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

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 46

[Docket No. FV99–361]

Perishable Agricultural Commodities Act: Recognizing Limited Liability Companies

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) has amended the regulations under the Perishable Agricultural Commodities Act (PACA or Act) to recognize a limited liability company (LLC) as a legal entity, and also to recognize each member of an LLC, and/or any other person authorized by the members to conduct business on behalf of an LLC, as ''responsibly connected'' with the LLC, as defined in the PACA.

EFFECTIVE DATE: May 30, 2000.

FOR FURTHER INFORMATION CONTACT: Charles W. Parrott, Acting Chief, PACA Branch, Fruit and Vegetable Programs, AMS, USDA, Room 2095, So. Bldg., P.O. Box 96456, Washington, DC 20090–6456, phone (202) 720–2272. Email—charles.parrott@usda.gov.

SUPPLEMENTARY INFORMATION: This regulation is issued under authority of section 15 of the PACA (7 U.S.C. 499o).

Background

The Perishable Agricultural Commodities Act (PACA or Act) establishes a code of fair trade practices covering the marketing of fresh and frozen fruits and vegetables in interstate and foreign commerce. The PACA protects growers, shippers, distributors, and retailers dealing in those commodities by prohibiting unfair and fraudulent trade practices. In this way, the law fosters an efficient nationwide distribution system for fresh and frozen fruits and vegetables, benefiting the whole marketing chain from farmer to consumer. USDA's Agricultural Marketing Service (AMS) administers and enforces the PACA.

Any person who buys or sells commercial quantities of fruits and vegetables in interstate or foreign commerce must be licensed under the PACA. Under the Act and regulations, the term ''person'' means any individual, partnership, corporation, association, or separate legal entity. 7 USC 499a(b)(1); 7 CFR 46.2(i). Separate licenses are required for each person. A person is designated as ''responsibly connected'' with a firm under the PACA if that person is affiliated as an owner, as a partner in a partnership, or as an officer, director or holder of more than 10 percent of the outstanding stock of a corporation or association. 7 USC 499a(b)(9); 7 CFR 46.2(ff). In the event that a licensee is found to have violated the Act and USDA suspends or revokes the firm's license, then the licensee and its ''responsibly connected'' principals face PACA licensing and employment restrictions which may include the denial of a license, a prohibition on employment with another PACA licensee, or the requirement that a bond be posted as a prerequisite to licensing or employment in the fruit and vegetable industry. 7 USC 499h.

Previously, the PACA regulations did not specifically define a limited liability company as a ''person,'' although USDA policy was to recognize an LLC as a separate legal entity, just as LLC's are recognized in most states, subject to licensing under the PACA. The regulatory amendments herein codify that policy by expanding the current regulations to include LLC's under the PACA, especially with regard to the licensing of LLC's and the responsibly connected status of LLC members and managers.

Comments

A proposed rule to amend PACA regulations was published in the **Federal Register** on October 25, 1999 (64 FR 57405). The proposal sought to amend several of Title 7, Part 46, to recognize an LLC as a legal entity, and also to recognize each member of an LLC, and/or any other person authorized by the members to conduct business on behalf of an LLC, as ''responsibly connected'' with the LLC, as defined in the PACA. The proposal also sought revision of an information collection previously approved by the Office of Management and Budget (OMB). AMS received no comments, and therefore, is making no changes to the final rule.

Executive Orders 12866 and 12988

This final rule is issued under the Perishable Agricultural Commodities Act (7 U.S.C. 499 *et seq.*), as amended, and has been determined to be not significant for the purposes of Executive Order 12866, and therefore, has not been reviewed by OMB.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform and is not intended to have retroactive effect. This final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule.

Effects on Small Businesses

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*, USDA has considered the economic impact of this final rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121) as those with less than 500 employees. The PACA requires all businesses that operate subject to its provisions to maintain a license issued by USDA. There are approximately 15,700 PACA licensees, the majority of which may be classified as small entities.

The amendments to the PACA regulations recognize a limited liability company (LLC) as a legal entity under the PACA regulations, and revise the definition of ''responsibly connected'' under the regulations to include any member of an LLC, and/or any other person authorized by the members to conduct business on behalf of an LLC. The LLC business structure has become widely accepted throughout the United States as a new legal entity and these regulatory amendments clarify how

USDA deals with these entities and their principals under the PACA.

Like a sole proprietorship, partnership, corporation, or any other separate legal entity, a LLC, whether a small or large business, must obtain and maintain a valid PACA license if it buys or sells commercial quantities of fruits and vegetables in interstate or foreign commerce. AMS believes that this final rule will have no more impact on an LLC than the current PACA regulations have on sole proprietorships, partnerships, associations, or corporations operating subject to the PACA, whether large or small.

Since LLC's are required to be licensed under the PACA as a ''separate legal entity,'' they are subject to disciplinary actions by USDA for violating the PACA and regulations. Therefore, these regulatory amendments mainly impact those persons USDA considers as ''responsibly connected'' with the LLC. If USDA suspends or revokes a firm's license for PACA violations, the firm and any person found ''responsibly connected'' with the firm are restricted for a certain period of time from holding a PACA license or from being employed with another PACA licensee. These restrictions apply to any firm which has been found to have violated the PACA, regardless of the firm's size or type of ownership.

Given the preceding discussion, AMS has determined that the provisions of this final rule would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

In compliance with Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the information collection and record keeping requirements covered by this final rule were approved by OMB on November 29, 1999, and expire on April 30, 2001.

List of Subjects in 7 CFR Part 46

Agricultural commodities, Brokers, Penalties, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 46 is amended as follows:

PART 46—[AMENDED]

1. The authority citation for part 46 continues to read as follows:

Authority: Sec. 15, 46 Stat. 537; 7 U.S.C. 499o.

2. In § 46.2, paragraphs (i) and (ff) are revised to read as follows:

§ 46.2 Definitions.

* * * * *

(i) *Person* means any individual, partnership, limited liability company, corporation, association, or separate legal entity.

* * * * *

(ff) *Responsibly connected* means affiliation as individual owner, partner in a partnership, member, manager, officer, director or holder of more than a 10 percent ownership stake in a limited liability company, or officer, director or holder of more than 10 percent of the outstanding stock of a corporation or association.

3. § 46.4 is amended as follows:

a. Paragraphs (b)(3) and (b)(4) are revised,

b. Paragraphs (b)(6)(ii) and (b)(6)(iii) are removed,

c. Paragraph (b)(6)(iv) is redesignated as paragraph (b)(6)(ii) and revised,

d. Paragraphs (b)(6)(v) and (b)(6)(vi) are redesignated as paragraphs (b)(6)(iii) and (b)(6)(iv), and

e. The introductory text of paragraph (b)(6), and paragraph (c) are revised to read as follows:

§ 46.4 Application for license.

* * * * *

(b) * * *

* * * * *

(3) *Type of ownership.* If a corporation or limited liability company, the applicant shall furnish the month, day, and year incorporated or organized; the State in which incorporated or organized; the name in which incorporated or organized; and the address of the principal office. A limited liability company shall also furnish a copy of its articles of organization and its operating agreement.

(4) *Full legal name, all other names used, if any, and home address of owner.* If a partnership, the applicant shall furnish the legal names, all other names used, if any, and home address of all partners, indicating whether general, limited, or special partners. If a limited liability company, the applicant shall furnish the full legal names, all other names used, if any, and home address of all members, managers, officers, directors and holders of more than 10 percent of the ownership stake, and the percentage of ownership in the company held by each such person. If an association or corporation, the applicant shall furnish the full legal names, all other names used, if any, and home address of all officers, directors and holders of more than 10 percent of the outstanding stock and the percentage of stock held by each such person. Minors shall also furnish the full name and home address of their guardian. If the applicant is a trust, the name of the trust and the full name and home address of the trustee must be furnished. If the applicant is a limited liability company and a member or holder of more than 10 percent of the ownership stake is a partnership, another limited liability company, corporation, association, or separate legal entity, the applicant shall furnish the full legal names and home address of that member's partners, members, managers, directors, and officers.

* * * * *

(6) Whether the applicant, or in case the applicant is a partnership, any partner, or in case the applicant is a limited liability company, any member, manager, officer, director or holder of more than 10 percent of the ownership stake, or in case the applicant is an association or corporation, any officer, director, or holder of more than 10 percent of the outstanding stock, has prior to the filing of the application:

(i) * * *

(ii) Within three years been adjudicated or discharged as a bankrupt or was an officer, director, stockholder, partner, member, manager or owner of a firm adjudicated or discharged as a bankrupt. * * *

* * * * *

(c) The application shall be signed by the owner, all general partners, or in case the applicant is a limited liability company, a member or manager, or in case the applicant is an association, or corporation, a duly authorized officer.

* * * * *

4. In § 46.11, the first sentence is revised to read as follows:

§ 46.11 What constitutes valid license, form and use.

Each license shall bear a serial number, the names in which authorized to conduct business, type of ownership, if the business is individually owned, the name of the owner; if a partnership, the names of all general partners; if a limited liability company, the names of all members, managers, officers, directors and holders of more than 10 percent of the ownership stake, and the percentage of ownership in the company held by each such person; if a corporation or association, the names of all officers, directors, and shareholders of more than 10 percent of the outstanding stock and the percentage of stock held by each such person; the facsimile signature of the Deputy Administrator, the seal of the Department and shall be duly countersigned. * * *

5. In § 46.13, paragraphs (a)(2) and (a)(5) are revised to read as follows:

§ 46.13 Address, ownership, changes in trade name, changes in number of branches, changes in members of partnership, and bankruptcy.

* * * * *

(a) * * *

(2) Any change in officers, directors, members, managers, holders of more than 10 percent of the outstanding stock in a corporation, with the percentage of stock held by such person, and holders of more than 10 percent of the ownership stake in a limited liability company, and the percentage of ownership in the company held by each such person;

* * * * *

(5) When the licensee, or if the licensee is a partnership, any partner is subject to proceedings under the bankruptcy laws. A new license is required in case of a change in the ownership of a firm, the addition or withdrawal of partners in a partnership, or in case business is conducted under a different corporate charter, or in case a limited liability company conducts business under different articles or organization from those under which the license was originally issued.

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Dated: April 21, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–10481 Filed 4–27–00; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AG 30

List of Approved Spent Fuel Storage Casks: TN–68 Addition

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to add the Transnuclear TN–68 cask system to the list of approved spent fuel storage casks. This amendment allows holders of power reactor operating licenses to store spent fuel in the Transnuclear TN–68 cask system under a general license.

DATES: The final rule is effective May 30, 2000.

FOR FURTHER INFORMATION CONTACT: Gordon Gundersen, telephone (301) 415–6195, e-mail, GEG1@nrc.gov of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended (NWPA), requires that ''[t]he Secretary [of Energy] shall establish a demonstration program for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the NWPA states, in part, that ''[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 218(a) for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the NRC approved dry storage of spent nuclear fuel in NRC-approved casks under a general license, publishing a final rule, in 10 CFR part 72 entitled ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181, July 18, 1990). This rule also established a new Subpart L within 10 CFR part 72 entitled, ''Approval of Spent Fuel Storage Casks'' containing procedures and criteria for obtaining NRC approval of dry storage cask designs.

Discussion

This rule will add the Transnuclear TN–68 cask system to the list of NRC approved casks for spent fuel storage in 10 CFR 72.214. Following the procedures specified in 10 CFR 72.230 of Subpart L, Transnuclear submitted an application for NRC approval with the Safety Analysis Report (SAR) entitled ''Final Safety Analysis Report for the TN–68 Dry Storage Cask,'' dated January 23, 1998. The NRC evaluated the Transnuclear submittal and issued a preliminary Safety Evaluation Report (SER) and proposed Certificate of Compliance (CoC) for the Transnuclear TN–68 cask system. The NRC published a proposed rule in the **Federal Register** (64 FR 45920; August 23, 1999) to add TN–68 cask system to the listing in 10 CFR 72.214. The comment period ended on November 8, 1999. Three comment letters were received on the proposed rule.

Based on NRC review and analysis of public comments, the NRC staff has modified, as appropriate, its proposed CoC, including its appendices, the Technical Specifications (TSs), and the Approved Contents and Design Features for the Transnuclear TN–68 cask system. The NRC staff has also modified its preliminary SER.

The NRC finds that the Transnuclear TN–68 cask system, as designed and when fabricated and used in accordance with the conditions specified in its CoC, meets the requirements of 10 CFR part 72. Thus, use of the Transnuclear TN–68 cask system, as approved by the NRC, will provide adequate protection of public health and safety and the environment. With this final rule, the NRC is approving the use of the Transnuclear TN–68 cask system under the general license in 10 CFR part 72, subpart K, by holders of power reactor operating licenses under 10 CFR part 50. Simultaneously, the NRC is issuing a final SER and CoC that will be effective on May 30, 2000. Single copies of the CoC and SER are available for public inspection and/or copying for a fee at the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC.

Summary of Public Comments on the Proposed Rule

The NRC received three comment letters on the proposed rule. The commenters included an industry representative, an individual member of the public, and a utility. Copies of the public documents are available for review in the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington DC.

Comments on the Transnuclear TN–68 Cask System

The comments and responses have been grouped into eight subject areas: General, materials, crud, miscellaneous issues, technical specifications, comments on applicant's SAR, accidents, and radiation protection. To the extent possible, all of the comments on a particular subject are grouped together. A review of the comments and the NRC staff's responses follow:

A. General Comments

Comment A–1: One commenter requested that the general comments submitted by the commenter on the TN–32 rule apply to this rule as well.

Response: Comments that were general enough to apply to both the TN–32 and the TN–68 casks, were addressed in the response to the comments on the TN–32 rule (65 FR 14790, March 20, 2000). Specific comments are addressed in this rulemaking for the TN–68 cask.

Comment A–2: One commenter stated that the environmental assessment (EA) is ''tiered'' on documents having little to do with the dry casks of today and that an Environmental Impact Statement (EIS) for each generic design should be done.

Response: The NRC disagrees with the comment. The EA and Finding of No Significant Impact (FONSI) for this rule are limited in scope to the TN–68 in a generic setting. The NRC has given specific consideration to environmental impacts of dry storage and has not found any new information affecting the conclusion that these impacts are expected to be extremely small and not environmentally significant. Therefore, the NRC is not convinced that meaningful new environmental insights would be gained by performing an environmental impact analysis for each new cask that is certified. The EA covering the proposed rule, as well as the FONSI prepared and published for this final rule, fully comply with NRC's environmental regulations in 10 CFR part 51. The Commission's environmental regulations in part 51 implement the National Environmental Policy Act (NEPA) and give proper consideration to the guidelines of the Council of Environmental Quality (CEQ). The EA and FONSI prepared for the TN–68, as required by 10 CFR part 51, conform to NEPA procedural requirements. Tiering on past EISs and EAs is a standard process under NEPA. As stated in CEQ's 40 Frequently Asked Questions, the tiering process makes each EIS/EA of greater use and meaning to the public as the plan or program develops, without duplication of the analysis prepared for the previous impact statement.

Comment A–3: One commenter stated that decommissioning, transport, and disposal of fuel from these casks have not been adequately analyzed.

Response: The CoC for the TN–68 is for the storage of spent fuel. Decommissioning, transport, and disposal of fuel from the casks is beyond the scope of this rule.

Comment A–4: One commenter stated that the environmental impacts would not be the same for a general license and a site-specific license.

Response: The NRC disagrees with the comment. Each cask is designed and fabricated to specific design criteria whether it is licensed for site-specific or general use. The process for determining the environmental impact varies, but the cask must satisfy the same technical requirements. There are no significant environmental impacts using a spent fuel dry storage cask under either a site-specific or a general license.

Comment A–5: One commenter stated that previous fabricators of casks have not realized that the casks are made to store nuclear spent fuel and the quality of their work can affect the health and safety of the public. The commenter asked why the NRC is ''opening up'' the approval process to lower standards by fabricators, material suppliers, and inspectors.

Response: The NRC disagrees with this comment. All licensees/CoC holders must have a quality assurance (QA) program that has been approved by the NRC as part of the licensing or CoC issue process. This QA program must meet the requirements of 10 CFR 72.148 and 72.154 in regards to the selection of fabricators. The licensee/CoC holder is required to assure that all regulations and certificate conditions applicable to the cask are met. In addition, the licensee/CoC holders and fabricators are subject to NRC inspections to verify compliance.

