either is to the upper Snake River Basin. Tributary spawners in the Yakima, Wenatchee, and Okanogan Rivers are already included in the Upper Columbia River summer- and fall-run chinook salmon ESU, so it is possible to include Deschutes River ocean-type chinook salmon with the other upper river tributaries as well. NMFS also considered the possible ocean-type life history of the Deschutes River summer run. If that is the case, then the relationship between summer- and fall-run fish in the Deschutes River would resemble the Upper Columbia River, where summer- and fall-run fish are in the same ESU, rather than that in the Snake River, where the summer- and fall-run fish are from different evolutionary lineages.

After weighing the best available information, NMFS reaffirms the conclusion of previous status reviews that found that Snake River and Upper Columbia River ocean-type fish are in separate ESUs. There is remaining uncertainty about the ESU affinities of the Deschutes River population. The scenario with the Deschutes River population in a separate ESU from the Snake River fall-run and Upper Columbia River summer- and fall-run chinook salmon ESUs is probably the most compelling, but arguments can also be made for including the Deschutes River in the Upper Columbia or Snake River chinook salmon ESUs. One of the factors that influenced NMFS to identify three separate ESUs was the lack of conclusive evidence for including the Deschutes River in either of the existing ESUs.

Under the assumption that the Deschutes River population is in a separate ESU from Upper Columbia or Snake River fish, NMFS was unable to resolve the historical extent of that ESU. The major uncertainty centers on the ESU status of historical populations from the John Day, Umatilla, and Walla Walla Rivers, which have been extirpated. The lack of biological information for these historical populations makes a determination of their ESU status difficult. The Deschutes River is distinctive enough ecologically to have supported its own ESU; however, it is reasonable to believe that the historical ESU also included ocean-type populations in tributaries at least as far upstream as the confluence with the Snake River. NMFS believes it is highly likely that all mainstem Columbia River spawners above Celilo Falls historically were part of what is now termed the Upper Columbia River summer- and fall-run chinook salmon ESU. The agency also believes that all ocean-type chinook salmon in the Deschutes River (in particular, any vestigial summer-run fish that may exist) are part of the same ESU as the Deschutes River fall-run population.

Response - ESU Status: As discussed previously, NMFS concludes that the Snake River fall-run chinook salmon ESU should remain unchanged, but is unable to conclude with certainty the ESU affinity of the Deschutes River population. Updated information on the abundance of fall-run chinook salmon

in the Deschutes River indicates that the run continues to increase in number—the most recently estimated 5-year geometric mean abundance is over 16,000 fish, and the short-term trend in abundance has been increasing by 18 percent per year (Pacific States Marine Fisheries Commission, 1999). However, there is considerable uncertainty associated with the run-size estimates of chinook salmon in the Deschutes River (Beaty, 1996). The population estimate is based on aerial redd surveys above and below Sherars Falls and on a mark-recapture survey for fish passing above Sherars Falls. The expansion estimate is based on an estimate of the number of adults per redd for the entire river, calculated using the mark-recapture data for fish above the falls. Since the late 1970s, the distribution of spawners has shifted from the bulk of the spawning occurring from above to below Sherars Falls. The total number of redds below the falls has not significantly declined since 1972, but the redd counts above the falls have declined dramatically over that time period (Beaty, 1996). The shift in relative abundance of spawning adults above and below Sherars Falls has resulted in an expansion estimate based on mark-recapture studies on an increasingly small proportion of the total population in the river. The errors in run-size estimation for the Deschutes River have become so high that the overall estimate of run size is not reliable. Because of the problems associated with the run-size estimates, NMFS considered the trends in redd counts to be a relatively more reliable indicator of the status of the Deschutes River chinook salmon population. Nevertheless, there is reportedly high inter-annual variation in the quality of redd counts due to visibility problems during aerial surveys (Beaty, 1996), so even the redd count data are not completely reliable.

Counts of chinook salmon at Pelton trap on the Deschutes River have declined since the late 1950s. The 5-year geometric mean abundance of fish at the trap is 81, and the short term trend in abundance is declining by over 6 percent per year. These fish may be representative of a remnant summer run of chinook salmon (CTWSRO, 1999). The percentage of hatchery chinook salmon in the Deschutes River continues to be very low, as reported in more detail in the historical information obtained at the time of the original NMFS status review (Myers *et al.*, 1998).

The estimated abundance of fall-run chinook salmon in the Snake River has been increasing over the most recent 10 years (5-year geometric mean abundance was 565 naturally produced fish, increasing by 13.7 percent per year.) Redd counts from streams in the Snake River Basin starting in the mid 1980s to 1990s show mostly increasing trends in abundance, although the estimated population sizes continue to be very small.

NMFS believes that the new information does not substantially change the risk assessments for the Snake River and Upper Columbia River chinook salmon ESUs, and the status of these ESUs was not reconsidered. Evaluation of the status of the ESU that includes the Deschutes River is difficult because the historical and current extent of the ESU is not well characterized. For this reason, NMFS did not attempt a formal extinction risk analysis for this ESU. However, the agency did review abundance, trend, and other information for the Deschutes River population and concludes that ocean-type chinook salmon in the Deschutes River do not appear to be in danger of extinction, nor are they likely to become so in the foreseeable future.

NMFS remains concerned about the uncertainty in the abundance estimates for fall- and summer-run chinook salmon in the Deschutes River. Uncertainty about the true population status centers primarily around different indicators of status emerging from the analysis of redd counts (declining sharply in the upper basin; stable in the lower basin) and run size estimates based on expansion of mark-recapture studies (which indicate a relatively large and increasing population). The only conclusion NMFS can make from the data is that the numbers of chinook salmon above Sherars Falls have been severely declining since the mid-1970s, while the population below the falls appears to be stable. The shift in the proportion of the total Deschutes River fall-run chinook salmon run spawning above and below Sherars Falls has resulted in unreliable expansion estimates for escapement both above and below the falls. In addition, the change in the estimated ratio of the number of adults per redd over time represents a significant problem for interpreting the expansion procedure used to generate the abundance estimates. NMFS is hopeful that recent efforts by the CTWSRO and ODFW to conduct more extensive mark-recapture studies in the lower river will improve escapement estimates.

NMFS also was concerned about the severe decline and possible extinction of the summer-run chinook salmon in the Deschutes River. The significant reduction in this life history form would represent an important loss to the historical diversity in this ESU. The uncertainty associated with the geographic boundaries containing the historical ESU added to the overall uncertainty in the risk evaluation. The historical run sizes of fall-run chinook salmon in the Umatilla, John Day, and Walla Walla Rivers are not well known, and the numbers of fall-run chinook salmon present today are very low and do not represent naturally self-sustaining runs. If fall-run chinook salmon that historically occurred in those streams are considered to be part of the Deschutes River chinook salmon ESU, a higher extinction risk may be appropriate for the current ESU because extinction of the ESU would have occurred over a significant portion of its range.

Summary of Factors Affecting Chinook Salmon

Section 4(a)(1) of the ESA and NMFS' listing regulations (50 CFR part 424) set forth procedures for listing species. The Secretary of Commerce (Secretary) must determine, through the regulatory process, if a species is endangered or threatened based upon any one or a combination of the following factors: (1) The present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or human-made factors affecting its continued existence.

The factors threatening naturally spawned chinook salmon throughout its range are numerous and varied. The present depressed condition is the result of several long-standing, human-induced factors (e.g., habitat degradation, water diversions, harvest, and artificial propagation) that serve to exacerbate the adverse effects of natural environmental variability from such factors as drought, floods, and poor ocean conditions.

As noted earlier, NMFS received numerous comments regarding the relative importance of various factors contributing to the decline of chinook salmon. A summary of various risk factors and their roles in the decline of west coast chinook salmon was presented in NMFS' March 9, 1998, proposed rule (63 FR 11482), as well as in several ''Factors for Decline'' reports published in conjunction with proposed rules for steelhead and for chinook salmon (NMFS, 1996 and 1998b).

Efforts Being Made to Protect West Coast Chinook Salmon

Under section 4(b)(1)(A) of the ESA, the Secretary is required to make listing determinations solely on the basis of the best scientific and commercial data available and after taking into account efforts being made to protect a species. During the status review for west coast chinook salmon and for other salmonids, NMFS reviewed protective efforts ranging in scope from regional strategies to local watershed initiatives; some of the major efforts are summarized in the March 9, 1998, proposed rule (63 FR 11482). Since then, NMFS has received some new information regarding these and other efforts being made to protect chinook salmon. Notable efforts within the range of the chinook ESUs to be listed continue to be the NFP, PACFISH, Oregon Plan for Salmon and Watersheds (OPSW), CVPIA, CALFED Bay-Delta Program implementation and development, development and implementation of VAMP, Klamath and Trinity Basin restoration programs and flow re-evaluations, CDFG's Salmonid Restoration Program for coastal watersheds, NMFS and state funded multi-county conservation planning efforts in California, and the ongoing ESA section 7 and habitat conservation planning efforts within the range of currently listed species.

In California's Central Valley and coastal watersheds within the range of the chinook ESUs to be listed, several important conservation efforts have recently been implemented or initiated. In the Central Valley, the CALFED Bay-Delta Program and Ecosystem Restoration Plan are continuing to be implemented while a long-term implementation plan continues to be developed. The CALFED program and its implementation through 1997 is described in detail in previous **Federal Register** notices (63 FR 11482, March 9, 1998; 63 FR 13347, March 19, 1998). In 1998, CALFED funded 71 restoration projects totaling $27.5 million throughout the Central Valley dealing with fish passage assessment, fish passage and/or screening projects, floodplain management/habitat restoration, watershed planning, and other activities. In 1999, CALFED funded 13 projects totaling $52.5 million in the Central Valley. Nearly $40 million of these funds were directed at major salmon and steelhead habitat restoration activities on Battle Creek in the upper Sacramento River and fish passage improvements at the Anderson-Cottonwood Irrigation District in the upper Sacramento River. Substantial new funding is anticipated in 2000.

Several important projects have been initiated or implemented in the Central Valley since 1998 as a result of CALFED and/or CVPIA funding. In the Sacramento River Basin, significant efforts are underway to restore habitat in the Battle Creek drainage in the upper Sacramento River. NMFS, FWS, and CDFG have reached agreement with the Pacific Gas and Electric Company to restore access to nearly 42 miles of high quality spawning and rearing habitat. Water acquisitions are ongoing, and most restoration actions should be completed by 2002. This effort in Battle Creek will primarily benefit spring-run chinook salmon. Significant habitat restoration efforts are also underway in Butte, Deer, Mill and Clear Creeks which are tributaries to the upper Sacramento River to remove barriers, improve stream flows, and improve riparian habitat conditions which are expected to benefit both spring and fall chinook salmon. Major new fish screen projects have also recently been initiated or completed. Construction on the Glenn-Colusa Irrigation District fish screen was implemented and is scheduled for completion in late 1999. This is the single largest diversion on the upper Sacramento River (3,000 cfs) and will include a $1.0 million evaluation and monitoring program. New screens have been installed on four additional major diversions in the Sacramento River which total a combined diversion of nearly 2,000 cfs. In the San Joaquin River Basin, important habitat restoration projects have been implemented in the Tuolumne and Stanislaus Rivers to improve instream and riparian habitat and flow conditions. These efforts will benefit San Joaquin fall-run chinook salmon. Additional habitat restoration efforts were funded in the Delta region which should benefit all anadromous salmonids in the Central Valley.

In the San Joaquin Basin, collaboration between water interests and state and Federal resource agencies has also led to the development of a scientifically based adaptive fisheries management effort known as VAMP. The VAMP is intended to (1) improve protection of fall-run chinook salmon smolt passage from the San Joquin River Basin, (2) gather scientific information on the effects of various flows and Delta facilities operations on the survival of salmon smolts through the Delta, and (3) provide environmental benefits in the San Joaquin River tributaries, the lower San Joaquin River, and the Delta. The 12-year plan will be implemented in 1999 through a combination of increasing experimental flow releases from tributary streams in the San Joaquin Basin and through such operational changes as the reduction of exports at the Delta export pumping plants during the peak smolt outmigration period (approximately April 15 to May 15). Additional attraction flows are targeted for adult fall-run chinook upstream passage in October. In coordination with VAMP, the California Department of Water Resources (CDWR) will install and operate a barrier at the head of Old River to improve the survival of juvenile fall chinook emigrating from the lower San Joaquin River. By selecting a combination of flows and export rates, VAMP represents a long-term commitment to evaluate the effects of San Joaquin River flows and Delta export rates on San Joaquin Basin fall-run chinook salmon and to provide improved interim protections.

In June 1998, the State of California listed Sacramento River (Central Valley) spring-run chinook salmon as a threatened species under the CESA based on a status review conducted by CDFG. Since the state listing of Central Valley spring-run chinook, CDFG and NMFS have engaged in a joint ESA/CESA consultation/conference with the CDWR and the U.S. Bureau of Reclamation (BOR) to assess the effects the State Water Project's and the Central Valley Project's operations are having on Sacramento River spring-run chinook salmon. This consultation/conference focuses on a 1-year operation period through the spring of 2000, at which time it is anticipated that a plan for implementation of Stage 1 for the CALFED Bay-Delta Program and a Federal Record of Decision (ROD) will be completed. Pursuant to CDFG's 1994 Fish Screening Policy, all diversions that are located within the essential habitat of a CESA-listed species require screening. Accordingly, many unscreened diversions in the principal spring-run chinook salmon tributaries, particularly Butte Creek, have been identified and assigned a high priority for implementing corrective actions and receiving restoration funding.

NMFS identified state and Federal hatchery practices within the Central Valley as a serious risk factor to fall- and spring-run chinook populations at the time of the listing proposal. In an effort to address these concerns, both the State of California and FWS have recently initiated several actions to address hatchery practice concerns. First, CDFG has obtained funding from CALFED to develop a statistically designed marking/tagging and recovery program for Central Valley hatchery-produced

chinook salmon to address questions about the relative contribution of hatchery and natural production in naturally-spawning adult populations, fisheries, and at Central Valley salmon hatcheries, and to develop a methodology for evaluating the desirability of selective fisheries. Second, CDFG, in conjunction with NMFS, has initiated a comprehensive review of anadromous salmonid hatchery practices in California. As part of this effort, CDFG has completed an internal review of its hatchery operating criteria at Iron Gate, Trinity River, Feather River, Nimbus, Mokelumne, and Merced hatcheries and, in some instances, modified operations. A major objective of this joint evaluation is to review these hatchery operating criteria and identify further modifications that are appropriate for natural stock integrity, while maintaining the mitigation and/or supplementation objectives of individual facilities. Finally, FWS, in conjunction with NMFS, has undertaken a reassessment of the mitigation goals and operational criteria for the CNFH, which is the only Federal hatchery in California. This assessment was initiated in early 1999 and may be integrated with the CDFG/NMFS review of state hatchery practices. In conjunction with its ongoing re-evaluation of CNFH hatchery programs, FWS has substantially reduced its future target for the production and release of fall-run chinook salmon fry in order to reduce the potential impacts on naturally spawning fall-run populations.

In the 1998 fiscal year, CDFG's Salmonid Restoration Program established a Watershed Initiative element aimed at supporting local, community-based watershed planning and landowner-based timber harvest planning for coastal regions of California. That same fiscal year, CDFG funded $2.65 million in projects for the restoration of coastal salmon and anadromous trout habitat through its Salmon and Steelhead Trout Restoration Account. CDFG entered into 102 contracts, through the Fishery Restoration Grants Program, with public agencies, nonprofit groups, recognized Native American Tribes, and individuals to restore habitats lost or degraded as a result of past land use practices. During the 1999 and 2000 fiscal years, CDFG's Fishery Restoration Grants Program has increased funding for this program for coastal restoration project grants to approximately $7 million annually. In addition to funding these restoration programs, CDFG has substantially increased its program staff (36.2 additional personnel-years) to improve anadromous salmonid management efforts in coastal watersheds.