Comment A–6: One commenter stated that the design should be built and tested before certification and that NRC approving a design without a test is wrong, and asked if the NRC is going to allow the first cask to be tested by a utility.

Response: The NRC disagrees with the comment. The TN–68 cask design has been reviewed by the NRC. The basis of the safety review and findings are clearly identified in the SER and CoC. Testing is normally only required when the analytic methods have not been validated or assured to be appropriate and/or conservative. In place of testing, the NRC staff finds acceptable analytic conclusions that are based on sound engineering methods and practices. As detailed in the SER, the NRC staff has reviewed the analyses performed by TN and found them acceptable.

Comment A–7: One commenter noted a lack of confidence that the vendor knows what it is doing when it is permitted by the NRC to make a best effort in the realm of testing and verification of weld quality.

Response: In fabrication, the specific nondestructive examination desired or otherwise required for a particular weld sometimes cannot be performed due to joint geometry or part configuration. As used here, the term ''best effort'' means the joint will be examined using other acceptable methods suitable for the application under the American Society of Mechanical Engineers (ASME) code. Specifically, on the weld of the bottom inner plate to the confinement shell where the weld cannot be examined by ultrasonic testing (UT), the weld will be examined by radiographic testing (RT) and either penetrant testing (PT) or magnetic particle testing (MT) under ASME Subsection NB requirements.

Comment A–8: One commenter stated that everything in the cask should be identified on the cask label in case documents are lost or destroyed.

Response: The NRC disagrees with this comment. NRC regulations do not require the identification of cask contents on permanent markings affixed to the cask. The need for labeling was evaluated during the rulemaking that established Subpart L in 10 CFR part 72 entitled ''Approval of Spent Fuel Storage Casks'' (55 FR 29193; July 18, 1990). The NRC notes that § 72.212(b)(8) requires that each general licensee accurately maintain a record for each cask that lists the spent fuel stored in the cask. The record must be maintained by the cask user until decommissioning of the cask is complete. Also, § 72.72 requires that records of spent fuel in storage must be kept in duplicate, with the duplicate set sufficiently remote from the original records that a single event would not destroy both sets of records.

Comment A–9: One commenter asked if the ''less than 1 gram-mole/cask'' recommendation listed on Page 8–2 of the SER came from PNL–6365, ''Evaluation of Cover Gas Impurities and Their Effects on the Dry Storage of LWR Spent Fuel,'' R.W. Knoll and E.R. Gilbert, Pacific Northwest Laboratory, Richland, Washington, November 1987; what kind of dry storage PNL evaluated; and what dry storage casks were in use before 1987? The commenter then added a recommendation that the reference be updated.

Response: The less than 1 gram-mole/cask limit is from the cited reference. The investigators evaluated four cask designs loaded with spent fuel, the MC–10, TN–24P, Castor-V/21, and MSF IV. Further details are contained in the report. Dry storage casks in use before 1987 were the Castor V/21, the MC–10, and the NUHOMS–7P. The NRC considers this reference material to be acceptable and that it does not need to be updated.

Comments A–10: One commenter recommended that detailed site-specific unloading procedures should not be developed by licensees. Instead, the NRC should fully inspect the procedures and place them in the PDR before any cask loading is done at the plant. The commenter also suggested that contamination control measures should be carefully thought out to adequately address the presence of fuel crud, and suggested that the generic review should pay more attention to a detailed plan for emergency cask unloading including how contamination

is controlled, especially crud, and how effluents are released.

Response: The NRC disagrees with this comment. The TN–68 Storage Cask System Design operating descriptions and analysis have been reviewed and accepted by the NRC. The NRC staff concluded in the SER that there was reasonable assurance that the cask unloading operations could be safely performed by qualified personnel using detailed procedures developed by the cask user at an ISFSI site. Cask general licensees must be licensed under 10 CFR 50. These licensees have sufficient infrastructure, experience, and processes in place to develop adequate detailed unloading procedures without prior NRC review. Detailed site-specific procedures for performing unloading operations, including contamination/effluent control measures, are required to be developed and demonstrated at each facility that uses the TN–68.

Comment A–11: One commenter stated that the use of a proprietary neutron shielding material is not in the interest of the public health and safety, and that the best neutron shielding material should be identified and available for use by all vendors and licensees.

Response: This comment is beyond the scope of this rule. The applicant's proposed materials have been found by the NRC staff to be acceptable. The critical attributes of the material are not proprietary and are specified in the CoC and SER.

Comment A–12: One commenter stated that the public would be better served if one design would be approved for casks rather than the large number that is being approved based on utilities choosing the least expensive designs.

Response: This comment is beyond the scope of this rule. NWPA gives NRC authority to approve multiple cask designs.

Comment A–13: One commenter asked where the decontaminated TN–68 components would be stored and where the remaining low-level waste would be disposed.

Response: This comment is beyond the scope of this rule. Disposal of low-level waste is covered by 10 CFR parts 20 and 61.

Comment A–14: One commenter stated that NRC is approving generic designs which allow site specific changes by utilities that use the casks and that this makes it difficult to establish a standardized, integrated total waste system for the United States. The commenter further stated that approval of generic designs is creating vendor competition to rapidly develop cheap designs with current materials instead of competition to create the best and safest designs. The commenter asked how many designs does the NRC plan to allow in the industry and how will approving a large number affect shipping and final disposal of spent nuclear fuel.

Response: This comment is beyond the scope of this rule. NWPA gives NRC authority to approve multiple cask designs.

Comment A–15: One commenter stated that NRC documents are long, repetitive, and hard to understand. The commenter also stated that the more people who go over these documents and ask questions, the better.

Response: The NRC agrees that documents should be easy to understand. Because the documentation necessary to license a storage cask is tiered and must be comprehensive to document the NRC staff's evaluation and findings, the documentation may be extensive. The NRC documents are available for public comment.

Comment A–16: One commenter disagreed that sabotage scenarios have been fully evaluated, and stated that sabotage evaluation for site-specific parameters should be updated.

Response: The NRC disagrees with the comment. The NRC reviewed potential issues related to possible radiological sabotage of storage casks at reactor site ISFSIs in the 1990 rule that added Subparts K and L to 10 CFR part 72 (55FR 29181; July 18, 1990). The NRC still finds the results of the 1990 rule current and acceptable. Spent fuel in the ISFSI is required to be protected against radiological sabotage using provisions and requirements as specified in 10 CFR 72.212(b)(5). Each Part 72 licensee is required by § 73.51 or § 73.55 to develop a physical protection plan for the ISFSI and to install a physical protection system that provides high assurance against unauthorized activities that could constitute an unreasonable risk to the public health and safety. Each ISFSI is periodically inspected by NRC, and the licensee conducts periodic patrols and surveillances to ensure that physical protection systems are operating within their design limits.

B. Materials

Comment B–1: One commenter asked what is a torispherical weather cover with elastomeric seals and why all dry cask designs should or should not have them.

Response: The torispherical weather cover is a protective cover that provides weather protection for the closure lid, top neutron shield, and overpressure system. The use of such a cover on other cask designs is beyond the scope of this rule.

Comment B–2: One commenter asked why TN is allowed to use alternative neutron shield materials as discussed in the CoC. The commenter also asked why the current materials of borated wrought aluminum alloy or BorALYN™ have not been approved with no alternative and why the best material is not chosen for the design at this point. The commenter stated a concern about the number and complexity of criteria for BorALYN™ fabrication in that it results in a complicated fabrication process. The commenter recommended that more research be conducted to find a better neutron shield material with less problems. The commenter stated that TN appears not to be satisfied with the current neutron shield materials because they ''envision an alternative candidate'' for which they need to develop appropriate qualification test data, and asked why TN and NRC are not waiting until the improved neutron shielding material is available before certification of the CoC.

Response: The applicant's proposed materials have been found acceptable by the NRC staff. After careful review of this material and its properties under various conditions, the staff is not aware of any problems with this material in its intended service.

Comment B–3: One commenter asked if the casks can be moved with the temperature above freezing.

Response: TS 3.1.6 requires that the loaded cask not be lifted if the outer surface of the cask is below −20°F. There is no other temperature restriction for moving the TN–68 cask.

Comment B–4: One commenter asked if the cask meets ASME code standards, asked if the applicant has adequately justified an exemption from the code requirements, and if the NRC staff has verified this action.

Response: The cask is designed, fabricated, and inspected under the appropriate subsections of the ASME Code. Exceptions to the ASME Code are listed in Table 4.1–1 of the TSs and Section 7 of the SAR. These exceptions and associated justifications and compensatory measures were reviewed by the NRC staff and found to have no adverse effects on the cask integrity. The basis for cask approval is documented in the SER.

Comment B–5: One commenter stated that the CoC specifications about fabricator verification of the quality of the welding of the inner plate to the confinement shell are somewhat vague and do not specify firm requirements. Examples cited were statements in the CoC that ultrasonic testing (UT) of the

weld will be performed on a best effort basis, the joint examination can be performed by a number of methods, the joint *may* be welded after shrink fitting of the shells, and that the geometry may not allow for UT examination. The commenter also asked if there had been problems with the shield weld in previous designs.

Response: The NRC disagrees that the specifications are vague. ASME Code, Section III, Division 1, Subsection NB–5231(b) requires either ultrasonic or radiographic examinations and either liquid penetrant or magnetic particle examinations be performed on the full penetration corner welded joints. Therefore, the applicant can choose either ultrasonic or radiographic examinations to inspect the corner weld. The bottom inner plate weld is inspected using ultrasonic examination methods if the weld is applied before the outer and inner shells are assembled. If the weld is applied after assembly, this inspection is done radiographically. Both methods will be supplemented by either liquid penetrant or magnetic particle examinations. The NRC staff is not aware of any problems with the shield weld designs.

Comment B–6: One commenter asked what the shrink fit process is and if it has been used and time tested before, questioned using shrink fit and frictional forces to keep the shells from separating, and asked if the shrink fit will be performed before the welding of the bottom confinement shell.

Response: The shrink fit is established as follows: The gamma shield shell and the confinement shell are fabricated separately. To obtain a close fit between these two shells, the outside diameter of the confinement shell is slightly larger than the inside diameter of the gamma shield shell. The gamma shield shell is preheated which causes it to expand before slipping on the confinement shell. As the gamma shield shell cools, it shrinks and tightly clamps onto the confinement shell. Shrink fit is a common industrial practice that has been used to fabricate various nuclear components including those used successfully in other NRC-approved casks. Fire, tipover, or seismic events would not cause the two shells to separate as demonstrated in Sections 3, 4, and 11 of the SAR. The SAR specifies welding either before or after shell assembly. As long as the confinement barrier is welded to meet ASME Code Section III, Subsection NB requirements, test standards, and acceptance standards, the barrier will conform with a standard that will satisfy all of the safety requirements for this application.

Comment B–7: One commenter stated that 30 days in the pool for a cask is a long time, and asked what happens to neutron absorber material, aluminum paint, etc., during this extended period of time. The commenter stated that assemblies left in a cask cavity in the pool are very different from just being in the pool out of the cask, and asked how fast the hot water is going to be exchanged with cooler pool water when fuel is left in the cask with the cover removed. The commenter also asked if the water in the pool is constantly cooled, how cask walls will affect that bit of pool water in the cask with the 68 assemblies compared to the rest of the pool, how cask materials will affect pool water and pool filters if left in the pool for 30 days, if crud will come off the assemblies that were dried and put back in the pool, if iron oxide will come off the paint, and what chemicals in the pool could be affected by the cask being in the pool for seven versus 30 days.

Response: The effect of the water on these materials is negligible. The reactions with pool water occur very slowly and give rise to only small amounts of hydrogen, ions, and/or precipitates in the pool water that are trapped by filters designed to capture small items from the water. This is true for aluminum, aluminum ''paint,'' and the stainless and coated ferrous materials used in this system. The aluminum is not a paint but it is aluminum and aluminum oxide that when applied as a liquid spray of aluminum to the cask surfaces, becomes tightly adherent to the substrate onto which it is applied. Some of the aluminum becomes an oxide of aluminum during this process. Neither the aluminum oxide nor the iron oxide is expected to come off the paint when exposed to pool water. The system is designed to allow the free movement of pool water into the cask with the lid removed, and systems are in place to constantly cool the pool water. The water in a BWR pool is typically pure water which has no chemical addition unless that chemical is evaluated on a site-specific basis. The questions specific to operation of the spent fuel pool are beyond the scope of this rule.

Comment B–8: One commenter stated that 48 hours without helium seems to be the maximum time for the basket and that even if fuel temperature limits are not reached, there could be basket damage. The commenter stated this should be made clearer in the CoC.

Response: The NRC agrees that there is a potential for exceeding the basket temperature limits after 48 hours. To protect the basket, the TSs require that the licensee initiate and complete a helium backfill procedure at the 42 and 48 hour marks, respectively. This is stated in TS bases B3.1.1 and B3.1.2, SER Section 4.5.2.4, and SAR Section 4.6.2.

Comment B–9: One commenter questioned a CoC statement that flaws in the gamma shield are not examined no matter what is typically observed in the material. The commenter suggested that a large crack could let water in and cause rusting of materials.

Response: The NRC disagrees with the comment. The gamma shield is a forged component. Flaws in forgings are very small. There is no safety related risk or materials problem related to the use of a forging in this application. The allowable flaws for various orientations and locations are stated in Appendix 3E of the SAR. Flaws of these sizes will not propagate under service conditions.

Comment B–10: One commenter asked why there are lower trunnions for rotating the cask from horizontal to vertical.

Response: The unloaded cask may be shipped from the manufacturer to the site in a horizontal orientation. The lower trunnions provide capability to rotate the cask to the vertical orientation before loading of spent fuel. The upper trunnions are the only components used for lifting the loaded cask.

Comment B–11: One commenter had a number of concerns related to the neutron source and neutron shielding. The commenter stated that enrichment, burn up, and fuel cooling time seem to be crucial to avoid having a neutron source too high. The commenter also stated that the neutron shield material choice and structure is flimsy and a better choice of material is needed, and that because in the SER the NRC stated ''all of the fire accident temperatures were below short-term design-basis temperatures with the exception of the neutron shield material,'' the design should use another material. The commenter asked what would be the expected result of a long term fire for the neutron material, why the design includes a neutron shield material that can off-gas during a fire, what gas would be given off by the combustion of the neutron shield, how the gas would react, if the gas is explosive, or if it would react with anything from a plane crash or truck bomb to make the problem worse. The commenter stated that the fire accident should be evaluated to consider the effects of neutron shield resin burnup. The commenter also stated that the KX–277 material in the VSC–24 design and the proposed resin shielding in TN casks can contain voids, is not strong, and is flammable, while alloys being discussed

for Yucca Mountain seem much better and more expensive. The commenter further stated that having a multipurpose cask with better shielding would be better in the long run instead of vendors using the cheapest materials.

Response: The NRC concurs with the comment on the parameters important to a neutron source term. These parameters are controlled in Section 2 of the TSs. The NRC staff disagrees that a different neutron shield material is needed. The proposed material was evaluated and found to satisfy the safety requirements for the application. The top neutron shield and the radial neutron shield have not been designed to withstand all of the hypothetical accident conditions. Cask structural analyses have been performed assuming that the neutron shield is completely removed during accident conditions. The results indicate that the cask without the neutron shield is adequately designed to withstand various load combinations of the accident condition as presented in Sections 2, 3, 4, and 11 of the SAR. The cask has been analyzed for the post-fire condition and has been found to meet the dose requirements of 10 CFR 72.106 even without the neutron shielding being present. The question on a long-term fire is beyond the testing/analysis required by Part 72. The radial neutron shield is a polymeric material that includes about 50 weight percent fire-retardant mineral fill, which makes it self-extinguishing. The polymeric neutron shield materials may char or off-gas if directly exposed to fire or high temperatures. The applicant has modified the SAR to address the combustibility of the neutron shield. The off-gas products are formed from a very small fraction of the total neutron shield mass and are not explosive but may burn during the fire. The heat input from this reaction would be insignificant relative to that of the design basis fire. Comments on the VSC–24 material, Yucca Mountain, and multipurpose casks are beyond the scope of this rule.