Pursuant to a March 1998 Memorandum of Agreement between NMFS and the State of California, NMFS and the State committed to an expedited review of California's forest practice rules, their implementation, and enforcement. This effort has been ongoing over the past year and has resulted in proposals to improve forestry practices in California. These proposals are currently undergoing further review prior to being submitted to the Board of Forestry for action. The current schedule calls for implementing measures adopted by the Board in January 2000. NMFS believes this effort is critically important for improving habitat conditions in coastal watersheds for anadromous salmonids, including chinook salmon.

An additional Federal effort affecting the Snake River fall-run chinook salmon ESU, the Interior Columbia Basin Ecosystem Management Project (ICBEMP), was not addressed in the proposed rule. ICBEMP addresses Federal lands in this region that are managed under USFS and Bureau of Land Management (BLM) Land and Resource Management Plans or Land Use Plans amended by PACFISH. PACFISH provides objectives, standards, and guidelines that are applied to all Federal land management activities, such as timber harvest, road construction, mining, grazing, and recreation. USFS and BLM implemented PACFISH in 1995 intending to provide interim protection to anadromous fish habitat while a longer term, basin scale aquatic conservation strategy was developed by ICBEMP. It is intended that ICBEMP will have a Final Environmental Impact Statement and ROD by early 2000.

For other ESUs already listed in the Interior Columbia Basin (e.g., Snake River chinook salmon, Snake River steelhead, Upper Columbia River steelhead, and Upper Columbia River spring-run chinook salmon), NMFS' ESA section 7 consultations have required several components that are in addition to the PACFISH strategy (NMFS, 1995; NMFS, 1998c). NMFS, USFS, and BLM intend these additional components to bridge the gap between interim PACFISH direction and the long-term strategy envisioned for ICBEMP. NMFS anticipates that these components will also be carried forward in the ICBEMP direction. These components include, but are not limited to, implementation monitoring and accountability, a system of watersheds that are prioritized for protection and restoration, improved and monitored grazing systems, road system evaluation and planning requirements, mapping and analysis of unroaded areas, multi-year restoration strategies, and batching and analyzing projects at the watershed scale.

In the range of these chinook salmon ESUs, several notable efforts have recently been initiated. Harvest, hatchery, and habitat protections under state control are evolving under OPSW. The OPSW is a long-term effort to protect all at-risk wild salmonids through cooperation between state, local, and Federal agencies, tribal governments, industry, private organizations, and individuals. Parts of the OPSW are already providing benefits including an aggressive program by the Oregon Department of Transportation to inventory, repair, and replace road culverts that block fish from reaching important spawning and rearing areas. The OPSW also encourages efforts to improve conditions for salmon through non-regulatory means, including significant efforts by local watershed councils. An Independent Multi disciplinary Science Team provides scientific oversight to OPSW components and outcomes. A recent Executive Order from Governor Kitzhaber reinforced his expectation that all state agencies will make environmental health improvement and salmon recovery part of their mission.

NMFS and FWS are also engaged in an ongoing effort to assist in the development of multiple species HCPs for state and privately owned lands in Oregon, Washington, and California. While section 7 of the ESA addresses species protection associated with Federal actions and lands, Habitat Conservation Planning under section 10 of the ESA addresses species protection on private (non-Federal) lands. HCPs are particularly important since more than 85 percent of the habitat in the range of the Central Valley spring-run and California Coastal ESUs is in non-Federal ownership. The intent of the HCP process is to ensure that any incidental taking of listed species will not appreciably reduce the likelihood of survival of the species, will reduce conflicts between listed species and economic development activities, and will provide a framework that would encourage ''creative partnerships'' between the public and private sectors and state, municipal, and Federal agencies in the interests of endangered and threatened species and habitat conservation. Implementation of the recently approved Pacific Lumber HCP, which covers 210,000 acres in

California's coastal watersheds, has begun in earnest with review of timber harvest plans and formalization of watershed analysis and monitoring programs. The foundation of this HCP rests on watershed analysis which is used to tailor site-specific prescriptions for salmon conservation on a watershed-specific basis. The initial watershed analysis is proceeding and is expected to establish a framework for similar analyses in the Pacific Lumber HCP and other HCP efforts which are under development in California.

NMFS will continue to evaluate state, tribal, and non-Federal efforts to develop and implement measures to protect and begin the recovery of chinook salmon populations within these ESUs. Because a substantial portion of land in these ESUs is in state or private ownership, conservation measures on these lands will be key to protecting and recovering chinook salmon populations in these ESUs. NMFS recognizes that strong conservation benefits will accrue from specific components of many non-Federal conservation efforts.

While NMFS acknowledges that many of the ongoing protective efforts are likely to promote the conservation of chinook salmon and other salmonids, some are very recent and few address salmon conservation at a scale that is adequate to protect and conserve entire ESUs. NMFS concludes that existing protective efforts are inadequate to preclude a listing for the Central Valley spring-run and California Coastal chinook salmon ESUs. However, NMFS will continue to encourage these and future protective efforts and will work with Federal, state, and tribal fisheries managers to evaluate, promote, and improve efforts to conserve chinook salmon populations.

Determinations

Section 3 of the ESA defines the term ''endangered species'' as any species that is in danger of extinction throughout all or a significant portion of its range. The term ''threatened species'' is defined as any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

After reviewing the best available information, including public and peer review comments, biological data on the species' status, and an assessment of protective efforts directed at the four chinook ESUs proposed for listing, NMFS has concluded that only two ESUs—the Central Valley spring-run ESU and California Coastal ESU—warrant protection under the ESA. NMFS has determined that both ESUs are at risk of becoming endangered in the foreseeable future throughout all or a significant portion of their range. While NMFS has determined that the Central Valley fall and late fall-run ESU does not warrant listing at this time, the agency remains concerned about the status of this ESU and will consider it a candidate species. The agency will reevaluate the status of the Central Valley fall and late fall-run ESU as new information becomes available to determine whether listing may be warranted.

In the listed ESUs, only ''naturally spawned'' populations of chinook salmon are listed. NMFS' intent in listing only these populations is to protect chinook salmon stocks that are indigenous to (i.e., part of) the ESUs. In this listing determination, NMFS has identified various non-indigenous populations that co-occur with fish in the California Coastal ESU. NMFS recognizes the difficulty of differentiating between indigenous and non-indigenous fish, especially when the latter are not readily distinguishable with a mark (e.g., fin clip). Also, matings in the wild of either type would generally result in progeny that would be treated as listed fish (i.e., they would have been naturally spawned in the geographic range of the listed ESUs and have no distinguishing mark). Therefore, to reduce confusion regarding which chinook salmon are considered listed within the ESUs, NMFS will treat all naturally spawned fish as listed for purposes of the ESA. Efforts to determine the conservation status of an ESU would focus on the contribution of indigenous fish to the listed ESU. It should be noted that NMFS will take actions necessary to minimize or prevent non-indigenous chinook salmon from spawning in the wild unless the fish are specifically part of a recovery effort.

NMFS has evaluated the relationship between hatchery and natural populations of chinook salmon in the listed ESUs (NMFS, 1999a). In the Central Valley spring-run ESU, spring-run chinook salmon (and their progeny) from the Feather River Hatchery stock are considered part of the ESU. However, they are not considered to be essential for its recovery and are not listed at this time. In the California Coastal ESU, chinook salmon (and their progeny) from the following hatchery stocks are considered part of the ESU: Redwood Creek, Hollow Tree Creek, Freshwater Creek, Mad River Hatchery, Van Arsdale Station, Yager Creek, and Mattole River fall-run stock. However, they too, are not considered to be essential for the ESU's recovery and are not listed at this time. In addition, NMFS concludes that fall-run chinook salmon from the following stocks are not part of the California Coastal ESU (thus, not listed): Warm Springs Hatchery stock and fall-run fish of Feather River or Nimbus Hatchery origin that are released in this ESU.

The determination that a hatchery stock is not ''essential'' for recovery does not preclude it from playing a role in recovery. Any hatchery population that is part of the ESU is available for use in recovery if conditions warrant. In this context, an ''essential'' hatchery population is one that is vital to incorporate into recovery efforts (for example, if the associated natural populations were extinct or at high risk of extinction). Under such circumstances, NMFS would consider taking the administrative action of listing existing hatchery fish.

NMFS' ''Interim Policy on Artificial Propagation of Pacific Salmon Under the Endangered Species Act'' (58 FR 17573, April 5, 1993) provides guidance on the treatment of hatchery stocks in the event of a listing. Under this policy, ''progeny of fish from the listed species that are propagated artificially are considered part of the listed species and are protected under the ESA.'' In the case of hatchery chinook populations considered to be part of the Central Valley spring-run ESU or California Coastal ESU, NMFS' protective regulations may not apply the take prohibitions to naturally spawned listed fish used as broodstock as part of an overall conservation program. According to the interim policy, the progeny of these hatchery-wild or wild-wild crosses would also be listed. Given the requirement for an acceptable conservation plan as a prerequisite for collecting broodstock, NMFS determines that it is not necessary to consider the progeny of intentional hatchery-wild or wild-wild crosses as listed (except in cases where NMFS has listed the hatchery population as well).

In addition, NMFS believes it may be desirable to incorporate naturally spawned fish into these unlisted hatchery populations to ensure that their genetic and life history characteristics do not diverge significantly from the natural populations. NMFS, therefore, concludes that it is not inconsistent with NMFS' interim policy, nor with the policy and purposes of the ESA, to consider these progeny as part of the ESU but not listed.

NMFS is not now issuing protective regulations under section 4(d) of the ESA for these ESUs. NMFS will propose such protective measures it considers

necessary for the conservation of chinook salmon ESUs listed as threatened in a forthcoming **Federal Register** document. Even though NMFS is not now issuing protective regulations for these ESUs, Federal agencies possess a duty under section 7 of the ESA to consult with NMFS if any activity they authorize, fund, or carry out may affect listed chinook salmon ESUs. The effective date for this requirement is November 15, 1999.

Prohibitions and Protective Measures

Section 9 of the ESA prohibits certain activities that directly or indirectly affect endangered species. These prohibitions apply to all individuals, organizations, and agencies subject to U.S. jurisdiction. Section 4(d) of the ESA directs the Secretary to implement regulations ''to provide for the conservation of [threatened] species,'' that may include extending any or all of the prohibitions of section 9 to threatened species. Section 9(a)(1)(g) also prohibits violations of protective regulations for threatened species implemented under section 4(d). NMFS intends to issue protective regulations pursuant to section 4(d) for the Central Valley spring-run and California Coastal ESUs, as well as for other threatened chinook salmon ESUs.

In the case of threatened species, NMFS also has flexibility under section 4(d) of the ESA to tailor the protective regulations based on the adequacy of available conservation measures. Even though existing conservation efforts and plans are not sufficient to preclude the need for listings at this time, they are, nevertheless, valuable for improving watershed health and restoring salmon populations. In those cases where well-developed and reliable conservation measures or plans exist, NMFS may choose to incorporate them into the recovery planning process starting with protective regulations. NMFS has already adopted ESA section 4(d) protective regulations that ''except'' a limited range of activities from section 9 take prohibitions. For example, the interim rule for Southern Oregon/Northern California Coast coho salmon (62 FR 38479, July 18, 1997) does not apply the take prohibitions to habitat restoration activities conducted in accordance with approved plans and fisheries conducted in accordance with an approved state management plan. In the future, such rules may contain limits on take prohibitions applicable to such activities as forestry, agriculture, and road construction when such activities are conducted in accordance with approved conservation plans.

These are all examples where NMFS may apply the modified ESA section 9 prohibitions in light of the protections provided in a conservation plan that is adequately protective. There may be other circumstances as well in which NMFS would use the flexibility of section 4(d) of the ESA. For example, if a healthy population exists within an overall ESU that is listed, it may not be necessary to apply the full range of prohibitions available in section 9. NMFS intends to use the flexibility of the ESA to respond appropriately to the biological condition of each ESU and to the strength of the efforts to protect them.

Section 7(a)(4) of the ESA requires that Federal agencies consult with NMFS on any actions likely to jeopardize the continued existence of a species proposed for listing and on actions likely to result in the destruction or adverse modification of proposed critical habitat. For listed species, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or conduct are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with NMFS.

Examples of Federal actions likely to affect chinook salmon in the listed ESUs include authorized land management activities of the USFS, BLM, and National Park Service, as well as operation of hydroelectric and storage projects of the BOR and U.S. Army Corps of Engineers (COE). Such activities include timber sales and harvest, hydroelectric power generation, and flood control. Federal actions, including the COE section 404 permitting activities under the Clean Water Act, COE permitting activities under the River and Harbors Act, National Pollution Discharge Elimination System permits issued by the Environmental Protection Agency, highway projects authorized by the Federal Highway Administration, Federal Energy Regulatory Commission (FERC) licenses for non-Federal development and operation of hydropower, and Federal salmon hatcheries, may also require consultation. These actions will likely be subject to ESA section 7 consultation requirements that may result in conditions designed to achieve the intended purpose of the project while avoiding or reducing impacts to chinook salmon and their habitat within the range of the listed ESU.

There are likely to be Federal actions ongoing in the range of the listed ESUs at the time the listing becomes effective. Therefore, NMFS will review all ongoing actions that may affect the listed species with Federal agencies and will complete formal or informal consultations, when necessary, for such actions pursuant to ESA section 7(a)(2).

Sections 10(a)(1)(A) and 10(a)(1)(B) of the ESA provide NMFS with authority to grant exceptions to the ESA's ''taking'' prohibitions. Section 10(a)(1)(A) scientific research and enhancement permits may be issued to entities (Federal and non-Federal) conducting research that involves a directed take of listed species.

NMFS has issued section 10(a)(1)(A) research or enhancement permits for other listed species (e.g., Snake River chinook salmon and Sacramento River winter-run chinook salmon) for a number of activities, including trapping and tagging to determine population distribution and abundance, and for collection of adult fish for artificial propagation programs. NMFS is aware of sampling efforts for chinook salmon within the listed chinook salmon ESUs, including efforts by Federal and state fisheries agencies and by private landowners. These and other research efforts could provide critical information regarding chinook salmon distribution and population abundance.

ESA section 10(a)(1)(B) incidental take permits may be issued to non-Federal entities performing activities that may incidentally take listed species. The types of activities potentially requiring a section 10(a)(1)(B) incidental take permit include the release of artificially propagated fish by state or privately operated and funded hatcheries, state or university research on other species not receiving Federal authorization or funding, the implementation of state fishing regulations, and timber harvest activities on non-Federal lands.

Take Guidance

On July 1, 1994, (59 FR 34272) NMFS and FWS published a policy committing the Services to identify, to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the ESA. The intent of this policy is to increase public awareness of the effect of a listing on proposed and ongoing activities within the species' range. NMFS believes that, based on the best available information, the following actions will not result in a violation of section 9: (1) Possession of chinook salmon from the listed ESUs acquired lawfully by permit issued by

NMFS pursuant to section 10 of the ESA, or by the terms of an incidental take statement pursuant to section 7 of the ESA; and (2) federally funded or approved projects that involve such activities as silviculture, grazing, mining, road construction, dam construction and operation, discharge of fill material, stream channelization or diversion for which a section 7 consultation has been completed, and when such an activity is conducted in accordance with any terms and conditions provided by NMFS in an incidental take statement accompanied by a biological opinion pursuant to section 7 of the ESA. As described previously in this notice, NMFS may adopt ESA section 4(d) protective regulations that ''except'' other activities from section 9 take prohibitions for threatened species.