Comment B–12: One commenter asked about information included on Section 4.5.2.4 of the SER. Specifically, the commenter asked if partial pressure injection of helium had ever been performed for a similar cask, where, and what were the results. The commenter also asked if the air-helium mixture will really work. Further, the commenter stated that the NRC referred to a ''different cask system'' and asked what data is applicable to the different cask system and if it can apply to the TN–68 design.

Response: The purpose of the helium injection is to improve the thermal conductivity of the fill gas as a temporary measure to provide an opportunity to troubleshoot and repair any problems during the drying or helium fill process. ISG 7, ''Potential Generic Issue Concerning Heat Transfer in a Transportation Accident'' dated October 2, 1998, provides NRC staff guidance for mixtures of gases within a spent fuel storage cask. In support of ISG–7, a sensitivity study was performed to evaluate the relative change in cladding temperatures as a result of significant reductions in the thermal conductivity of the fill gas (*e.g.,* 30% that of helium). This evaluation found that the cladding temperature was relatively insensitive to gas thermal conductivity as evidenced by an increase in the fuel cladding and bulk gas temperatures of about 3%. The NRC staff did not review or require any testing of the helium injection process based on the analysis performed for ISG–7 and the restrictions, imposed by the TN–68 TSs, on operations without a full helium environment to maintain the desired protection for the cladding.

Comment B–13: One commenter stated that the SER states the NRC staff projected a peak cladding temperature lower than the long term storage cladding temperature limit if the fabrication results in gaps of 0.05 in. or less between component layers. The commenter asked if the NRC would accept up to a 0.05 inch gap and why the applicant's assumed gap of 0.01 in. should not be the fixed limit.

Response: Gaps between the various cask components were assumed in the analysis to account for fabrication and assembly tolerances and uncertainties. The implemented QA program at the fabricator's facility provides reasonable assurance that the as-built casks will have gaps that are less than or equal to those assumed in the analysis. In the context of the statements referenced by the commenter, the NRC performed a sensitivity analysis to evaluate the response of the cask thermal performance to increased gap sizes. The results of that evaluation found that gaps could be five times that assumed in the analysis and the fuel cladding would remain within temperature limits.

Comment B–14: One commenter expressed concern over the continued efficacy of the neutron absorber plates over 20 years of storage. In addition, the commenter stated that the NRC needs to look more carefully at issues such as unexpected erosion or corrosion, potential explosions, and cracks in welds for the life of the cask. The commenter also stated dislike of materials used in this design including poured resin, borated aluminum, and metal matrix.

Response: The neutron absorber is designed to remain effective in the TN–68 system for a storage period greater than 20 years. Section 6.3.2 of the TN–68 SAR describes the neutron absorber and its environment, and evaluates boron depletion due to neutron absorption. Section 9.1.7 of the SAR describes the testing procedures for the neutron absorber material, which will be manufactured and tested under the control and surveillance of a quality assurance and quality control program that conforms to the requirements of 10 CFR part 72, subpart G. The compositions and densities for the materials in the computer models were reviewed by the NRC staff and determined to be acceptable. The NRC staff notes that these materials are not unique and are commonly used in other spent fuel storage and transportation applications.

The NRC staff disagrees that the stated issues need to be looked at more carefully. The NRC is already looking carefully at the materials that may impact the safe performance of storage systems. As part of this effort, the NRC has participated, over the past several years, in the work of a Task Group of Subcommittee C26.13 of the American Society of Testing and Materials on life extension questions. This Task Group has been developing guidance for components of storage cask systems for periods up to a 100-year service life. This work is taken into account in the reviews that are ongoing for storage systems. Erosion and corrosion are not expected to occur at any level significant enough to affect safe performance of components of the cask. The TN–68 is designed to withstand an external pressure of 25 psi. This would include a nearby explosion, debris falling on the cask, etc. If a credible explosion is identified that would apply more than 25 psi to the outer surface of the cask at a site, the site will have to address this issue in its 10 CFR 72.212 evaluation. Any cracks in welds or other flaws in components are small in relation to what is needed to extend these cracks in service. Fracture mechanics calculations can be used to show them to be stable (will not propagate) for the levels of stress to be sustained in service.

Regarding the commenter's dislike for particular materials, material selection is the applicant's responsibility. The applicant must demonstrate that the materials and the materials' properties satisfy the requirements for a given application.

Comment B–15: One commenter recommended that the installation of a blind flange on the overpressure monitoring system (OMS) to mitigate a latent seal failure event should be tested to verify that it will work.

Response: The NRC disagrees with this comment. The possibility of the occurrence of the events needed to occur concurrently for a latent seal failure event is judged to be very remote. If this unlikely event were to occur, the mitigative action to install a blind flange at the OMS port is straightforward and well within the capability of a nuclear power plant licensee. Therefore, the NRC has reasonable assurance that the action can be taken without additional testing.

Comment B–16: One commenter asked the NRC to explain ''bubble leak tests'' in relation to resin enclosures and leak passages on weld enclosures. The commenter also asked how test failures are rectified and rechecked.

Response: This test is described in ANSI 14.5–97, ''American National Standard for Radioactive Materials—Leakage Tests on Packages for Shipment'' February 1998. Deficiencies are evaluated, repaired, and retested under the cask vendor's QA program, as described in SAR Section 13.

Comment B–17: One commenter stated that the following editorial corrections should be made in the TS: On the bottom of page 1.2–1, ''continued'' should be moved above the line; on page 1.3–5, ''Time the'' should be moved from the first column to the second column of information; on the bottom of page 3.0–1, ''continued'' should be added below the line; at the top of page 3.0–2, ''3.0 LCO APPLICABILITY (continued)'' should be added; at the bottom of the page 3.0–2, ''continued'' should be moved above the line; at the top of page 3.0–4, the ''continued'' above the line should be deleted and the ''continued'' below the line should begin with a lower case letter; and on page 3.1.1–1, the double line separating conditions B and C should be changed to a single line.

Response: The NRC agrees with these changes. The TSs have been reformatted accordingly.

Comment B–18: One commenter stated that on drawing 972–70–2 of the SAR, the materials for the protective cover should be changed to SA–516 GR. 70 or SA–105 to allow the cover flange to be made from a forging.

Response: The NRC accepts this change to the protective cover materials because the material properties are the same. This change will not affect the structural analyses and the conclusions reached in the SER. Drawing No. 972–70–2 has been changed accordingly.

Comment B–19: One commenter stated that on drawing 972–70–3 of the SAR, a note should be added to allow the protective cover flange to be made from a one-piece forging.

Response: The NRC accepts this change because it will not affect the structural analyses and the conclusions reached in the SER. Drawing No. 972–70–3 has been changed accordingly.

Comment B–20: One commenter stated that the material of the metallic seals described in Chapters 2 and 7 should be changed to allow a stainless steel or nickel alloy liner.

Response: The NRC agrees with this comment. The use of either stainless steel or nickel alloy is acceptable to the NRC staff. The SAR has been changed to reflect this change.

Comment B–21: One commenter stated that on page 3–5 of the SER, the basis for the allowable stress for the 6061–T6 alloy is in error.

Response: The NRC disagrees with this comment. The basis for the allowable stress for the 6061–T6 alloy is Section III of the ASME Code, as stated in Section 3.1.4 on page 3–5 of the SER.

C. Crud

Comment C–1: One commenter asked what would be done if cask vent flow of saturated steam could not be discharged into the spent fuel pool during reflooding of the cask before unloading. The commenter also asked what conditions could preclude discharge to the spent fuel pool, specifically asking about too much radioactivity, failed fuel, crud, fuel fines, and iron oxide debris.

Response: As shown in SAR Figure 8.2.1, the cask may be vented to the spent fuel pool or to the radwaste system. The reasons suggested by the commenter that may impact the cask vent location are interpreted to be primarily radiological concerns. The procedure descriptions for cask unloading include appropriate reference to development of site-specific procedures and actions that will maintain exposures to workers and radiological releases to the environment as low as reasonably achievable (ALARA). The details of where the cask will be vented are a site-specific matter and beyond the scope of this rule.

Comment C–2: One commenter has a number of concerns about crud on boiling water reactor (BWR) fuel: What material composes the crud and should it be allowed in a cask; how crud is analyzed in all aspects of cask loading, transfer, storage, and unloading, and when fuel is put back in the pool and then loaded in a transport cask or placed in different reactor pools; what happens to the dried crud when it is put back into the pool, and how it affects pool water quality; whether crud covers defects in cladding that may be revealed when it dries and falls off; and if BWR crud is different than pressurized water reactor (PWR) crud.

Response: Crud generally consists of oxides of metals (*e.g.,* Co, Mn, Cr, Fe, Zr, Zn) that are not chemically reactive in the storage cask environment. The crud collects on the exterior of the fuel cladding during reactor operation. The crud particles for BWR fuel are very small with diameters ranging from 0.1 to 10 micrometers as reported in SAND88–1358, ''Estimate of Crud Contribution to Shipping Cask Containment Requirements'' January 1991. SAND88–1358 found that the crud on BWR fuel was less adherent than that found on PWR fuel. Some crud may be dislodged or spall from the fuel cladding during spent fuel dry storage or handling; however, there were no differences reported in the spallation behavior of crud between the two fuel types.

The safety concern associated with crud is its radiological impact. The analysis provided by the applicant uses a bounding assumption for crud activity of 1254 $\mu Ci/cm^2$ of Cobalt-60 (this was the maximum activity level found by actual inspection of BWR fuel) distributed over the entire fuel cladding surface. The analysis demonstrates with reasonable assurance that fuel loading, storage, and unloading can be performed safely. The NRC agrees with the commenter that some crud may be flushed from the cask to the spent fuel pool as a part of the unloading process. The operating procedure descriptions address this possibility and the precautions for handling this situation.

Regarding the impact of crud in the spent fuel pool, there is crud from wet fuel storage already present in a spent fuel pool and the amount of crud from the spent fuel cask is expected to be very small. If any crud is discharged to the spent fuel pool, it would be captured in the spent fuel pool filtration system.

Regarding the concern with crud covering defects in cladding and later being revealed when the crud dries and falls away from the defect, the effects of the dislodged crud were addressed earlier in this comment response. The comment also raises the possibility that a cladding defect may be covered by crud, thus allowing the defect to go undetected during visual inspection of the fuel before loading. Cask users must ensure that the fuel loaded into the cask meets the requirements of TS 2.1.1. This

TS precludes loading fuel that has known cladding defects greater than pinhole leaks or hairline cracks. Cask users may use a variety of screening methods to ensure that the fuel meets the TS requirements. These screening methods include review of operational records, visual inspections, fuel assembly sipping, and ultrasonic examination. Because multiple screening methods are used, the NRC has reasonable assurance that the fuel can be adequately screened for compliance with the TS requirements. Further, if a postulated assembly with a cladding defect not meeting the TS requirements was loaded, the NRC does not expect a significant adverse impact in the radiological consequences because the confinement system remains intact during normal, off-normal, and accident conditions.

The impacts of crud on transportation activities are beyond the scope of this rule.

Comment C–3: One commenter stated in reference to page 9–4 of the SER that during unloading a problem could arise due to precipitates, or second-phase particles, even if titanium decreases their size, and noted that any particle or precipitate in unloading, along with crud, etc., is going to be a big concern.

Response: The NRC interprets the comment as a concern for potential loose particles in the cask cavity and disagrees that the particles and precipitates, discussed on page 9–4 of the SER, are a cause for concern in unloading. The discussion on page 9–4 of the SER refers to boride precipitates that are components of the metal matrix in the borated aluminum plate and will not separate from the plate material during unloading. In response to the commenter's question about other particulates, including crud, Comment C–2 responds to that concern.

D. Miscellaneous Items

Comment D–1: One commenter stated that reference 4 on Page 5–7 of the SER should be revised or updated. Specifically, the commenter stated that more current references than those from the 1970's should be used or the NRC should do new research in the area to develop more recent guidance for design review.

Response: As stated on Page 5–2 of the SER, references 4 and 5 were consulted by the NRC staff to determine the appropriate values for the assumed cobalt impurity levels in the fuel assembly hardware. Reference 5 is more recent and was published in 1993.

Comment D–2: One commenter asked what is the ''potentially oxidizing material'' that must be removed from the cask to protect the fuel cladding during storage.

Response: Potentially oxidizing impurities include oxygen, carbon dioxide, carbon monoxide, and water. Oxidizing impurities, their removal, and their effects are discussed in detail in PNL–6365, ''Evaluation of Cover Gas Impurities and Their Effects on the Dry Storage of LWR Spent Fuel'' November 1987.

Comment D–3: One commenter requested that ''fuel fines'' be defined.

Response: From NUREG/CR–6487, ''Containment Analysis for Type B Packages Used to Transport Various Contents'' November 1996, fuel fines are particulate material composed of fuel compounds and are produced as a result of mechanical stresses at both the fuel-cladding interface and the fuel pellet-fuel pellet interface. This definition is applicable to both transport and storage of light water reactor spent fuel.

Comment D–4: One commenter recommended that reference 9, in NRC Regulatory Guide 1.25, U.S. Nuclear Regulatory Commission, ''Assumptions Used for Evaluating Accidents in the Fuel Handling and Storage Facilities for Boiling and Pressurized Water Reactors' (March 1972), should be revised by the NRC and updated.

Response: Updating this Regulatory Guide is beyond the scope of this rule.

Comment D–5: One commenter suggested that a berm be used in the design.

Response: Under 10 CFR 72.212(b)(2), each general licensee who uses the TN–68 cask must perform an evaluation to show that the regulatory off-site dose limits are met at the licensee's site. The evaluations are made available for NRC inspection and review. Depending on a number of site specific factors including cask array size and distance to the nearest member of the public, a berm may or may not be needed.

Comment D–6: One commenter suggested that reference 1 listed on Page 10–4 of the SER, dated 1978, be updated.

Response: Updating reference 1 (Regulatory Guide 8.8) is beyond the scope of this rule.

Comment D–7: One commenter stated that on page 3–5 of the SER, the third paragraph ends in an extraneous ''0.''

Response: The NRC agrees with this comment and the SER has been changed accordingly.

Comment D–8: One commenter stated that on page 7–6 of the SER, reference 5 should be updated to reflect issuance of ISG–5, Revision 1.

Response: The NRC agrees with this comment. ISG–5 Revision 1 and the draft of the TN–68 SER were issued at nearly the same time. Because the principles and methods described in the revised ISG were reflected in the SER, it is appropriate to revise the SER to update this reference.

E. Technical Specifications

Comment E–1: One commenter stated that the use of logical connectors makes technical specifications difficult to read. The commenter asked if industry workers have commented on the technical specifications and find them easy to understand.

Response: The NRC disagrees with the comment. The TSs are modeled on the Improved Standard Technical Specifications (ISTS) for power reactors. The ISTS were developed as a result of extensive technical meetings and discussions between the NRC staff and the nuclear power industry in the early 1990's, in an effort to improve clarity and consistency of the power TSs and to make them easier for the operators to use. The most likely users of the TN–68 TSs are power reactor licensees familiar with the format of the ISTS.

Comment E–2: One commenter questioned why there are extensions of time intervals in the surveillance requirements and stated that the surveillance should be done according to schedule. The commenter stated that the 25-percent extension of the specified interval for performance of surveillance in the TS will be confusing and used when not applicable. The commenter also stated the same goes for the delay period of up to 24 hours or up to the limit of the specified frequency when it is discovered a surveillance has not been performed. The commenter suggested that extensions and extra leeway should be the explained exceptions rather than the regular allowance, and that the writeups were too complicated with too many options.

Response: The NRC disagrees that extensions of time should not be allowed. The basis for surveillance requirement (SR) 3.0.2 is discussed in the TN–68 Technical Specification Bases Section B 3.0 ''Surveillance Requirement Applicability.'' This section explains the NRC staff's rationale for allowing a 25-percent extension in the completion of periodic surveillances. The NRC staff believes that the 25-percent extension does not significantly degrade the reliability that results from performing the surveillance at its specified frequency. For those cases where it is necessary to adhere to a strict time frame for completing a surveillance, the specific SR will state that the 25-percent extension of SR 3.0.2 is not applicable. The 25-percent extension is also not applicable in cases

when a surveillance frequency is specified by a regulation, because regulatory requirements take precedence over TSs. The NRC staff believes that the provisions of SR 3.0.2 are clear to users of the TSs, and that they will ensure that all required surveillances will be performed within an acceptable time period, consistent with the NRC staff's safety analyses.