Activities that NMFS believes could potentially harm, injure, or kill chinook salmon in the listed ESUs and result in a violation of section 9 of the ESA include, but are not limited, to the following: (1) Land-use activities in riparian areas and areas susceptible to mass wasting and surface erosion, which may disturb soil and increase sediment delivered to streams, such as logging, grazing, farming, and road construction; (2) destruction or alteration of chinook salmon habitat in these listed ESUs, such as removal of large woody debris and ''sinker logs'' or riparian shade canopy, dredging, discharge of fill material, draining, ditching, diverting, blocking, or altering stream channels or surface or ground water flow; (3) construction or operation of dams or water diversion structures with inadequate fish screens or fish passage facilities in a listed species' habitat; (4) construction or maintenance of inadequate bridges, roads, or trails on stream banks or unstable hill slopes adjacent to or above a listed species' habitat; (5) discharges or dumping of toxic chemicals or other pollutants (e.g., sewage, oil, gasoline) into waters or riparian areas supporting listed chinook salmon; (6) violation of discharge permits; (7) pesticide and herbicide applications; (8) interstate and foreign commerce of chinook salmon from the listed ESUs without an ESA permit, unless the fish were harvested pursuant to legal exception; (9) collecting or handling of chinook salmon from listed ESUs (permits to conduct these activities are available for purposes of scientific research or to enhance the propagation or survival of the species); and (10) release of non-indigenous or artificially propagated species into a listed species' habitat or where they may access the habitat of listed species. This list is not exhaustive. It is intended to provide some examples of the types of activities that might or might not be considered by NMFS as constituting a take of listed chinook salmon under the ESA and its regulations. Questions regarding whether specific activities will constitute a violation of this rule and general inquiries regarding prohibitions and permits should be directed to NMFS (see **ADDRESSES**).

Effective Date of Final Listing

Given the cultural, scientific, and recreational importance of chinook salmon and the broad geographic range of these chinook salmon ESUs, NMFS recognizes that numerous parties may be affected by the listings. Therefore, to permit an orderly implementation of the consultation requirements and take prohibitions associated with this action, the final listings will take effect on November 15, 1999.

Conservation Measures

Conservation benefits are provided to species listed as endangered or threatened under the ESA through increased recognition, recovery actions, Federal agency consultation requirements, and prohibitions on taking. Increased recognition through listing promotes public awareness and conservation actions by Federal, state, and local agencies, private organizations, and individuals.

Several conservation efforts are underway that may reverse the decline of west coast chinook salmon and other salmonids. NMFS is encouraged by these significant efforts, which could provide all stakeholders with a less regulatory approach to achieving the purposes of the ESA—protecting and restoring native fish populations and the ecosystems upon which they depend. NMFS will continue to encourage and support these initiatives as important components of recovery planning for chinook salmon and other salmonids.

To succeed, protective regulations and recovery programs for chinook salmon will need to focus on conserving aquatic ecosystem health. NMFS intends that Federal lands and Federal activities play a primary role in preserving listed populations and the ecosystems upon which they depend. However, throughout the range of the listed ESUs, chinook salmon habitat occurs and can be affected by activities on state, tribal, or private land.

Conservation measures that could be implemented to help conserve the species are listed here (the list is generalized and does not constitute NMFS' interpretation of a recovery plan under section 4(f) of the ESA). Progress on some of these is being made to different degrees in specific areas.

1. Measures could be taken to promote practices that are more protective of (or restore) chinook salmon habitat across a variety of land and water management activities. Activities affecting this habitat include timber harvest; agriculture; livestock grazing and operations; pesticide and herbicide applications; construction and urban development; road building and maintenance; sand and gravel mining; stream channelization; dredging and dredged spoil disposal; dock and marina construction; diking and bank stabilization; dam construction/operation; irrigation withdrawal, returns, storage, and management; mineral mining; wastewater/pollutant discharge; wetland and floodplain alteration; habitat restoration projects; and woody debris/structure removal from rivers and estuaries. Each of these activities could be modified to ensure that watersheds and specific river reaches are adequately protected in the short- and long-terms.

2. Fish passage could be restored at barriers to migration through the installation or modification of fish ladders, upgrade of culverts, or removal of barriers.

3. Harvest regulations could be modified to protect listed chinook salmon populations affected by both directed harvest and incidental take in other fisheries.

4. Artificial propagation programs could be modified to minimize negative impacts (e.g., genetic introgression, competition, disease, etc.) upon native populations of chinook salmon.

5. Predator control/relocation programs could be implemented in areas where predators pose a significant threat to chinook salmon.

6. Measures could be taken to improve monitoring of chinook salmon populations and their habitat.

7. Federal agencies such as the USFS, BLM, NPS, FERC, COE, U.S. Department of Transportation, and BOR could review their management programs and use their discretionary authorities to formulate conservation plans pursuant to section 7(a)(1) of the ESA.

NMFS encourages non-Federal landowners to assess the impacts of their actions on threatened or endangered salmonids. In particular, NMFS encourages state and local governments to use their existing authorities and programs and encourages the formation of watershed partnerships to promote conservation in accordance with ecosystem principles. These partnerships will be successful

only if state, tribal, and local governments, landowner representatives, and Federal and non-Federal biologists all participate and share the goal of restoring salmon to the watersheds.

Critical Habitat

Section 4(a)(3)(A) of the ESA requires that, to the extent prudent and determinable, critical habitat be designated concurrently with the listing of a species. Section 4(b)(6)(C)(ii) provides that, where critical habitat is not determinable at the time of final listing, NMFS may extend the period for designating critical habitat by no more than one additional year.

In the proposed rule (63 FR 11482, March 9, 1998), NMFS described the areas that may constitute critical habitat for these chinook salmon ESUs. Since then, NMFS has received numerous comments from the public concerning the process and definition of critical habitat for these and other listed salmonids. The agency needs additional time to complete the needed biological assessments and evaluate special management considerations affecting critical habitat. Therefore, critical habitat is not yet determinable for these ESUs, and NMFS extends the deadline for designating critical habitat for no more than 1 year until the required assessments can be made.

Classification

The 1982 amendments to the ESA, in section 4(b)(1)(A), restrict the information that may be considered when assessing species for listing. Based on this limitation of criteria for a listing decision and the opinion in *Pacific Legal Foundation* v. *Andrus*, 675 F.2d 825 (6th Cir., 1981), NMFS has categorically excluded all ESA listing actions from the environmental assessment requirements of the National Environmental Policy Act (NEPA) under NOAA Administrative Order 216–6.

As noted in the Conference Report on the 1982 amendments to the ESA, economic impacts cannot be considered when assessing the status of a species. Therefore, the economic analysis requirements of the Regulatory Flexibility Act (RFA) are not applicable to the listing process. In addition, this final rule is exempt from review under E.O. 12866.

This rule has been determined to be major under the Congressional Review Act (5 U.S.C. 801 *et seq.*)

At this time NMFS is not promulgating protective regulations pursuant to ESA section 4(d). In the future, prior to finalizing its 4(d) regulations for the threatened chinook salmon ESUs, NMFS will comply with all relevant NEPA and RFA requirements.

References

A complete list of all references cited herein is available upon request (see **ADDRESSES**) and can also be obtained from the internet at www.nwr.noaa.gov.

Change in Enumeration of Threatened and Endangered Species

In the proposed rule issued on March 9, 1998 (63 FR 11482), the Central Valley spring-run chinook salmon was added as an endangered species to paragraph (a) in § 222.23, while several threatened chinook salmon ESUs (including populations in the California Coastal chinook salmon ESU) were enumerated under § 227.4. Since that time NMFS has issued a final rule consolidating and reorganizing existing regulations regarding implementation of the ESA (64 FR 14052, March 23, 1999). In this reorganization, § 222.23 has been redesignated as § 224.101, and § 227.4 has been redesignated as § 223.102. Given these reorganized regulations, as well as the Central Valley spring-run ESU's revised status as threatened, both the Central Valley spring-run and the California Coastal chinook salmon ESUs are now designated in this final rule as paragraphs (a)(20) and (a)(21) and added under § 223.102, respectively.