Comment E–3: Two commenters requested changes to the maximum rod pitch and minimum rod outside diameter in TS 2.1. One commenter requested removal of these parameters because they cannot be verified by direct means. The other commenter requested that the values be specified as nominal [in the TS].

Response: The NRC disagrees with removing the parameters and changing them to nominal values. This design information is crucial to the conclusions reached by the NRC staff in its SER. The rod pitch and diameter, along with other design parameters, already include any design tolerances considered in the SAR. As stated in the TS bases for TS2.1, that have been modified for clarification, these parameters may be checked by administrative review.

Comment E–4: Two commenters requested changes to the maximum uranium content in TS 2.1. One commenter requested removal of this parameter because it may be overly restrictive. The other commenter requested that the values be specified as nominal.

Response: The NRC staff disagrees that the maximum uranium content parameters should be changed. This design information is crucial to the conclusions reached by the NRC staff in its SER. The TS limits on uranium content are based on the most limiting values used in the criticality and shielding analyses and include any design tolerances considered in the SAR. SAR table 5.2–1 shows that the calculated maximum uranium content used in the shielding analysis is higher than actual values. Although TS Basis 2.1.1 states that the shielding evaluation is based on nominal uranium content, the values used in the SAR evaluation are either greater than or equal to the TS values. TS Basis 2.1.1 has been changed to clarify those values.

Comment E–5: Two commenters stated that the channel thickness in TS 2.1 should be identified as a nominal value instead of a maximum [in the TS].

Response: The NRC staff agrees with this comment. However, the applicant provided the maximum rod channel thickness and the supporting analysis in its submittal, and did not provide analysis to support nominals. Therefore, the TS has not been changed, although the basis has been modified for clarification.

Comment E–6: One commenter asked what are boiling water reactor (BWR) fuel assembly channels.

Response: A fuel channel is the part of the BWR fuel assembly that surrounds the fuel bundle. The channel is located between the upper and lower tie plate and is made of Zircaloy. Channels perform functions that form a flow path for bundle coolant flow, provide surfaces for control rod guidance, provide structural stiffness to the bundle, and provide for in-core fuel sipping.

Comment E–7: Two commenters stated that the parameter labeling of Table 2.1.1–1 of the TS should be revised as Minimum Initial Enrichment and Maximum Burnup.

Response: The NRC agrees with this comment for clarification of values. TS Table 2.1.1–1 has been revised to use the terms Minimum Initial Enrichment and Maximum Burnup. Footnotes clarifying that the actual minimum enrichment is to be rounded down and burnup is to be rounded up were also added to the Table. Additionally, a discussion related to the footnotes was added to the bases for the TSs (B2.1.1) located in Chapter 12 of the SAR.

Comment E–8: One commenter asked for clarification on whether the cask could be put in the pool for 30 days or only 7 days when cask cavity drying pressure could not be established within limits, and if so, why.

Response: TS 3.1.1 provides the requirements for cask cavity vacuum drying. The action statements are to be implemented when a condition requiring entry into the ACTIONS exists. The action statements for this TS provide for interim cooling of the fuel and basket by establishment of a nominal helium environment if vacuum drying was not completed within the specified time. A 7-day limit to unload fuel is applicable if a nominal helium environment is not achieved. A longer, 30-day limit to unload fuel is applicable when a nominal helium environment has been achieved. These time limits provide time to take reasonable measures to complete fuel unloading while minimizing the time duration that the fuel is in a condition other than that required for long term storage. A complete discussion is provided in the bases for this TS.

The time limits do not imply how much time the cask must spend in the pool. The actual amount of time the cask is in the pool is a site-specific issue and beyond the scope of this rule. However, when the cask is returned to the pool and the lid is removed, the water surrounding the fuel will provide adequate cooling.

Comment E–9: One commenter stated that an example 1.4–3 of an ''otherwise stated'' exception to the applicability to the surveillance required by Limiting Condition for Operation (LCO) 3.1.6 should be added to the TS.

Response: NRC disagrees with this comment. The existing examples of Section 1.4 provide sufficient clarification for the correct interpretation of the TSs. These examples were developed as part of the Improved Standard Technical Specifications initiative through extensive interactions between the NRC staff and industry representatives. TS 3.1.6 clearly indicates when the surveillance requirement applies, and no additional explanation is considered necessary.

Comment E–10: One commenter stated that on page 3.1.1–1 of the TS, LCO 3.1.1 requires, ''* * * from pumping station.'' For consistency in terminology, ''pumping'' should be changed to ''vacuum drying''.

Response: The NRC agrees with the comment and the TS has been changed to ''vacuum drying''.

Comment E–11: One commenter stated that on page 3.1.1–2 of the TS, SR 3.1.1.1 should be changed from '' * * * at least 30 minutes'' to read, ''Verify that the equilibrium cask cavity vacuum drying pressure is brought to ≤ 4 mbar absolute for ≥ 30 minutes.''

Response: The NRC agrees that the comment adds clarity and has changed the TS to ''≥ 30 minutes.''

Comment E–12: One commenter stated that on page 3.1.2–1 of the TS, the Required Action and Completion times for LCO 3.1.2 are provided without technical basis and should be revised. The commenter further stated that on page 3.1.2–2 of the TS, the Frequency for SR 3.1.2.1 should be changed from 42 to 48 hours.

Response: The NRC disagrees with this comment. The heatup analysis provided by the cask applicant only supports a 48-hour elapsed time from the completion of cavity draining to completion of helium backfill. The completion time of the SR in 42 hours allows time (6 hours) to implement action A.1 if the SR is unsatisfactory. Action A.2 allows 48 additional hours to troubleshoot/repair and reperform the SR provided A.1 is also completed. The SAR, Section 4.6.2, TS Bases B 3.1.2, and the SER provide the technical basis, which shows that the vacuum drying and helium backfill must be completed within 48 hours to maintain cask component temperatures below their

allowable temperature limits. The commenter provided no technical basis supporting additional time for completion of the helium backfill and allowance of time to implement appropriate corrective actions as outlined in the action.

Comment E–13: One commenter stated that on page 3.1.5–1, all conditions and required actions have not been identified.

Response: The NRC disagrees with the comment. It is the intent of the TSs to specify the minimum requirements for safe operations and the required actions if the minimum requirements are not met. A complete discussion on TS use and application is provided in TS 1.0. The bases of TS 3.1.5 addresses investigation of the cause of the low pressure condition. If the investigation finds that the cause of the low pressure condition is leakage above the allowable limit, then the appropriate TS action for this condition would also be implemented.

Comment E–14: One commenter stated that on page 3.1.5–2 of the TS, the Frequency of SR 3.1.5.2 should be changed from ''Once, within 7 days of commencing STORAGE OPERATIONS and every 36 months thereafter'' to read, ''Once, within 7 days of commencing STORAGE OPERATIONS *AND* 36 months thereafter.''

Response: NRC agrees with the comment. To make the format of the surveillance requirements consistent, the Frequency statement has been revised to read, ''Once, within 7 days of commencing STORAGE OPERATIONS *AND* 36 months thereafter.''

Comment E–15: One commenter asked if the cask can weep and has this been verified on a real cask.

Response: No TN–68 casks have been loaded and none have been tested for weepage. However, the TN–32 casks are of very similar design, and these casks have been loaded at two reactor sites. Slight weepage has occurred, but has not caused a problem with cask handling and storage. The TN–68 casks must be below the surface contamination levels in TS 3.2.1 before they can be moved to the storage pad.

Comment E–16: One commenter stated that the frequency for Surveillance Requirement 3.1.3.1 should read, ''Once prior to TRANSPORT OPERATIONS.'' Two commenters stated that the frequency for Surveillance Requirement 3.1.4.1 should read, ''Once prior to TRANSPORT OPERATIONS *OR* Once within 48 hours of commencing STORAGE OPERATIONS.''

Response: TS surveillance requirement 3.1.3.1 currently states ''Once, prior to TRANSPORT OPERATIONS,'' therefore no change is required. For TS surveillance requirement 3.1.4.1, the NRC agrees with the comment to revise the frequency requirement for clarification as follows: ''* * * *OR* Once within 48 hours of commencing STORAGE OPERATIONS.'' The affected TSs have been revised as indicated.

Comment E–17: Two commenters stated that the frequency of Surveillance Requirement 3.1.6.1 of the TS should be revised from ''Once, after lifting cask'' and prior to cask transfer to or from ISFSI'' to ''prior to lifting the cask''.

Response: The NRC agrees with this comment. It is acceptable to perform the surveillance requirement before lifting the cask. The TS frequency requirement of SR 3.1.6.1 has been changed to state ''Once, immediately prior to lifting the cask and prior to cask transfer to or from ISFSI.''.

Comment E–18: One commenter asked why 200 gallons of fuel in the transporter is the limiting factor for fire and explosions in the site-specific parameters. The commenter states a plane crash into a full cask array with a full fuel load should be evaluated.

Response: The NRC disagrees with this comment. The 200 gallons of fuel for the fire accident is based on the amount assumed to be carried by the transporter. The fire duration for 200 gallons of fuel is 15 minutes. The analyzed fire is assumed to burn at 1550° F and is assumed to produce the worse case scenario of fire/heated air for the TN–68. The fire is assumed to fully engulf the cask, thus maximizing the heat input into the cask. Fire of this duration exposed to the outside of the cask would have little effect on the cask or its contents due to the thermal inertia of the cask.

Before using the TN–68 casks, the general licensee must evaluate the site to determine whether or not the chosen site parameters are enveloped by the design bases of the approved cask as required by 10 CFR 72.212(b)(3). Included in this evaluation is the verification that the credible sources of an external explosion do not produce an external pressure above 25 psi and that any cask handling equipment used to move the TN–68 cask to the pad is limited to 200 gallons of fuel (refer to TS 4.3.5—Site Specific Parameters and Analyses). Also, when a general licensee uses the cask design, it will review its emergency plan for effectiveness under 10 CFR 72.212. This review will consider interdiction and remedial actions to address accidents of all types and coordination with local emergency response teams.

Comment E–19: One commenter stated that within LCO 3.2.1b, the values should read 20 dpm/100cm^2 instead of 20 dpm/cm^2.

Response: The NRC agrees with this comment. This was a typographical error and LCO 3.2.1b has been corrected.

Comment E–20: Two commenters stated that LCO 3.2.1 would require entry in the action as soon as loading operations commenced, and that the applicability for LCO 3.2.1 should be changed to ''During TRANSPORT OPERATIONS.'' One commenter stated that if the applicability is not changed, a note should be added to CONDITION A to clarify the intent of the specification. The other commenter stated that the applicability of LCO 3.2.1, the required action, and the completion time do not adequately address the retrieval of a cask from an ISFSI to the spent fuel pool to unload the cask, and that SR 3.2.1.1 should be performed before moving a cask from any restricted area.

Response: Action under LCO 3.2.1 is not necessary until the contamination surveillance has been completed. Transport of the cask to the ISFSI storage pad cannot begin until the cask surface is below the decontamination limit. The surveillance requirement is part of the loading phase. A note has been added to LCO 3.2.1 and to the basis for the TS (B3.2.1) located in Chapter 12 of the SAR which states that CONDITION A is not applicable until after the surveillance for surface contamination has been completed.

Regarding cask retrieval and unloading, the primary focus of LCO 3.2.1 is to maintain radioactive contamination and associated personnel exposures As Low As Reasonably Achievable (ALARA). The timing and nature of specific corrective actions are determined by the cask user under the user's radiation protection programs, other relevant programs, and applicable regulations, including 10 CFR part 20, subpart C, Occupational Dose Limits.

Decisions on unloading a cask will be made on a case-by-case basis if appropriate decontamination can not be achieved.

Comment E–21: One commenter stated that on page 4.0–3 of the TS : the title and first paragraph should be changed from site specific to ISFSI specific for clarity; item 3 should be changed to state, ''Seismic loads on the ISFSI pad * * *''; and engineered features to reduce radiation exposure should be classified as ''not important to safety.''

Response: The NRC agrees with comments 1 and 2. The terminology in TS 4.0.3 has been revised to indicate ''ISFSI * * *'' in the title and the first paragraph since this is a general license that is not site-specific. Item 3 has been revised to state ''Seismic loads on the ISFSI pad * * *'' The third comment on engineered features is addressed in the response to comment E–30.

Comment E–22: One commenter stated that the TS indicates that the cask cavity vacuum drying process evaporates any water that has not drained from fuel or basket surfaces. The commenter expressed concern about water not on the specified surfaces and asked what in the cask, including the cask materials, has or could also contain water.

Response: In preparation for dry storage, the loading process ensures the removal of virtually all moisture and oxidizing gases (less than 1 gram-mole per cask) from the fuel cladding, any fuel that may have pinholes or hairline cracks, and from the cask internals. The cask internals do not provide any locations for significant moisture entrapment. The cask is thoroughly vacuum dried, as prescribed in the TSs and the SAR. The vacuum drying process, which involves two, complete, evacuate-fill cycles, coupled with the heat generation of the fuel, very effectively removes residual moisture that may be present in the fuel pellets and interior components of the cask system and oxygen that is inside the cask. The helium fill gas is very pure and dry and the cask is sealed to prevent entry of water and air during storage. The effectiveness of the vacuum drying process, the sources of residual impurities, and the potential effects of impurities, are reported in PNL–6365, ''Evaluation of Cover Gas Impurities and Their Effects on the Dry Storage of LWR Spent Fuel'' November 1987.

Comment E–23: The commenter asked what is BorALYN™, borated wrought aluminum, and other envisioned alternate neutron absorber materials, and if NRC has read the manufacturers' descriptions as to what is in these materials, their limitations for use, and their reactions with other materials.

Response: BorALYN™ is a trademark for a ceramic of boron carbide particles, which are produced using natural boron, *e.g.,* boron containing the isotopic mix found in nature. In BorALYN™, these particles are in a matrix (formed mechanically with heat and pressure) of a common and widely used aluminum alloy. NRC has visited the plant where this product is produced to review details on the process used to produce BorALYN™. NRC has required the applicant to do extensive durability testing of the material. NRC has reviewed the results of these tests and found this material to be acceptable for this application.

Borated aluminum is a wrought aluminum alloy (made from the liquid state) that uses an enriched boron as an alloy addition to the alloy. Natural boron contains a high-cross section isotope called ^{10}B, that is many times more effective at capturing thermal neutrons than ^{11}B, the other isotope of boron. The neutron absorber must capture thermal neutrons during loading and unloading operations. Enrichment refers to the concentration of ^{10}B.

Other alternative neutron absorber materials are like the BorALYN™ and the borated aluminum, except that they are made with slight variations, *e.g.,* the base material is stainless steel in one case, the boron carbide particles are a different size in another case, etc. All materials approved for use are materials sufficiently nonreactive as to be suitable for the environments that the materials must tolerate well in service conditions for normal, off-normal, and accident conditions. None of these absorber materials have special limitations in relation to the function that they must perform in the cask systems for which they have been approved.

Comment E–24: The commenter stated that any material encased or welded inside another may either expand or contract with the heat in the cask, or react chemically if residual water remains.

Response: Encased material may expand and contract relative to temperature changes. Thermal expansion/contraction of cask components was evaluated in the TN–68 SAR Section 3.4.4.2. This evaluation was acceptable to the NRC. See the response to comment E–22 regarding moisture in the cask cavity.

Comment E–25: The commenter expressed concern about water leaking into encased areas if a cask is allowed to remain in a pool for seven or more days, and asked if the casks are really leak tight, citing the port vent and drain hole areas specifically. The commenter also asked if leak tightness has been checked and how the cask is checked for water retention after soaking for the seven days.

Response: See the response to comment E–22 regarding moisture in the cask cavity. The remainder of the cask is designed to preclude water intrusion and retention for the purposes of decontamination. For example, the shell that encases the radial neutron shield is sealed and leak tested after fabrication as described in SAR Section 9.1.2. If water contacts the polymeric resins, they are not expected to react with the water, nor are the metals expected to react to any extent that could affect safety of the system. The vent and drain port areas as well as the seal areas are thoroughly dried during preparation for storage.