List of Subjects in 50 CFR Part 223

Endangered and threatened species, Exports, Imports, Marine mammals, Transportation.

Dated: September 9, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 223 is amended as follows:

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

1. The authority citation for part 223 is revised to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*; 16 U.S.C. 742a *et seq.*; 31 U.S.C. 9701.

2. In § 223.102, paragraphs (a)(20) and (a)(21) are added to read as follows:

§ 223.102 Enumeration of threatened marine and anadromous species.

* * * * *

(a) * * *

(20) Central Valley spring-run chinook salmon (*Oncorhynchus tshawytscha*). Includes all naturally spawned populations of spring-run chinook salmon in the Sacramento River Basin, and its tributaries, California.

(21) California coastal chinook salmon (*Oncorhynchus tshawytscha*). Includes all naturally spawned populations of chinook salmon from Redwood Creek (Humboldt County, California) through the Russian River (Sonoma County, California).

* * * * *

[FR Doc. 99–24051 Filed 9–15–99; 8:45 am]

BILLING CODE 3510–22–F

Reader Aids

Federal Register

Vol. 64, No. 179

Thursday, September 16, 1999

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**
Presidential Documents	
Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**
Other Services	
Electronic and on-line services (voice)	**523–4534**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications:

http://www.access.gpo.gov/nara

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access:

http://www.nara.gov/fedreg

E-mail

PENS (Public Law Electronic Notification Service) is an E-mail service for notification of recently enacted Public Laws. To subscribe, send E-mail to

listserv@www.gsa.gov

with the text message:

subscribe PUBLAWS-L your name

Use listserv@www.gsa.gov only to subscribe or unsubscribe to PENS. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to:

info@fedreg.nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATES, SEPTEMBER

47649–48074 1
48075–48242 2
48243–48526 3
48527–48700 7
48701–48932 8
48933–49078 9
49079–49348 10
49349–49638 13
49639–49958 14
49959–50244 15
50245–50416 16

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
5030 (See Proc. 7219) 48701
7219.....48701, 49844
Executive orders:
April 1, 1915 (Revoked in part by PLO 7410) 48849
5327 (Revoked by PLO 7411).....49235
13090 (Amended by EO 13136).....48931
13136.....48931

5 CFR

Ch. IV.....49639
2634.....49639
Proposed Rules:
1630.....50012

7 CFR

246.....48075
272.....48246, 48933
273.....48246, 48933
274.....48933
300.....49079
301.....48245, 49079
400.....50245
729.....48938
923.....49349
924.....48077
947.....49352
948.....48079
955.....48243
1000.....47898
1001.....47898
1002.....47898
1004.....47898
1005.....47898
1006.....47898
1007.....47898
1012.....47898
1013.....47898
1030.....47898
1032.....47898
1033.....47898
1036.....47898
1040.....47898
1044.....47898
1046.....47898
1049.....47898
1050.....47898
1064.....47898
1065.....47898
1068.....47898
1076.....47898
1079.....47898
1106.....47898, 48081
1124.....47898
1126.....47898
1131.....47898
1134.....47898
1135.....47898
1137.....47898
1138.....47898
1139.....47898
1220.....49349
1448.....48938
1924.....48083
Proposed Rules:
210.....48459
220.....48459
225.....48459
226.....48459
246.....48115
354.....50331
928.....48115

9 CFR

93.....48258
381.....49640
Proposed Rules:
3.....48568
94.....50014

10 CFR

1.....48942
2.....48942
7.....48942
9.....48942
50.....48942
51 .....48496, 48507, 48942
52.....48942
60.....48942
62.....48942
72.....48259, 48942
75.....48942
76.....48942
100.....48942
110.....48942
Proposed Rules:
20.....50015
31.....48333
51.....48117
73.....49410

11 CFR

9003.....49355
9004.....49355
9008.....49355
9032.....49355
9033.....49355
9034.....49355
9035.....49355
9036.....49355

12 CFR

201.....48274
230.....49846
615.....49959
795.....49079
1730.....50246
Proposed Rules:
202.....49688

205 49699
213 49713
226 49722
230 49740
327 48719
380 48968

13 CFR

121 48275
123 48275

14 CFR

23 ....49365, 49367
25 47649
39 ....47651, 47653, 47656, 47658, 47660, 47661, 48277, 48280, 48282, 48284, 48286, 49080, 49961, 49964, 49966, 49969, 49971, 49974, 49977, 49979
71 ....47663, 47664, 47665, 48085, 48086, 48088, 48089, 48527, 48703, 48897, 49646, 49647, 49648, 49981, 50246, 50247, 50331
73 ....47665, 48090, 49373, 49374, 49376
97 ....49377, 49378, 49649
121 49981

Proposed Rules:

23 49413
39 ....47715, 48120, 48333, 48721, 48723, 490105, 49110, 49112, 49113, 49115, 49413, 49420, 49752, 50016, 50018, 50020, 50022, 50023
71 ....47718, 48123, 48459, 49754, 49755
1260 50334
1274 50334

15 CFR

742 ....47666, 49380, 50247
745 49380
746 49382
774 ....47666, 48956

Proposed Rules:

806 48568

16 CFR

1051 48703
1615 48704
1616 48704

Proposed Rules:

460 48024

17 CFR

30 50248

19 CFR

12 48091
113 48528
151 48528
178 48528
351 48706

Proposed Rules:

141 49423

21 CFR

5 ....47669, 49383
74 48288
173 49981
175 48290
178 ....47669, 48291, 48292
343 49652
510 48293
520 ....48295, 48543
522 ....48293, 48544
524 ....48707, 49082
556 ....48295, 48544
558 ....48295, 49082, 49383, 49655
1308 49982

Proposed Rules:

2 47719
111 48336

23 CFR

658 48957

Proposed Rules:

Ch. I 47741, 47744, 47746, 47749

24 CFR

35 50140
91 50140
92 50140
200 50140
203 50140
206 50140
280 50140
291 50140
511 50140
570 50140
572 50140
573 50140
574 50140
576 50140
582 50140
583 50140
585 50140
761 ....49900, 50140
881 50140
882 50140
883 50140
886 50140
891 50140
901 50140
906 50140
941 50140
965 50140
968 50140
970 50140
982 ....49656, 50140
983 50140
1000 50140
1003 50140
1005 50140

Proposed Rules:

203 49958
905 49924
906 49932
943 49942
990 48572

25 CFR

Proposed Rules:

151 49756

26 CFR

1 48545
301 48547

Proposed Rules:

1 ....48572, 49276, 50026

27 CFR

1 49984
4 ....49385, 50252
24 50252
200 49083

Proposed Rules:

4 50265
24 50265

28 CFR

32 49954
68 49659

Proposed Rules:

16 49117
302 48336

29 CFR

697 48525
2700 48707
4044 49986

30 CFR

52 ....49548, 49636
56 ....49548, 49636
57 ....49548, 49636
70 ....49548, 49636
71 ....49548, 49636

Proposed Rules:

206 50026
901 48573
914 50026
918 49118

32 CFR

321 49660
701 49850
1800 49878
1801 49878
1802 49878
1803 49878
1804 49878
1805 49878
1806 49878
1807 49878
2001 49388

33 CFR

110 49667
117 ....49391, 49669, 50253
165 ....49392, 49393, 49394, 49667, 49670

Proposed Rules:

117 47751
165 ....47752, 49424

34 CFR

74 50390
75 50390
76 50390
77 50390
80 50390
379 48052

36 CFR

251 48959
1254 48960

Proposed Rules:

242 49278
1228 50028

37 CFR

1 48900
2 48900
3 48900
6 48900
201 49671

39 CFR

111 48092

Proposed Rules:

776 48124
3001 50031
3002 50031
3003 49120
3004 50031

40 CFR

51 49987
52 ....47670, 47674, 48095, 48297, 48305, 48961, 49084, 49396, 49398 49400, 49404, 50254
62 ....47680, 48714
80 49992
141 49671
180 ....47680, 47687, 47689, 48548
271 ....47692, 48099, 49998
272 49673
300 48964
439 48103

Proposed Rules:

49 ....48725, 48731
51 50036
52 ....47754, 48126, 48127, 48337, 48725, 48731, 48739, 48970, 48976, 49425, 49756
62 48742
80 50036
97 50041
148 ....48742, 49052
180 50043
261 ....48742, 49052
264 49052
265 49052
268 ....48742, 49052
271 ....47755, 48135, 48742, 49052, 50050
272 49757
302 ....48742, 49052
403 47755
439 48103

41 CFR

Proposed Rules:

301–11 50051
301–74 50051

42 CFR

Proposed Rules:

435 49121
436 49121
440 49121

43 CFR

Proposed Rules:

3830 48897

44 CFR

206 47697

45 CFR

Ch. XXII 49409

46 CFR

Proposed Rules:

10 48136
15 48136
90 48136
98 48136
125 48136
126 48136
127 48136
128 48136
129 48136
130 48136

131....48136
132....48136
133....48136
134....48136
151....48976
170....48136
174....48136
175....48136

47 CFR

43....50002
63....47699
64....50002
73....47702, 48307, 49087, 49088, 49090, 49091, 49092, 49682, 50009, 50010, 50256, 50257
74....47702
90....50257

Proposed Rules:

1....49128, 49426, 50265
3....48337
15....49128
22....49128, 50265
24....49128, 50265
25....49128
26....49128, 50265
27....49128, 50265
51....49426
68....49426
73....49135, 50055, 50265, 50266
74....50265
76....49426
80....50265
87....50265
90....49128, 50265
95....49128, 50265
97....50265
100....49128
101....49128, 50265

48 CFR

Ch. 5....49844
Ch. 20....49322
225....49683
235....48459
237....49684
252....49684
552....48718
553....48718
570....48718
1806....48560
1813....48560
1815....48560
1835....48560
1852....48560
1872....48560

Proposed Rules:

8....49950
38....49950
212....49757
225....49757
252....49757

49 CFR

171....50260
383....48104
384....48104
390....48510
393....47703
571....48562
575....48564
581....49092
1000....47709
1001....47709
1004....47709

Proposed Rules:

390....48519
571....49135

50 CFR

17....48307
21....48565
223....50394
622....47711, 48324, 48326
635....47713, 48111, 48112
648....48965
660....48113, 49092, 50263
679....47714, 48329, 48330, 48331, 48332, 49102, 40103, 49104, 49685, 49686, 50264

Proposed Rules:

17....47755, 48743
25....49056
26....49056
29....49056
100....49278
600....48337
648....48337, 48757, 49139, 49427, 50266
697....47756

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT SEPTEMBER 16, 1999

AGRICULTURE DEPARTMENT

Federal Crop Insurance Corporation

Administrative regulations:

Statutory and regulatory provisions; interpretations; published 9-16-99

COMMERCE DEPARTMENT

Export Administration Bureau

Export administration regulations:

Syrian civilian passenger aircraft safety of flight; export and reexport of aircraft parts and components; license review policy; published 9-16-99

COMMODITY FUTURES TRADING COMMISSION

Foreign futures and options transactions:

Permitted transactions; Singapore International Monetary Exchange and Eurex Deutschland (Eurex); published 9-16-99

EDUCATION DEPARTMENT

Grants and cooperative agreements to State and local governments, higher education institutions, hospitals, and other non-profit organizations; OMB circular

s applicability; published 9-16-99

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Filing fees:

Annual update; published 8-17-99

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Human drugs:

Colloidal silver ingredients or silver salts (OTC); active ingredients not recognized as safe and effective or are misbranded; published 8-17-99

NUCLEAR REGULATORY COMMISSION

Gaseous diffusion plants; certification renewal and amendment processes; published 8-17-99

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Bell; published 8-12-99

Boeing; published 9-1-99

Dowty Aerospace Propellers; published 9-1-99

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Avocados grown in Florida and imported; comments due by 9-20-99; published 8-20-99

Blueberry promotion, research, and information order; comments due by 9-20-99; published 7-22-99

Referendum procedures; comments due by 9-20-99; published 7-22-99

AGRICULTURE DEPARTMENT

Food and Nutrition Service

Child nutrition programs:

National school lunch, school breakfast, summer food service, and child and adult care food programs; vegetable protein products requirements modification; comments due by 9-20-99; published 7-20-99

Food distribution program on Indian reservations:

Intentional program violations; disqualification penalties; comments due by 9-20-99; published 7-22-99

AGRICULTURE DEPARTMENT

Acquisition regulations:

Simplified acquisition procedures; comments due by 9-22-99; published 8-23-99

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Endangered and threatened species:

Critical habitat designation—

Puget Sound marine fishes; comments due by 9-20-99; published 6-21-99

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Gulf of Alaska groundfish; comments due by 9-20-99; published 8-3-99

Pollock; comments due by 9-24-99; published 9-14-99

Caribbean, Gulf, and South Atlantic fisheries—

Essential fish habitat; comments due by 9-20-99; published 8-3-99

Magnuson-Stevens Act provisions and Northeastern United States fisheries—

Domestic fisheries; exempted fishing permits; comments due by 9-20-99; published 9-3-99

Northeastern United States fisheries—

Spiny dogfish; comments due by 9-20-99; published 8-3-99

CONSUMER PRODUCT SAFETY COMMISSION

Bunk beds; safety standards; comments due by 9-22-99; published 7-9-99

DEFENSE DEPARTMENT

Acquisition regulations:

Streamlined payment practices; comments due by 9-20-99; published 7-20-99

ENERGY DEPARTMENT

Energy Efficiency and Renewable Energy Office

Energy conservation:

State Energy Program; Special Projects funding; comment request; comments due by 9-23-99; published 8-24-99

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:

Halogenated solvent cleaning; comments due by 9-20-99; published 8-19-99

Air programs:

Outer Continental Shelf regulations—

California; consistency update; comments due by 9-20-99; published 8-19-99

Air programs; approval and promulgation; State plans for designated facilities and pollutants:

Missouri; comments due by 9-20-99; published 8-19-99

Pennsylvania; comments due by 9-22-99; published 8-23-99

South Carolina; comments due by 9-23-99; published 8-24-99

Air quality implementation plans:

Preparation, adoption, and submittal—

Motor vehicle inspection/maintenance program requirements; comments due by 9-20-99; published 8-20-99

Air quality implementation plans; approval and promulgation; various States:

California; comments due by 9-20-99; published 8-19-99

Louisiana; comments due by 9-20-99; published 8-20-99

Maryland; comments due by 9-20-99; published 8-19-99

Pennsylvania; comments due by 9-24-99; published 8-25-99

Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:

Colorado; comments due by 9-24-99; published 8-25-99

Clean Air Act:

Interstate ozone transport reduction—

Nitrogen oxides budget trading program; Sections 126 and 110 rulemakings; unit-specific information for affected sources; comments due by 9-24-99; published 9-15-99

Hazardous waste program authorizations:

Louisiana; comments due by 9-24-99; published 8-25-99

North Carolina; comments due by 9-24-99; published 8-25-99

Hazardous waste:

Identification and listing—

Dye and pigment industries; comments due by 9-21-99; published 7-23-99

Exclusions; comments due by 9-20-99; published 8-4-99

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Bentazon, etc.; comments due by 9-20-99; published 7-21-99
Biphenyl, etc.; comments due by 9-20-99; published 7-21-99
Propargite; comments due by 9-20-99; published 7-21-99
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update; comments due by 9-20-99; published 7-22-99
National priorities list update; comments due by 9-20-99; published 8-19-99
National priorities list update; comments due by 9-20-99; published 8-19-99
National priorities list update; comments due by 9-24-99; published 8-25-99
Water pollution; effluent guidelines for point source categories:
Publicly owned treatment works; comments due by 9-20-99; published 7-22-99
Transportation equipment cleaning operations; comments due by 9-20-99; published 7-20-99

FEDERAL COMMUNICATIONS COMMISSION
Common carrier services:
Low-volume long-distance users; flat-rated charges; comments due by 9-20-99; published 8-5-99
Digital television stations; table of assignments:
Louisiana; comments due by 9-24-99; published 8-9-99

FEDERAL ELECTION COMMISSION
Rulemaking petitions:
Bopp, James, Jr.; comments due by 9-24-99; published 8-25-99

FEDERAL TRADE COMMISSION
Practice and procedure:
Effective relief provision where parties consent to entry of cease and desist order; consent settlements comment period shortened; comments due by 9-24-99; published 8-25-99

GENERAL SERVICES ADMINISTRATION
Federal Management Regulation:
Establishment as successor regulation to Federal Property Management Regulations; comments due by 9-20-99; published 7-21-99

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Food for human consumption:
Food labeling—
Shell eggs; refrigeration at retail establishments and safe handling labels; regulatory impact and flexibility analyses; comments due by 9-20-99; published 7-6-99
Shell eggs; safe handling statements, labeling, and refrigeration of eggs held for retail distribution; correction; comments due by 9-20-99; published 8-26-99
Soy protein and coronary heart disease; health claims; comments due by 9-22-99; published 8-23-99
Food lableing—
Shell eggs; safe handling statements, labeling, and refrigeration of eggs held for retail distribution; comments due by 9-20-99; published 7-6-99

HEALTH AND HUMAN SERVICES DEPARTMENT
Health Care Financing Administration
Medicare and Medicaid:
Nurse aide training programs loss; appeal; comments due by 9-21-99; published 7-23-99
Medicare:
Physician fee schedule (2000 CY); payment policies; comments due by 9-20-99; published 7-22-99

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
Low-income housing:
One-strike screening and eviction for drug abuse and other criminal activity; comments due by 9-21-99; published 7-23-99
Public housing developments; required conversion to tenant-based assistance; comments due by 9-21-99; published 7-23-99
Public housing developments; voluntary conversion to tenant-based assistance; comments due by 9-21-99; published 7-23-99
Public and Indian housing:
Rental voucher and certificate programs (Section 8)—
Management assessment program; technical amendment; comments due by 9-24-99; published 7-26-99

INTERIOR DEPARTMENT
Fish and Wildlife Service
Endangered and threatened species:
Canada lynx; comments due by 9-24-99; published 8-18-99

INTERIOR DEPARTMENT
Hearings and Appeals Office, Interior Department
Hearings and appeals procedures:
Indian affairs—
Indian trust estates; summary distributions authority; comments due by 9-23-99; published 8-24-99

INTERIOR DEPARTMENT
Surface Mining Reclamation and Enforcement Office
Permanent program and abandoned mine land reclamation plan submissions:
Virginia; comments due by 9-20-99; published 8-20-99

JUSTICE DEPARTMENT
Police Corps eligibility and selection criteria:
Educational expenses; timing of reimbursements; comments due by 9-20-99; published 6-21-99

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Acquisition regulations:
Risk management; comments due by 9-20-99; published 7-20-99

NUCLEAR REGULATORY COMMISSION
Rulemaking petitions:
Colorado and Organization of Agreement States; comments due by 9-20-99; published 7-7-99

POSTAL SERVICE
International Mail Manual:
Global Direct—Canada Publications Mail; comments due by 9-24-99; published 8-25-99

PRESIDIO TRUST
Management of the Presidio; general provisions, etc.:
Environmental quality; comments due by 9-21-99; published 7-23-99

SMALL BUSINESS ADMINISTRATION
Small business size standards:
Freight and cargo transportation arrangement industry; comments due by 9-24-99; published 7-26-99
General building contractors, heavy construction, dredging and surface cleanup, special trade contractors, garbage and refuse collection, and refuse systems; comments due by 9-24-99; published 7-26-99

TRANSPORTATION DEPARTMENT
Coast Guard
Offshore supply vessel regulations; revisions; meeting; comments due by 9-21-99; published 7-22-99

TRANSPORTATION DEPARTMENT
Standard time zone boundaries:
Nevada; comments due by 9-24-99; published 7-26-99

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Air traffic operating and flight rules, etc.:
Aircraft operator security; comments due by 9-24-99; published 8-10-99
Airport security; comments due by 9-24-99; published 8-10-99
Airworthiness directives:
Airbus; comments due by 9-20-99; published 8-20-99
Boeing; comments due by 9-20-99; published 7-21-99
Bombardier; comments due by 9-20-99; published 8-20-99
British Aerospace; comments due by 9-22-99; published 8-23-99
Dornier; comments due by 9-20-99; published 8-20-99
McDonnell Douglas; comments due by 9-20-99; published 8-6-99
MD Helicopters, Inc.; comments due by 9-20-99; published 7-20-99

Airworthiness standards:
Rotorcraft; transport category—
Rotorcraft performance; comments due by 9-20-99; published 8-19-99
Rotorcraft performance; correction; comments due by 9-20-99; published 8-31-99
Aviation safety:
Voluntarily submitted information; confidentiality protection; comments due by 9-24-99; published 7-26-99
Class E airspace; comments due by 9-20-99; published 8-4-99
Class E airspace; correction; comments due by 9-20-99; published 8-13-99
Commercial space transportation:
Launch site operation; licensing and safety requirements; comments due by 9-23-99; published 6-25-99

TREASURY DEPARTMENT
Alcohol, Tobacco and Firearms Bureau
Alcohol, tobacco, and other excise taxes:
Firearms; identification markings; comments due by 9-21-99; published 6-23-99

TREASURY DEPARTMENT
Internal Revenue Service
Estate and gift taxes:
Grantor retained annuity trust and grantor retained unitrust ; qualified interest definition; comments due by 9-20-99; published 6-22-99
Income taxes:
Allocation of purchase price in asset acquisitions; comments due by 9-20-99; published 8-10-99

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. 211/P.L. 106–48
To designate the Federal building and United States courthouse located at 920 West Riverside Avenue in Spokane, Washington, as the ''Thomas S. Foley United States Courthouse'', and the plaza at the south entrance of such building and courthouse as the ''Walter F. Horan Plaza''. (Aug. 17, 1999; 113 Stat. 230)

H.R. 1219/P.L. 106–49
Construction Industry Payment Protection Act of 1999 (Aug. 17, 1999; 113 Stat. 231)

H.R. 1568/P.L. 106–50
Veterans Entrepreneurship and Small Business Development Act of 1999 (Aug. 17, 1999; 113 Stat. 233)

H.R. 1664/P.L. 106–51
Emergency Steel Loan Guarantee and Emergency Oil and Gas Guaranteed Loan Act of 1999 (Aug. 17, 1999; 113 Stat. 252)

H.R. 2465/P.L. 106–52
Military Construction Appropriations Act, 2000 (Aug. 17, 1999; 113 Stat. 259)

S. 507/P.L. 106–53
Water Resources Development Act of 1999. (Aug. 17, 1999; 113 Stat. 269)

S. 606/P.L. 106–54
For the relief of Global Exploration and Development Corporation, Kerr-McGee Corporation, and Kerr-McGee Chemical, LLC (successor to Kerr-McGee Chemical Corporation), and for other purposes. (Aug. 17, 1999; 113 Stat. 398)

S. 1546/P.L. 106–55
To amend the International Religious Freedom Act of 1998 to provide additional administrative authorities to the United States Commission on International Religious Freedom, and to make technical corrections to that Act, and for other purposes. (Aug. 17, 1999; 113 Stat. 401)

Last List August 18, 1999

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, send E-mail to **listserv@www.gsa.gov** with the text message:

SUBSCRIBE PUBLAWS-L
Your Name.

Note: This service is strictly for E-mail notification of new public laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.