Comment E–26: One commenter asked why seven days is allowed to reflood the cask and unload the fuel when a nominal helium environment cannot be achieved. The commenter noted that the cask can go into the pool for 30 days when the drying pressure limits cannot be achieved, and also asked why one limit is for seven days and one is for 30 days.

Response: TS 3.1.1 provides the requirements for cask cavity vacuum drying. The action statements are to be implemented when a condition requiring entry into the ACTIONS exists. The action statements for this TS provide for interim cooling of the fuel and basket via establishment of a nominal helium environment if vacuum drying was not completed within the specified time. A 7-day limit to unload fuel is applicable if a nominal helium environment is not achieved. A longer 30-day limit to unload fuel is applicable when a nominal helium environment has been achieved. These time limits provide for reasonable measures to complete fuel unloading while minimizing the time duration that the fuel is not in a suitable long-term storage condition. A complete discussion is provided in the bases for this TS.

The time limits do not imply how much time the cask must spend in the pool. The actual amount of time the cask is in the pool is a site-specific issue and beyond the scope of this rule. However, when the cask is returned to the pool and the lid is removed, the water surrounding the fuel will provide adequate cooling.

Comment E–27: One commenter stated that the cell opening and boron loading should be removed from Section 4.1.1 of the TS.

Response: The NRC disagrees with the comment. Design features that may affect safety if altered or modified are included in the TS. As stated in SAR Section 6.1, the TN–68 cask design parameters relied upon for criticality safety control are the fuel assembly spacing and the use of the neutron absorbing plates. This design information is crucial to the conclusions reached by the NRC staff in its SER. Design tolerances considered in the SAR for the boron loading and the cell opening for the basket are included in the TS limits.

Comment E–28: One commenter stated that Section 4.1.3, Codes and Standards, should be removed from the TSs.

Response: The NRC disagrees with the comment. This information is required under 10 CFR 72.24(c)(4).

Comment E–29: One commenter stated that in the Storage Location for Casks, 4.2.1 of the TS, the 16-foot

dimension should be listed as a minimum value or a tolerance should be added.

Response: The NRC disagrees with this comment. As written, the TS states that ''the casks shall be spaced a minimum of 16 feet apart, center-to-center.'' This specification assures that the minimum cask spacing assumed in the analysis is achieved to allow proper dissipation of radiant heat energy.

Comment E–30: One commenter stated that references to consideration as important to safety, be removed from Section 4.3.6 of the TS.

Response: The NRC disagrees with this comment. As defined in 10 CFR 72.3, structures, systems, and components important to safety are those features of the ISFSI or MRS whose function is to maintain the conditions required to store spent fuel safely. Thus, when a berm or other system, structure, or component is installed to meet the normal condition dose limits of 10 CFR 72.104 (*i.e.,* to provide safe storage), it is considered important to safety. However, under 10 CFR 72.122, the quality standards for the feature's design, fabrication, erection, and testing may be at a level commensurate with the safety importance of the function to be performed. In general, features that are not needed to meet the accident conditions will not have to meet as high a standard as those that need to function in an accident.

Comment E–31: One commenter stated that on pages 5.0–3 through 5.0–5 of the TS, describing the cask surface dose rate evaluation program, inconsistent terminology is used regarding the neutron shielding. A single term ''radial neutron shield'' should be used consistently.

Response: The NRC agrees with this comment. In the interest of clarity, TS 5.2.3 has been revised to consistently use the term ''radial neutron shield'' where appropriate.

Comment E–32: One commenter stated that on page 5.0–5 of the TS, the reference to Figure 5.2.3–1 should be deleted.

Response: The NRC disagrees with this comment. Figure 5.2.3–1 is provided as a quick reference for the user and the public to help interpret the measurement locations given in TS 5.2.3.7. The figure is an illustration, not to scale, and the specification wording more exactly defines the location of each measurement.

Comment E–33: One commenter stated that the NRC did not clearly state why the interior cannot be preferentially or unevenly flooded and asked why the NRC did not analyze the scenario of a cask partially filled with unborated water and steam.

Response: As stated in SAR Section 6.1, nonuniform flooding of the basket is not credible because all spaces in the basket are interconnected. The applicant evaluated the failure of the four center basket cavities to drain and showed that this was significantly less reactive than a fully flooded cask. As stated in SER Section 6.3.1, the applicant varied the water density in the cask to bound any possible density changes during loading and unloading operations. The full density water resulted in the highest reactivity in all cases.

Comment E–34: One commenter asked which fuel assembly has the highest reactivity; 7x7 GE2, GE2b, or 10x10. Further, the commenter asked why the NRC does not have a third party verify both the NRC's and applicant's calculations.

Response: As shown in SAR Table 6.4–3, the applicant evaluated both the 7x7 and 10x10 assemblies for all normal, off-normal, and accident conditions. The results in this table show that the 10x10 assembly is the most reactive under the most bounding conditions. Because the NRC staff has reasonable assurance that the cask meets the design criterion for criticality safety, further verification by a third party is not required. s

Comment E–35: One commenter stated that on page 3–17 of the SER, reference 4 should be changed to, ''ANSI N14.6, Special Lifting Devices for Shipping Containers Weighing 10,000 Pounds or More for Nuclear Materials, 1986.'' The commenter also stated that on page 9–8 of the SER, reference 5 should be changed from ANSI N14.6–1993 to ANSI N14.6–1986.

Response: The NRC disagrees with this comment. ANSI N14.6–1993 was used by the NRC staff in this evaluation.

Comment E–36: One commenter stated that on page 4–9 of the SER, the second sentence in the first paragraph under Section 4.5.2.4 should be changed to, ''Assuming design basis heat load fuel and completion of cask cavity drying, helium backfill should be completed within 48 hours.'' This change is needed to conform to TS 3.1.2.

Response: The NRC disagrees with this comment. The heatup analysis provided by the cask applicant only supports a 48-hour elapsed time from the completion of cavity draining to completion of helium backfill. The commenter did not provide a technical basis supporting an additional 48 hours.

Comment E–37: One commenter stated that on page 5–3 of the SER, the use of spectral shift void history on early design fuel (7x7) by TN provides considerable conservatism and should be reconsidered.

Response: The NRC disagrees with this comment. The analysis provided to support a general license design, which applies to all licensees, needs to bound all variations of cask contents unless compensating factors are present. The operational parameters assumed to determine the source term in the design basis fuel need to cover the range of both current and past operating practices of all authorized users.

Comment E–38: One commenter stated that in Table 7–1 of the SER, the percentage of rods that failed in off-normal and accident conditions are not consistent with industry experience and research. More reasonable values are on the order of 0.0001% and 0.01% for off-normal and accident conditions respectively.

Response: The rod breakage fractions presented in Table 7–1 of the SER were based on those already contained in NUREG–1536, ''Standard Review Plan for Dry Cask Storage Systems'' as discussed on page 2–7. This NUREG was previously subject to public comment. Currently, the NRC is confident that the rod breakage fractions are bounding and provide reasonable assurance of public safety with regard to the confinement analyses of spent fuel storage casks. Further, NRC and industry initiatives to modify assumptions for rod breakage fractions are beyond the scope of this rule.

Comment E–39: One commenter stated that in Table 7–1 of the SER, the meteorological conditions to be used to analyze the offsite dose consequences should be consistent with those used for the power plant.

Response: The NRC disagrees with this comment. Since the meteorological conditions for a specific site are not known, the NRC has made bounding assumptions for meteorological conditions to establish a basis for cask approval. General licensees who use a cask approved under 10 CFR 72, subpart L, must calculate dose equivalents for their ISFSIs, considering site-specific meteorology, other exposure pathways such as ingestion and ground deposition, and actual distances to the site boundary.

Comment E–40: One commenter stated there should only be a TEDE limit in Table 7–2 of the SER and that the calculation of other doses is redundant.

Response: The NRC does not agree with this comment. Whole body (TEDE) and organ dose limits are required in 10 CFR 72.104 and 10 CFR 72.106. Also, 10 CFR 72.106 provides dose limits on skin and the lens of the eye. Therefore,

evaluation of these doses is needed for cask approval.

Comment E–41: One commenter stated that on page 8–4 of the SER, the last paragraph in Section 8.3.2 refers to a check valve to restrict cooling water flow if cask pressure exceeds 90 psia. A pressure control valve would provide the desired capability.

Response: The NRC agrees with the comment that either valve will satisfy the requirement to restrict flow. The SER Section 8.3.2 has been changed to reflect that a valve designed to restrict flow will act to restrict cooling water flow if cask pressure exceeds 90 psia, which will allow flexibility by the cask user. The SAR has also been revised by the applicant to reflect this change.

Comment E–42: One commenter stated that on page 10–3 of the SER, the last paragraph under Section 10.3.1 should be deleted.

Response: The NRC disagrees with this comment. As defined in 10 CFR 72.3, structures, systems, and components important to safety are those features of the ISFSI or monitored retrievable storage installation (MRS) whose function is to maintain the conditions required to store spent fuel safely. Thus, when a berm or other system, structure, or component is installed to meet the normal condition dose limits of 10 CFR 72.104 (*i.e.,* to provide safe storage), it is considered important to safety. However, under 10 CFR 72.122, the quality standards for the feature's design, fabrication, erection, and testing may be at a level commensurate with the safety importance of the function to be performed. Therefore, the last paragraph is necessary.

Comment E–43: One commenter stated that on page 11–1 of the SER, the last sentence under Section 11.0 should be changed from SAR Revision 4 to SAR Revision 5.

Response: The NRC agrees with this comment and has updated page 11–1.

F. Comments on Applicant's Topical SAR

Comment F–1: One commenter stated that on page 8.1–3 of the SAR, the first sentence of the description for the cask transporter should be changed to read, ''The cask transporter is generally set to limit the lift height of the cask to ensure that the maximum gravitational loading force limit in the event of a cask drop is met.''

Response: The NRC agrees with the comment with additional clarification. The SAR has been revised to state: ''The cask transporter is set to limit the lift height of the cask to ensure that the loads from a postulated drop accident will be bounded by the maximum analyzed loads given in Technical Specifications 4.1.2 and 5.2.2.''

Comment F–2: One commenter stated that drawing 972–70–1 of the SAR should be revised to add a tolerance of +0/−.25 to 13.25-inch dimension to accommodate variations due to welding.

Response: The NRC accepts this change to the tolerance specified on Drawing No. 972–70–1 because it will not affect the structural analyses and the conclusions reached in the SER. Drawing No. 972–70–1 has been changed accordingly.

Comment F–3: One commenter stated that drawing 972–70–4 of the SAR should be revised to add note 6 to allow the clearance hole in the rail at the end to be optional. The size of the clearance hole should be increased from a 2.00-inch diameter to a 3.56-inch diameter to allow sufficient clearance for a socket wrench.

Response: The NRC accepts these changes to the clearance hole in the rail because they will not affect the structural analyses and the conclusions reached in the SER. Drawing No. 972–70–4 has been changed accordingly.

Comment F–4: One commenter stated that Note 2 on drawing 972–70–5 of the SAR should be revised from ''PT examination per ASME Section III, Subsection NG–5231'' to ''PT examination per ASME Section III, Subsection NG–5233.''

Response: The NRC disagrees with the comment that Note 2 on Drawing 972–70–5 needs to be changed. For thin, one-layer welds without filler material, ASME Section III, Subsection NG–5231 is still applicable. For clarification of the nondestructive examination requirement in NG–5231, Table 4.1–1 of the TSs has been revised.

Comment F–5: One commenter stated that drawing 972–70–6 of the SAR should be revised to add a note to allow alternate plumbing configurations. Also, an additional connection may be required through the protective cover for helium leak testing of the over pressure (OP) system.

Response: The NRC agrees with this comment. Alternate plumbing configurations will add flexibility to the design of the OP system without adversely affecting the structural analyses and the conclusions reached in the SER. The note should also state that the parts and equipment used are equivalent to those specified in the drawing. An adequate level of safety is obtained by the quality assurance process, plus the leak testing and monitoring of the system as required by the TSs. The addition of a test fitting in the protective cover does not affect safety because its purpose is to facilitate leak testing of the overpressure monitoring system. Drawing No. 972–70–6 has been revised to reflect these changes.

Comment F–6: One commenter stated that it is not possible to perform PT on the Plasma-Arc Welding (PAW) part of the weld since the Gas Tungsten-Arc Welding (GTAW) is part of the automatic welding equipment. Transnuclear has proposed a code case to Section III, Subsection NG, on this issue for guidance.

Response: The NRC agrees with the applicant's view that inspection after PAW is not practical and that inspection after GTAW is adequate. The proposed code case is beyond the scope of NRC review.

G. Accidents

Comment G–1: One commenter asked if a cask will slide on the pad and could slide into other casks or other structures in the independent spent fuel storage installation (ISFSI), stated that the pad was described in a site-specific manner instead of generically, and asked what structures or vehicles are permitted to be within the ISFSI fence.

Response: The SAR indicates that the cask may slide 7.3 inches due to a 4,000 lb. missile (in this case, an automobile) impacting below the center of gravity of the cask at 126 mph. This is much smaller than the approximately 94-inch distance between casks. Therefore, impacts between TN–68 casks on the pad would not occur. In the unlikely event that two 4,000 lb missiles were to impact below the center of gravity of two adjacent casks from opposite directions at the same time, the two casks still would not collide with each other. Furthermore, the automobile is conservatively assumed to be rigid and absorbs no energy in the analysis. In an actual impact, the majority of the energy will be absorbed by the crushing of the automobile rather than moving of the cask. The pad is a site-specific issue that needs to be addressed in the cask user's 10 CFR 72.212 evaluation. TS 5.2.1, referenced by the commenter, simply requires the cask user to verify that the coefficient of friction for the concrete pad matches the coefficient of friction used in the SAR's cask sliding analysis. The structures and vehicles permitted within the ISFSI fence is a site-specific issue and is beyond the scope of this rule.

Comment G–2: One commenter stated that all things in loading and unloading areas should be evaluated for a cask drop or tip over accident.

Response: This comment is beyond the scope of this rule. The use of a

generally licensed cask by a utility requires that the user ensure that the site is not subject to any potential accident that has not been analyzed for the general license.

Comment G–3: One commenter noted that explosive overpressure is not addressed, stated this should be done now and should have been done before the SER was completed, and asked why it was not addressed. They stated that this evaluation is not suitable for a site-specific evaluation and should be addressed as part of the generic review. The commenter suggested that a sabotage explosion such as a truck bomb ramming the fence or a plane explosion needs evaluation for current cask approval.

Response: NRC disagrees with this comment. The TN–68 is designed to withstand an external pressure of 25 psi. This would include a nearby explosion, debris falling on the cask, etc. If a credible explosion is identified that would apply more than 25 psi to the outer surface of the cask at a site, the site will have to address this issue in its 10 CFR 72.212 evaluation.

Comment G–4: One commenter stated that earthquake analysis should not rely on site analysis for the nuclear power plant because the analysis for the plant does not apply to the pad, and the plant and pad are not on the same soil location.

Response: The NRC disagrees with the recommendation that each ISFSI pad be required to have a specific seismic analysis. This is beyond the scope of this rule. The licensee using a particular cask design has the responsibility under the general license to evaluate the match between reactor site parameters and the range of site conditions (*i.e.,* the envelope) reviewed by the NRC for an approved cask. The licensee should also consider if there are any site conditions associated with the actual pad and cask locations that could affect cask design and that were not evaluated in the NRC SER for the cask.

Comment G–5: One commenter stated that the effects of lightning need to be evaluated.

Response: The effects of lightning are addressed in Section 2.2.5.2.8 of the SAR. Section 3.1.2.1.8 of the SER has been revised to clearly indicate this fact.

Comment G–6: One commenter asked if there is a more recent reference document than the 1974 document referenced in the CoC that addresses tornadoes.

Response: The document referenced in the CoC that addresses tornadoes is a Regulatory Guide entitled ''Design Basis Tornado for Nuclear Power Plants.'' There has been no revision on this Regulatory Guide after the 1974 publishing date.

Comment G–7: One commenter asked why the lid is not modeled for maximum temperature in storage conditions and the cask bottom is not modeled for peak temperature in a fire accident.

Response: The cask lid will perform its intended safety function (confinement) for the normal conditions of storage. The cask bottom will perform its intended safety function (confinement) for the fire accident. Based on the applicant's modeling and analysis which demonstrated that there was no challenge to the safety functions of these components, explicit modeling of these components in the conditions specified by the commenter was not required.

Comment G–8: One commenter asked if an emergency plan had been developed to retrieve a buried cask, how a TN–68 cask would be excavated in the most efficient and rapid way, and has this been evaluated. The commenter asked if emergency staff at the site and in the nearby communities are trained to deal with cask fires, how training is administered, and if anyone oversees the training to ensure that it is effective.

Response: Cask general licensees are required by 10 CFR 72.212 (b)(6) to evaluate their emergency plans and revise them accordingly before using a cask certified under 10 CFR 72 subpart L. The details of site specific emergency response are beyond the scope of this rulemaking.

H. Radiation Protection

Comment H–1: One commenter had questions about radiation in a full cask array, particularly how the radiation or skyshine from casks of the same design and casks of different designs affect each other and if research has been done to evaluate the effects. The commenter also asked if surface dose rates should be taken again at the pad after the casks have been moved to the pad. The commenter also asked where most loaded casks are presently located.

Response: The shielding analysis addresses the interaction of radiation between the casks of the same design in a storage array. The interaction between casks of different designs is not a part of this rule, but is not expected to be significantly different than that considered in the original analysis. As a final check, each user of a storage cask must perform a site-specific analysis to show that the regulatory dose limits will be met at the user's site including the effects of other cask designs if present.

For the purposes of TS 5.2.3, a second dose rate measurement is not needed after the cask has been moved to the storage pad. The normal and accident condition analyses of the cask show that the dose rates are not expected to change during transport to the storage pad. However, the licensee's radiation protection program will include general area measurements at the pad.

The Oconee reactor site has the largest number of loaded dry storage casks.

Comment H–2: One commenter stated that Figure 5.2.3–1, which shows contact dose rate measurement locations, should be changed to show the cask trunnions.

Response: The NRC disagrees with this comment. Figure 5.2.3–1 is provided as a quick reference for the user and the public to help interpret the measurement locations in TS 5.2.3.7. Measurement locations with respect to the trunnions are contained in the specification. The exact location of the trunnions is shown in the SAR drawings.

Comment H–3: One commenter asked where Hansen couplings, basket key, basket rail shims, security wire and seals, and alignment pins are located on Figure 1–1 of the SER. The commenter also asked why Figure 1–1 of the SER does not show the gamma shield. The commenter stated that the figure also should better depict where the outer neutron shield is installed, and asked if the outer neutron shield stops above the bottom trunnion and below the top trunnion or goes around them. The commenter stated that the outer shell design is very unclear and that a better drawing is required.

Response: The NRC disagrees that a more detailed drawing is required in the SER. Figure 1–1 is only intended to depict the general configuration of the cask. The applicant's SAR includes drawings and design detail that enable the NRC to make a safety finding. That same level of detail does not need to be repeated in the SER, because the SAR drawings are available on the docket and are retrievable by the NRC staff and the public. The neutron shield runs the full length of the active fuel region of the fuel assemblies which is the location of the neutron source term, extending from below the bottom trunnion to half-way around the top trunnion.

Comment H–4: One commenter stated that a date should be provided for reference 5 on page 4–12 and for reference 3 on page 6–8 of the SER, and that the NRC should add dates to all references as regular practice.

Response: Typically, computer codes are listed by version and not by date (*e.g.,* version 4.3, 4.4, etc.). ANSYS Version 5.4 was released in September, 1997. SCALE Version 4.4 was released

in September, 1998. These dates were added to the SER.

Comment H–5: One commenter requested that the NRC clarify why the 1-inch thick steel shell above the radial neutron shield is optional.

Response: As stated in TS 5.2.3, the 1-inch thick shield does not need to be installed if it is not needed to meet the surface dose rate limits in the specification. The surface dose rate limits were taken from the shielding analysis.

Comment H–6: One commenter stated that the discussion on Page 5.2 of the SER concerning cobalt impurities in stainless steel is vague and is based on unrelated documents. Further, the commenter asked how much cobalt impurity can vary based on supplier and date of manufacture and how a fabricator knows what is being provided.

Response: The NRC disagrees that the documents are unrelated. The references are widely used reports produced by national laboratories and are considered to be appropriate sources of information for establishing the assumed cobalt impurity levels. Early on, cobalt impurities in fuel assembly hardware were not as well controlled as today and could vary; therefore, appropriate bounding values were established using the data in the references. After the effect of tramp amounts of cobalt became apparent, fabricators and designers began to specify limits on the cobalt content in materials procurement documents. In the last 10 to 15 years, fabricators typically specify the acceptable impurity limits as part of their procurement process subject to the applicable quality assurance procedures.

Comment H–7: One commenter had a number of concerns related to the cobalt content of stainless steel used in cask fabrication: What are the tolerance specifications for the components in the stainless steel and how varying the tolerance would affect their performance; how cobalt affects cask handling and unloading in any way; what cobalt data on a specific batch of stainless steel is reported by the supplier; and if this should be factored into analysis each time a new batch is used.

Response: Thermal (slow) neutrons are required to activate the cobalt in the components that make up the storage cask system. There are essentially no thermal neutrons that collide with these components in storage systems. Therefore, questions concerning the cobalt in this material are not relevant in relation to activation. As for mechanical properties, many if not all are likely to be enhanced by the addition of cobalt to the alloy, but this is not done for economic reasons. The cobalt might be reported by the supplier if it was at a high enough concentration to be detected by the analytical procedures that are normally used for chemical analyses of these alloys. Tramp elements are not always reported, except by special request. Therefore, the NRC staff is not concerned about cobalt in materials used for these components. See also comment H–6.

Comment H–8: One commenter stated concerns relating to how the neutron source is evaluated taking into account the natural uranium blankets used in the BWR fuel that has changed over the years. The commenter stated that a utility needs to carefully evaluate neutron sources to precisely reflect the fuel age and type that is to be loaded in casks, that TN erred in computing the neutron sources in the SAR table, and asked how an applicant could make such a mistake and how the NRC could accept such a mistake. The SAR neutron source table and its calculations need to be done correctly and the SAR needs to be revised to reflect the correct values before the NRC accepts the document.

Response: Less than 10% of the off-site dose comes from neutrons. Thus, uncertainties in the neutron source strength are not significant. A general license analysis does not need to be bounding in every term as long as the overall result is bounding. The NRC staff's review determined that the small underestimation of the neutron source term was more than compensated for by the applicant's overestimation for the gamma-ray source term. Therefore, the applicant's estimated dose from the cask is bounding. The general license analysis is based on generalized operating assumptions. However, each licensee user must perform a site-specific analysis to show compliance with the regulations. The site-specific analysis is the appropriate place to address the type, age, and operating conditions for the actual fuel to be loaded at the site.

Comment H–9: One commenter asked how the fuel reacts at the top and bottom of the cask when exposed to steam during quenching.

Response: Thermal stress associated with reflooding and quenching is discussed in SAR Sections 3.5.2 and 4.6.1. SER Section 4.1 contains the analysis and NRC acceptance of quenching effects described in the SAR.

Comment H–10: One commenter stated a concern with streaming at the trunnions and asked why detailed confirming calculations were not modeled, asked what is the trunnion material, asked whether the trunnions should be lowered, and stated that workers will have to be around the trunnions adjusting the lifting devices and that the vendor should work to reduce unnecessary doses.

Response: The modeling detail of the trunnions in the shielding analysis is at a level that equals the capability of the analytical code. Further detail in the trunnion calculations is not necessary because radiation streaming around the trunnions is very localized and will have negligible effect on meeting the regulatory limit for the off-site dose. Worker doses are subject to ALARA as discussed in item 4 below. The trunnions are made of steel with a central plug of borated polyester resin. Placement of the trunnions was a design decision made by the applicant and is beyond the scope of this rule. The shielding performance of the trunnion design has been reviewed and found to be adequate. The radiation protection program of the licensee user will have the responsibility to implement measures to keep the dose of workers around the trunnions as low as reasonably achievable. Any streaming points will be monitored and avoided during cask handling operations.

Comment H–11: One commenter asked why the neutron shield does not cover the entire cask and if the design is based on the location of the trunnions.

Response: Radially, except at the trunnions, the neutron shield runs the full length of the active region of the spent fuel assemblies, that are the source of neutron radiation. The design of the neutron shield is based on meeting the regulatory requirements and is acceptable.

Comment H–12: One commenter asked about the ''radiation return from radial neutron shield'' reduction of photon dose from 860 mrem/hr to 749 mrem/hr and why the NRC did not conduct confirmatory calculations to be sure that this reduction is correct. The commenter also recommended that the NRC should not accept expected values and should not leave it up to the licensee to determine how to maintain doses ALARA, but should instead provide guidelines as part of the approval process for this design.

Response: In lieu of performing a separate accident calculation, the NRC staff used the results from the normal conditions calculation to bound the dose rate at the cask surface. The NRC staff's analysis shows good agreement with the applicant's calculations. In addition, the maximum off-site dose from a cask under accident conditions is

about one tenth of the regulatory limit. Even with a higher value of 860 mrem/hr, the performance of the cask in the hypothetical accident would be well within regulatory limits. Guidelines for a licensee's ALARA are contained in Regulatory Guide 8.8, ''Information Relevant to Ensuring that Occupational Radiation Exposures at Nuclear Power Stations will be As Low as Reasonably Achievable.''

Comment H–13: One commenter recommended that an eye lens calculation be added to Table 7–2 of the SER so that the effects of radiation dose to the eye can be known.

Response: The NRC has chosen not to add an eye lens calculation to Table 7–2. As discussed in the TN–68 SER, compliance with the dose-equivalent limit for the lens is achieved by demonstrating compliance with the dose-equivalent limit for the skin and the effective dose-equivalent limit. This approach is consistent with guidance in ICRP–26, International Commission on Radiation Protection, ''Statement from the 1980 Meeting of the ICRP,'' ICRP Publication 26, Pergammon Press, New York, New York, 1980.

Summary of Final Revisions

The NRC staff modified the rule language, the CoC, the TSs, and its SER.

Rule Language Change

The rule language has been modified to clarify that it is the Certificate that expires.

CoC Changes

The CoC has been changed for consistency with other issued certificates.

TN–68 TS Changes and Associated Comments

TSs were reformatted into Corel 8 WordPerfect™ software that addressed the editorial changes in comment B–17.

TS1.1 Definition of Intact fuel was revised based on the NRC staff's initiative.

Table 2.1.1–1 revised labels to add in minimum and maximum, and added three footnotes based on comment E–7 and the NRC staff's initiative.

LCO 3.1.1 was revised to state, ''from the vacuum drying system'' based on comment E–10.

SR 3.1.1.1 was revised to state, ''≤ 4 mbar absolute for ≥ 30 minutes'' based on comment E–11.

SR 3.1.4.1 was revised to state, ''Once within 48 hours of commencing STORAGE OPERATIONS'' based on comment E–16.

SR 3.1.5.1 Frequency has been revised to state, ''OPERATIONS *AND* 36 months thereafter'' based on comment E–14.

SR 3.1.6.1 Frequency has been revised to state, ''Once, immediately prior to lifting cask'' based on comment E–17.

LCO 3.2.1 b. was revised to state, ''20dpm/100 cm^2'' based on comment E–19, and a note added ''Not applicable until SR 3.2.1.1 is performed'' based on comment E–20.

Table 4.1–1 has been clarified to address PT examination under ASME Section III, Subsection NG–5231, based on comment F–4.

TS 4.3 has been revised to state, ''ISFSI Specific'' and ''load on the ISFSI pad'' based on comment E–21.

TS 5.2.3 has been revised to use the terminology ''radial neutron shield'' throughout the section based on comment E–31.

Agreement State Compatibility

Under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs'' approved by the Commission on June 30, 1997, and published in the **Federal Register** on September 3, 1997 (62 FR 46517), this rule is classified as compatibility Category ''NRC.'' Compatibility is not required for Category ''NRC'' regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended (AEA), or the provisions of the Title 10 of the Code of Federal Regulations. Although an Agreement State may not adopt program elements reserved to NRC, it may wish to inform its licensees of certain requirements via a mechanism that is consistent with the particular State's administrative procedure laws, but does not confer regulatory authority on the State.

Finding of No Significant Environmental Impact: Availability

Under the National Environmental Policy Act of 1969, as amended, and the NRC regulations in Subpart A of 10 CFR part 51, the NRC has determined that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. This final rule adds an additional cask to the list of approved spent fuel storage casks that power reactor licensees can use to store spent fuel at reactor sites without additional site-specific approvals from the Commission. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC. Single copies of the environmental assessment and finding of no significant impact are available from Gordon Gundersen, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6195, email GEG1@nrc.gov.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, Approval Number 3150–0132.

Public Protection Notification

If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

Voluntary Consensus Standards

The National Technology Transfer Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this final rule, the NRC will add the Transnuclear TN–68 cask system to the listing within the list of NRC approved casks for spent fuel storage in § 72.214. This action does not constitute the establishment of a standard that establishes generally-applicable requirements.

Regulatory Analysis

On July 18, 1990 (55 FR 29181), the Commission issued an amendment to 10 CFR part 72. The amendment provided for the storage of spent nuclear fuel in cask systems with designs approved by the NRC under a general license. Any nuclear power reactor licensee can use cask systems with designs approved by the NRC to store spent nuclear fuel if it notifies the NRC in advance, the spent fuel is stored under the conditions specified in the cask's CoC, and the conditions of the general license are met. In that rule, four spent fuel storage casks were approved for use at reactor sites and were listed in 10 CFR 72.214. That rule envisioned that storage casks certified in the future could be routinely added to the listing in 10 CFR 72.214 through the rulemaking process. Procedures and criteria for obtaining NRC approval of new spent fuel storage cask designs were provided in 10 CFR part 72, subpart L.

The alternative to this action is to withhold approval of this new design and issue a site-specific license to each utility that proposes to use the casks. This alternative would cost both the NRC and utilities more time and money for each site-specific license. Conducting site-specific reviews would ignore the procedures and criteria currently in place for the addition of new cask designs that can be used under a general license, and would be in conflict with NWPA direction to the Commission to approve technologies for the use of spent fuel storage at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site reviews. This alternative also would tend to exclude new vendors from the business market without cause and would arbitrarily limit the choice of cask designs available to power reactor licensees. This final rule will eliminate the problems above and is consistent with previous NRC actions. Further, the rule will have no adverse effect on public health and safety.

The benefit of this rule to nuclear power reactor licensees is to make available a greater choice of spent fuel storage cask designs that can be used under a general license. The new cask vendors with casks to be listed in 10 CFR 72.214 benefit by having to obtain NRC certificates only once for a design that can then be used by more than one power reactor licensee. The NRC also benefits because it will need to certify a cask design only once for use by multiple licensees. Casks approved through rulemaking are to be suitable for use under a range of environmental conditions sufficiently broad to encompass multiple nuclear power plants in the United States without the need for further site-specific approval by NRC. Vendors with cask designs already listed may be adversely impacted because power reactor licensees may choose a newly listed design over an existing one. However, the NRC is required by its regulations and NWPA direction to certify and list approved casks. This rule has no significant identifiable impact or benefit on other Government agencies.

Based on the discussion above of the benefits and impacts of the alternatives, the NRC concludes that the requirements of the final rule are commensurate with the Commission's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory, and thus, this action is recommended.

Small Business Regulatory Enforcement Fairness Act

Under the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

Regulatory Flexibility Certification

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This final rule affects only the licensing and operation of nuclear power plants, independent spent fuel storage facilities, and Transnuclear. The companies that own these plants do not fall within the scope of the definition of ''small entities'' set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR part 121.

Backfit Analysis

The NRC has determined that the backfit rule (§ 50.109 or § 72.62) does not apply to this direct final rule because this amendment does not involve any provisions that would impose backfits as defined. Therefore, a backfit analysis is not required.

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Hazardous waste, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553; the NRC is adopting the following amendments to 10 CFR part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

1. The authority citation for Part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 10d–48b, sec. 7902, 10b Stat. 31b3 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c),(d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244, (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

2. In § 72.214, Certificate of Compliance (CoC) 1027 is added to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1027.

SAR Submitted by: Transnuclear, Inc.

SAR Title: Final Safety Analysis Report for the TN–68 Dry Storage Cask.

Docket Number: 72–1027.

Certificate Expiration Date: May 28, 2020.

Model Number: TN–68.

Dated at Rockville, Maryland, this 12th day of April, 2000.

For the Nuclear Regulatory Commission.

Frank J. Miraglia, Jr.,

Acting Executive Director for Operations.

[FR Doc. 00–10390 Filed 4–27–00; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–85–AD; Amendment 39–11699; AD 2000–08–13]

RIN 2120–AA64

Airworthiness Directives; Learjet Model 45 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is

applicable to certain Learjet Model 45 airplanes. This action requires revising the Airplane Flight Manual to provide the flight crew with certain instructions associated with an exterior preflight inspection and ground operations. This amendment is prompted by a report indicating the occurrence of an uncommanded brake application condition that was not annunciated in the cockpit. The actions specified in this AD are intended to provide the flight crew with procedures to detect an uncommanded brake application condition during taxi and takeoff. Such a condition could result in a possible wheel/brake fire and/or a high-speed rejected takeoff.

DATES: Effective May 15, 2000.

The incorporation by reference of certain publications in this rule is approved by the Director of the Federal Register as of May 15, 2000.

Comments for inclusion in the Rules Docket must be received on or before June 27, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–85–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The information concerning this amendment may be obtained from or examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Wichita Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Shane Bertish, Aerospace Engineer, Systems and Equipment Branch, ACE–116W, FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4156; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION: The FAA has received a report indicating the occurrence of an uncommanded brake application condition that was not annunciated in the cockpit, in which the airplane experienced a dragging brake (uncommanded brake application condition) when the pilot released the parking brake. Not realizing the severity or cause of the problem, the pilot increased the thrust control to taxi the airplane. During takeoff, the airplane failed to accelerate properly, and the pilot performed a rejected takeoff. After the airplane returned to the ramp, investigation revealed that one or more brake pistons had failed, causing a small brake oil fire.

Explanation of Relevant Service Information

The manufacturer has issued Learjet Temporary Flight Manual (TFM) Changes TFM 2000–01, 2000–02, 2000–03, 2000–04, 2000–05, 2000–06, 2000–07, and 2000–08, each dated April 6, 2000. These TFM changes provide information for the flight crew with certain instructions to detect possible brake problems during exterior preflight inspections and ground operations.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other Learjet Model 45 airplanes of the same type design, this AD is being issued to provide the flight crew with procedures to detect an uncommanded brake application condition during taxi and takeoff. Such a condition could result in a possible wheel/brake fire and/or a high-speed rejected takeoff. This AD requires revising the Limitations and Normal Procedures Sections of the FAA-approved AFM to provide the flight crew with certain instructions to detect possible brake problems during exterior preflight inspections and ground operations.

Interim Action

This is considered to be interim action. The manufacturer has advised that it currently is developing a modification that will positively address the unsafe condition addressed by this AD. Once this modification is developed, approved, and available, the FAA may consider additional rulemaking.

Determination of Rule's Effective Date

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–85–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2000–08–13 Learjet: Amendment 39–11699. Docket 2000–NM–85–AD.

Applicability: Model 45 airplanes on which Crane Hydro-Aire brake control unit part number (P/N) 42–933–2 is installed; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To provide the flight crew with procedures to detect an uncommanded brake application condition during taxi and takeoff, which could result in a possible wheel/brake fire and/or a high-speed rejected takeoff, accomplish the following:

Airplane Flight Manual (AFM) Revision

(a) Within 10 days after the effective date of this AD, revise the Limitations and Normal Procedures Sections of the FAA-approved AFM to include Learjet Temporary Flight Manual (TFM) Changes 2000–01, 2000–02, 2000–03, 2000–04, 2000–05, 2000–06, 2000–07, and 2000–08, each dated April 6, 2000.

Note 1: The AFM revision required by paragraph (a) of this AD may be accomplished by inserting a copy of the applicable TFM Change into the applicable section of the AFM. When these TFM Changes have been incorporated into the general revisions of the AFM, the general revisions may be inserted into the AFM, provided that the information contained in the general revisions is identical to that specified in the TFM Changes.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(d) The Airplane Flight Manual revisions shall be done in accordance with Learjet Temporary Flight Manual Change 2000–01, dated April 6, 2000; Learjet Temporary Flight Manual Change 2000–02, dated April 6, 2000; Learjet Temporary Flight Manual Change 2000–03, dated April 6, 2000; Learjet Temporary Flight Manual Change 2000–04, dated April 6, 2000; Learjet Temporary Flight Manual Change 2000–05, dated April 6, 2000; Learjet Temporary Flight Manual Change 2000–06, dated April 6, 2000; Learjet Temporary Flight Manual Change 2000–07, dated April 6, 2000; and Learjet Temporary Flight Manual Changes 2000–08, dated April 6, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier Aerospace, Learjet, One Learjet Way, Wichita, Kansas 67277–7707. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at Small Airplane Directorate, Wichita Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on May 15, 2000.

Issued in Renton, Washington, on April 17, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–10050 Filed 4–27–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–SW–73–AD; Amendment 39–11702; AD 2000–08–16]

RIN 2120–AA64

Airworthiness Directives; Eurocopter Deutschland GMBH Model MBB-BK 117 A–1, A–3, A–4, B–1, B–2, and C–1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to Eurocopter Deutschland GMBH (ECD) Model MBB–BK 117 A–1, A–3, A–4, B–1, B–2, and C–1 helicopters. This AD requires modifying the engine and transmission cowling doors (cowling doors). This amendment is prompted by an emergency landing of an ECD Model MBB-BK 117 helicopter after the No. 1 engine cowling opened, separated from the helicopter, and struck the main and tail rotor blades resulting in a tail rotor imbalance and subsequent departure of the tail rotor gear box from the helicopter. The actions specified by this AD are intended to prevent the cowling doors opening during flight, separating from the helicopter and impacting the main or tail rotor blades, and subsequent loss of control of the helicopter.

DATES: Effective June 2, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 2, 2000.

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

FOR FURTHER INFORMATION CONTACT: Richard A. Monschke, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5116, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that is applicable to ECD Model MBB–BK 117 A–1, A–3, A–4, B–1, B–2, and C–1 helicopters was published in the **Federal Register** on February 4, 2000 (65 FR 5453). That action proposed to require modifying the cowling doors to prevent the cowling doors from opening during flight.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 140 helicopters of U.S. registry will be

affected by this AD, that it will take approximately 28 work hours per helicopter to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $1,620 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $462,000.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

AD 2000–08–16 Eurocopter Deutschland GMBH: Amendment 39–11702. Docket No. 99–SW–73–AD.

Applicability: Model MBB–BK 117 A–1, A–3, A–4, B–1, B–2, and C–1 helicopters, serial numbers 7001 through 7253 and 7500 through 7523, with transmission door cowling, left hand, part number (P/N) 117–23206–51 or 117–233731, right hand, P/N 117–23206–52 or 117–233741, and engine door cowling left hand, P/N 117–23303–51 or 117–23303–53, right hand, P/N 117–23303–52 or 117–23303–54, installed, certificated in any category.

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

Compliance: Required within 6 calendar months, unless accomplished previously.

To prevent the engine and transmission cowling doors (cowling doors) opening during flight, separating from the helicopter and impacting the main or tail rotor blades, and subsequent loss of control of the helicopter, accomplish the following:

(a) Modify the cowling doors in accordance with paragraph 2.B., Work Procedure, and 2.C., Conclusions, of Eurocopter Deutschland GMBH Service Bulletin SB–MBB–BK 117–20–109, Revision 2, dated April 30, 1999 (SB).

Note 2: Adjustment and functional testing of the hook system in accordance with paragraph 2.B.8 of the SB is critical after installation.

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

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

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

(d) The modification shall be done in accordance with paragraph 2.B., Work Procedure, and 2.C., Conclusions, of Eurocopter Deutschland GMBH Service Bulletin SB–MBB–BK 117–20–109, Revision 2, dated April 30, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on June 2, 2000.

Note 4: The subject of this AD is addressed in Luftfahrt-Bundesamt (the Federal Republic of Germany) AD No. 1999–302, dated September 23, 1999.

Issued in Fort Worth, Texas, on April 19, 2000.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 00–10290 Filed 4–27–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD11–00–002]

Drawbridge Operation Regulations; Sacramento River, CA

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eleventh Coast Guard District has approved a temporary deviation to the regulations governing the opening of the Walnut Grove Highway bascule bridge, Mile 26.7, over the Sacramento River at Walnut Grove, CA. The approval specifies that the bridge need not open for vessel traffic from 8 a.m. to 12 p.m., April 24 through April 28, 2000 and 8 a.m. to 12 p.m., May 1 through May 5, 2000. The purpose of this deviation is to allow Sacramento County to perform essential seismic retrofit repairs.

DATES: Effective period of the deviation is from 8 a.m., April 24 through 12 p.m., May 5, 2000.

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

SUPPLEMENTARY INFORMATION: The Walnut Grove Highway bascule bridge, Mile 26.7, over the Sacramento River at Walnut Grove, CA provides 21 feet vertical clearance above Mean High Water when closed. Vessels that can pass under the bridge without an opening may do so at all times. This deviation has been coordinated with navigation on the waterway. No objections were received.

The normal drawbridge regulation requires the bridge to open on demand, 9 a.m. to 5 p.m., November 1 through

April 30; and 6 a.m. to 10 p.m., May 1 through October 31; and all other times if at least 4 hours advance notice is given.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the normal operating regulations in 33 CFR 117.5 is authorized in accordance with the provisions of 33 CFR 117.35.

Dated: April 19, 2000.

T.H. Collins,

Vice Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 00–10548 Filed 4–27–00; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP San Juan 00–013]

RIN 2115–AA97

Safety Zone Regulations; San Juan Harbor, San Juan, Puerto Rico

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule; correction.

SUMMARY: The Coast Guard published a temporary rule on March 20, 2000, creating a safety zone around the grounded cement carrier M/V SERGO ZAKARIADZE. The section number in that rule was incorrect. This document changes the section number from 165.T07–013 to 165.T07–037.

DATES: This section was effective at 7 a.m. on March 1, 2000 and terminated at 7 a.m. on March 22, 2000.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Lefevers at Coast Guard Marine Safety Office San Juan, Puerto Rico, tel: (787) 706–2444.

SUPPLEMENTARY INFORMATION:

Background and Purpose

The Coast Guard published a temporary safety zone in the **Federal Register** on March 20, 2000, (65 FR 14864), adding temporary section 165.T07–013.

Need for Correction

As published, that section number was incorrect. That section number is assigned to a current CFR section. This document corrects the section number.

Correction of Publication

In rule FR Doc. 00–6684 published on March 20, 2000 (65 FR 14864) make the following correction. On page 14865, in the first column, on lines 6 and 8, change the section number of the temporary safety zone to read § 165.T07–037.

J. Servidio,

Commander, U.S. Coast Guard, Captain of the Port, San Juan, Puerto Rico.

[FR Doc. 00–10498 Filed 4–27–00; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Western Alaska 00–001]

RIN 2115–AA97

Safety Zone; Kachemak Bay, Alaska

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary 200 yard radius safety zone on the navigable waters of the United States around the Heavy-lift vessel SWAN that will load the Crowley Marine barge 240–1 carrying living quarters for the Exploratory Drilling Structure ''OSPREY'' in Kachemak Bay, Alaska. This safety zone is implemented to ensure the safe and timely anchoring, loading, and departure of vessels and a barge operating in Kachemak Bay.

DATES: This temporary final rule is effective from 12:01 a.m. on May 4, 2000, until 11:59 p.m. on May 9, 2000.

ADDRESSES: The public docket for this rulemaking is maintained by Coast Guard Marine Safety Office Anchorage, 510 ''L'' Street, Suite 100, Anchorage, AK 99501. Materials in the public docket are available for inspection and copying at Coast Guard Marine Safety Office Anchorage. Normal Office hours are 7:30 a.m. to 4 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Rick Rodriguez, Chief of Port Operations, USCG Marine Safety Office, Anchorage, at (907) 271–6724.

SUPPLEMENTARY INFORMATION:

Regulatory History

A notice of proposed rulemaking (NPRM) was not published for this regulation. In keeping with requirements of 5 U.S.C. 553(B), the Coast Guard finds that good cause exists for not publishing a NPRM. In keeping with the requirements of 5 U.S.C. 553 (d)(3), the Coast Guard also finds that good cause exists for making this regulation effective less than 30 days after publication in the **Federal Register**. Meeting these requirements is impracticable because the scope of the loading activities and logistical details surrounding the loading of this barge on the Heavy-lift vessel SWAN was not finalized and provided to the Coast Guard until less than 30 days before the project date. Furthermore, it is in the public interest to insure the timely and safe loading of the barge onboard the Heavy-lift vessel SWAN to ensure that they do not place other vessels or personnel at risk to injury.

Background and Purpose

The Coast Guard is establishing a temporary 200-yard radius safety zone on the navigable waters of the United States around the Heavy-lift vessel SWAN that will load the Crowley Marine barge 240–1 carrying the living quarters for the Exploratory Drilling Structure ''OSPREY'' in Kachemak Bay, Alaska. The safety zone is designed to permit the safe and timely anchoring, loading, and departure of this vessel in the narrow timeframe in which this can be safely done. The safety zone's 200-yard standoff also aids the safety of these evolutions by minimizing conflicts and hazards that might otherwise occur with other transiting vessels. The limited size of the zone is designed to minimize impact on other mariners transiting through the area.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential cost 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 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 proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard considers whether this rule will have significant economic impacts on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions

with populations less than 50,000. Because this safety zone is very small, will only be in effect for six days, and does not impede access to other maritime facilities in the area, the Coast Guard believes there will be no impact to small entities. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation because it establishes a safety zone. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) and E.O. 12875, Enhancing the Intergovernmental Partnership, (58 FR 58093, October 28, 1993) govern the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This rule will not impose an unfunded mandate.

List of Subjects in 33 CFR Part 165

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

Temporary Regulation

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

PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. From 12:01 a.m. on May 4, 2000, until 11:59 p.m. on May 9, 2000, § 165.T17–00–001 is temporarily added to read as follows:

§ 165.T17–00–001 Safety Zone; Kachemak Bay, Alaska.

(a) *Description.* The following area is a Safety Zone: All navigable waters within a 200 yard radius of the Heavy-lift vessel SWAN, located in Kachemak Bay, Alaska.

(b) *Effective Dates.* This section is effective from 12:01 a.m. on May 4, 2000, until 11:59 p.m. on May 9, 2000.

(c) *Regulations.*

(1) The Captain of the Port means the Captain of the Port, Western Alaska. The Captain of the Port may authorize or designate any Coast Guard commissioned, warrant, or petty officer to act on his behalf as his representative.

(2) The general regulations governing safety zones contained in Title 33 Code of Federal Regulations, § 165.23 apply. No person or vessel may enter, transit through, anchor or remain in this safety zone, with the exception of attending vessels, without first obtaining permission from the Captain of the Port, Western Alaska, or his representative. The Captain of the Port or his representative may be contacted in the vicinity of the SWAN via marine VHF channel 16. The Captain of the Port's representative can also be contacted by telephone at (907) 271–6700.

Dated: April 13, 2000.

W.J. Hutmacher,

Captain, U.S. Coast Guard, Captain of the Port, Western Alaska.

[FR Doc. 00–10607 Filed 4–27–00; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. NY42–21–1; FRL–6583–8]

Approval and Promulgation of Implementation Plans; Reasonably Available Control Technology for Oxides of Nitrogen for the State of New York

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving New York's revisions to the State Implementation Plan (SIP) for ozone. The State submitted this portion of the implementation plan to satisfy Clean Air Act (the Act) requirements for adoption of rules for the application of reasonably available control technology (RACT) for oxides of nitrogen (NO_X) in the entire State. The intended effect of this SIP revision is to reduce emissions of NO_X from combustion sources in order to help attain the national ambient air quality standard for ozone.

EFFECTIVE DATE: This rule will be effective May 30, 2000.

ADDRESSES: Copies of the state submittal(s) are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866.

New York State Department of Environmental Conservation, Division of Air Resources, 50 Wolf Road, Albany, New York 12233.

Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Ted Gardella, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10278, (212) 637–3892.

SUPPLEMENTARY INFORMATION:

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What Action Is EPA Approving?

The EPA is approving revisions to New York's ozone State Implementation Plan (SIP) which New York submitted to EPA on January 20, 1994 and April 29, 1999. The January 20, 1994 submittal includes New York's Subpart 227–2 entitled ''Reasonably Available Control Technology (RACT) for Oxides of Nitrogen (NO_X).'' The April 29, 1999 submittal includes amendments to Subpart 227–2. A separate EPA action approved other portions (Part 200, Part 201, Subpart 227–1 and Subpart 227–3) of the January 1994 and April 1999 submittals in a **Federal Register**

document published at 65 FR 20905 on April 19, 2000.

Why Is EPA Approving This Action?

EPA is approving this action because it determined that New York's SIP revisions meet all requirements of the Clean Air Act (the Act), EPA guidelines and EPA policy thereby allowing implementation and enforcement of NO_X RACT requirements statewide.

When Did EPA Propose To Approve New York's SIP Revisions?

On January 5, 2000, EPA published in the **Federal Register** (65 FR 421) a Proposed Rulemaking to approve New York's regulations as a SIP revision and providing for a 30-day public comment period, which ended February 4, 2000.

What Are the Public's Comments on EPA's Proposal?

EPA received no public comments regarding the Proposed Rulemaking.

Where Is Additional Information Available on EPA's Action?

A detailed discussion of this action is available in the January 5, 2000 Proposed Rulemaking (65 FR 421). A Technical Support Document, prepared in support of the proposed rulemaking, contains the full description of New York's submittals and EPA's evaluation. A copy of the Technical Support Document is available upon request from the EPA Regional Office contact listed above in the **ADDRESSES** section.

Conclusion

EPA is approving the two SIP revisions that implement New York's NO_X RACT Program throughout the State for combustion sources, regardless of the nonattainment status. The first SIP revision, dated January 20, 1994, includes Subpart 227–2. The second SIP revision, dated April 29, 1999, includes amendments to Subpart 227–2. Therefore, this rule makes final the action proposed at 65 FR 421.

Administrative Requirements

Executive Order 12866

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

Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

Executive Order 13045

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

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation.

In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

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

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the

Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

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

Submission to Congress and the Comptroller General

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

National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 27, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: March 23, 2000.

William J. Muszynski,

Acting Regional Administrator, Region 2.

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

PART 52—[AMENDED]

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

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

Subpart HH—New York

2. Section 52.1670 is amended by adding new paragraph (c)(97) to read as follows:

§ 52.1670 Identification of plan.

* * * * *

(c) * * *

* * * * *

(97) Revisions to the State Implementation Plan submitted on January 20, 1994 and April 29, 1999 by the New York State Department of Environmental Conservation that establishes NO_X RACT requirements Statewide for combustion sources.

(i) Incorporation by reference:

(A) Regulation Subpart 227–2 of Title 6 of the New York Code of Rules and Regulations, entitled ''Reasonably Available Control Technology (RACT) for Oxides of Nitrogen (NO_X)'' adopted on January 19, 1994, and effective on February 18, 1994.

(B) Amendments to Subpart 227–2 adopted on January 12, 1999 and effective on March 5, 1999.

(ii) Additional information

(A) Letters from the New York State Department of Environmental Department Conservation dated January 20, 1994 and April 29, 1999, submitting the NO_X RACT Regulation and amendments as revisions to the New York State Implementation Plan for ozone.

(B) Letter from the New York State Department of Environmental Department Conservation dated April 27, 1999 submitting an analysis of mass NO_X emissions from generic sources throughout the State as well as resolution of other approvability issues.

3. In section 52.1679, the table is amended by revising the entry for Subpart 227–2 as follows:

§ 52.1679 EPA-approved New York State regulations.

New York State regulation	State effective date	Latest EPA approval date	Comments
* * * *	*	*	*
Subpart 227–2, Reasonably Available Control Technology (RACT) for Oxides of Nitrogen (NO_X).	3/5/99	[4/28/00 65 FR 24877].	
* * * *	*	*	*

[FR Doc. 00–10521 Filed 4–27–00; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 26

[USCG–1999–5040]

RIN 2115–AF69

Safety of Uninspected Passenger Vessels Under the Passenger Vessel Safety Act of 1993 (PVSA)

AGENCY: Coast Guard, DOT.

ACTION: Interim rule.

SUMMARY: The Coast Guard establishes this interim rule to provide for the issuance of special permits to uninspected vessels under the Passenger Vessel Safety Act of 1993 (PVSA). That Act authorizes the Coast Guard to amend operating and equipment guidelines for uninspected passenger vessels over 100 gross tons, carrying 12 or less passengers for hire. In addition, it authorizes the Coast Guard to issue special permits for vessels participating in a Marine Event of National Significance, such as OPSAIL 2000 and Tall Ships 2000.

DATES: This interim rule is effective May 12, 2000.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–1999–5040 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For questions on this rule, call Lieutenant Commander Michael A. Jendrossek, Office of Operating and Environmental Standards (G–MSO–2), Coast Guard, telephone 202–267–0836. For questions on viewing or submitting material to the docket, call Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Regulatory History

On September 30, 1994, we published Navigation and Vessel Inspection Circular (NVIC) No. 7–94 to provide compliance and enforcement guidance to Coast Guard members on implementing the provisions of the PVSA while detailed regulations were being developed. The NVIC addressed the statutory changes in detail, including one of the more significant changes requiring all chartered vessels carrying more than 12 passengers to be inspected by the Coast Guard. The PVSA allowed these vessels to apply for inspection with a phase-in period for compliance. The period for application for inspection expired on June 21, 1994, and the period for compliance expired on December 21, 1996. With widespread public notification, several hundred charter vessels applied for and met the conditions for certification with the requirements of the PVSA and policy guidance of the NVIC.

The NVIC also provided extensive guidance to Coast Guard Marine Safety field units on implementing the provisions of the new law. For those interested in viewing a copy of NVIC 7–94, it is available in this rulemaking docket as indicated under **ADDRESSES** and also on the Internet at *www.uscg.mil/hq/g-m/nvic/index90.htm.*

On April 1, 1999, the Coast Guard published an advanced notice of proposed rulemaking (ANPRM) in the **Federal Register** (64 FR 15709), notifying the public of the intent of this rulemaking and requesting comments in several areas. We received nine letters in response to the ANPRM.

On March 2, 2000, we published a notice of proposed rulemaking (NPRM) entitled ''Safety of Uninspected Passenger Vessels Under the Passenger Vessel Safety Act of 1993 (PVSA)'' in the **Federal Register** (65 FR 11410). Almost all of the changes proposed there are still open for public comment. Proposed section 26.03–8, however, was issued with a 30-day comment period to enable the Coast Guard to have regulations in place for this year's millennium celebrations involving sailing vessels from around the world, beginning May 25, 2000. The Coast Guard was not sure that certain vessels would need an exemption in order to participate in this celebration, thus we did not propose these regulations earlier. We received six comments on this proposed section. No public hearing was requested, and none was held.

Effective Date

The Coast Guard finds having these regulations in place before this year's Marine Event of National Significance begins constitutes good cause under the Administrative Procedure Act (5 U.S.C. § 553(d)(3)) for an effective date of less than 30 days. These regulations will take affect on May 12, 2000.

Background and Purpose

The PVSA authorizes the Coast Guard to develop regulations to issue special permits to uninspected vessels. This broadens the Coast Guard's authority from the excursion permit for inspected vessels to carry passengers for unique events. Under this authority, we proposed issuing special permits to the owner or operator of a vessel that is a registered participant in an event that the Commandant, U.S. Coast Guard, declares as a Marine Event of National Significance.

Discussion of Comments and Changes

The following is a summary of the comments we received concerning the proposed section 26.03–8 in the Notice of Proposed Rulemaking. We received six comments concerning the Coast Guard's implementation of special permits for Marine Events of National Significance.

One comment from The American Sail Training Association requests that Tall Ships 2000, scheduled to take place from 12 June to 16 July 2000, be granted designation as a Marine Event of National Significance. The Commandant has determined that Tall Ships 2000 meets the criteria necessary to be designated as such an event. Therefore, Tall Ships 2000 has been officially designated as a Marine Event of National Significance. In the NPRM for this rule, we noted that the Commandant had designated OPSAIL 2000 as a Marine Event of National Significance (65 FR 11410).

We received four comments that specifically address foreign flagged vessels carrying passengers in coastwise trade.

One comment states that the Coast Guard cannot permit foreign flagged vessels to transport passengers in the U.S. coastwise trades. The Coast Guard concurs with this comment. The Passenger Vessel Services Act (46 U.S.C. App. 283) prohibits the transportation of merchandise and passengers between points in the United States embraced within the coastwise laws in any vessel other than a vessel built in and documented under the laws of the United States and owned by persons who are citizens of the United States. However, the United States Customs Service has defined a passenger as ''* * *any person carried on a vessel who is not connected with the operation of such vessel, her navigation, ownership, or business'' (19 CFR § 4.50 [b]). Based on this definition, the Customs Service has held that a person

being trained or receiving instruction in the handling or navigation of a vessel, and whose presence on board the vessel is necessarily required in order to receive such training or instruction, is not a passenger within the meaning of the coastwise laws (Customs Letter Rulings 111168, dated March 20, 1991). This includes a person who pays to be a trainee aboard a vessel. (You may access the Custom Service's written ruling on the Internet at *http://192.239.92.158/cgi-bin/om_isapi.dll.* From this site, search the ''Headquarters Customs Rulings'' infobase for ''HQ 111168.'') Conversely, the Coast Guard, in accordance with maritime safety laws, defines an individual that pays to be a trainee to be a ''passenger for hire.'' However, there is an exception for U.S. inspected sailing school vessels. While the difference between the Coast Guard's and Customs Service's ''passenger'' definition appears to be in conflict, they serve vastly different purposes. The Coast Guard's issuing of special permits for Marine Events of National Significance is not intended to provide an exemption to the Passenger Vessel Services Act for foreign flagged vessels. Foreign flagged vessels participating in these events must ensure that they are in compliance with all appropriate U.S. laws, including the Passenger Vessel Services Act.

To alleviate the confusion that may arise due to the differing definitions of ''passenger,'' we have added paragraph (e) to Section 26.03–8. Paragraph (e) states that vessels carrying passengers for hire under a special permit must still meet the regulations set forth under the Passenger Vessel Services Act.

One comment states that section 26.03–8 Marine Event of National Significance Special Permits does not do a good job establishing the criteria a foreign vessel should meet and provide to the Office in Charge Marine Inspection (OCMI) before a special permit to carry passengers may be issued. The section does not address if the vessel(s) must comply with SOLAS, how the Jones Act is to be taken into consideration, if the vessel(s) must undergo a Port State Control Exam, if the vessel must be ''classed,'' or what criteria is used to decide if a waiver of any of the above (if applicable) is acceptable.

The Coast Guard is developing inspection guidance in the form of a Navigation and Inspection Circular (NVIC), which will be distributed to Coast Guard Marine Safety Units responsible for issuing special permits and to registered participants of Marine Events of National Significance. It will also be available in the docket for this rulemaking at the locations indicated under **ADDRESSES.** This NVIC, 1–00, details the criteria that a vessel should meet to qualify for a special operating permit. The criteria is based on the requirements the vessels would otherwise have to meet as an inspected vessel while taking into consideration the intended operations of the vessel, and the condition of the vessel and its equipment. Other criteria maybe considered as appropriate for individual vessels to ensure the vessel provides a satisfactory level of safety for the intended operation. The guidance will cover U.S. (certificated, uninspected, and recreational) vessels, foreign flagged vessels with International Maritime Organization Certificates, public vessels, and other vessels not included above. The NVIC, also will include guidance on foreign flag sail training vessels, coastwise trade restrictions and enforcement, Port State Control inspections, and the handling of moored attraction vessels. The NVIC will be available within days of the publication of this interim rule.

One comment expresses concern that the term ''Marine Event of National Significance'' may be somewhat misleading and urged that the term not be construed too strictly. The Coast Guard will give all applications for Marine Events of National Significance fair and equal consideration.

The interim rule also includes small grammatical changes to create a more readable regulation.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

A final Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT follows:

This rule establishes regulations that implement safety measures for uninspected passenger vessels under the Passenger Vessel Safety Act of 1993 (PVSA). These regulations provide for the issuance of special permits for vessels registered as participants in Marine Events of National Significance.

This rule affects uninspected vessels participating in Marine Events of National Significance. The Coast Guard will inspect vessels not possessing the appropriate certification and may issue special permits allowing these vessels to carry passengers during the event. Vessel owners will have an information request burden, as they must apply for permits. For the estimate of costs, we assume that about 175 vessels will apply for special permits for each Marine Event of National Significance. We also assume that the amount of time taken to file the application with the Coast Guard and post the permit will take 15 minutes (0.25 hrs.), and that the person performing this activity earns a wage rate of $48 per hour. Lastly, we assume that vessels will take part in such events once every 10 years. Therefore, the 10-year present value cost of this information collection request is $2,064. As participation in these events is not a requirement of the rule, these costs are considered to be non-mandatory. There will be additional cost to the government due to inspections and travel. The 10-year present value of the additional cost to the government is estimated to be $75,111. The intent of this requirement is to provide a safer environment at Marine Events of National Significance. While there have been no notable past problems at such events, the Coast Guard is acting proactively to reduce the risk of marine casualties.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The only type of small entity that will be affected by this interim rule is small businesses. The size standards for the relevant Standard Industrial Classification (SIC) codes [1] consider enterprises with 500 or less employees to be small businesses. We assume that all of the 175 uninspected vessels that will require the special permits are owned by small entities. The burden of applying for participation in a Marine Event of National Significance is estimated at $12 per vessel. We do not expect that owners of vessels will consider this additional cost to be significant.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this interim rule will not have a significant

[1] The relevant industries are Deep Sea Transportation of Passengers (4481) and Water Transportation of Passengers, N.E.C. (4489).

economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in this rulemaking. If this rule affects your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Lieutenant Commander Michael A. Jendrossek, Office of Operating and Environmental Standards (G–MSO–2), telephone 202–267–1055.

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

Collection of Information

This rule calls for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). This collection of information will be included under the current approved Office of Management and Budget (OMB) control number 2115–0133, entitled ''Vessel Inspection Related Forms and Posting Requirements Under Title 46 U.S. Code.'' We asked for public comment on the collection of information, and we received no comments.

Title: Vessel Inspection Related Forms and Posting Requirements Under Title 46 U.S. Code.

Summary of the Collection of Information: The owner, operator, or agent of an uninspected vessel participating in a Marine Event of National Significance must submit an application for a special permit.

Need for Information: The information is needed to identify, and inspect, all uninspected vessels that participate in Marine Events of National Significance to attest to the safety of each vessel.

Proposed Use of the Information: Applications will be used to initiate the inspection process to determine whether these vessels are properly equipped to be granted the special permit.

Description of Respondents: The respondents are owners or operators of uninspected vessels participating in a Marine Event of National Significance.

Number of Respondents: The Coast Guard estimates that owners of approximately 175 vessels will require and apply for permits at Marine Events of National Significance in 2000.

Frequency of Response: The permits are only valid for the duration of the event or as otherwise prescribed by the issuing authority. We estimate that the vessels that require these permits will only attend one Marine Event of National Significance in 2000. We further estimate that vessels will participate in these events approximately once every 10 years.

Burden of Response: The time burden of this response request in 2000 is 43 hours for industry and 1080 hours for the government. The total cost of these burdens is $2,064 for industry and $75,111 for the government.

Estimate of Total Annual Burden: Since we estimate that vessels will participate in Marine Events of National Significance approximately every 10 years, the total annual burden is the total burden reported above divided by 10. The annual time burden for industry is 4 hours and the annual time burden for government is 108 hours. The annual cost of these respective burdens is $206 for industry and $7,511 for the government.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we submitted a copy of this rule to the Office of Management and Budget (OMB) for its review of the collection of information. The section number is 46 CFR 2.01–45, and the corresponding approval number from OMB is OMB Control Number 2115–0133.

OMB has not yet acted upon our request for an increase. We will publish an additional notice when they do. Until then, you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

Federalism Summary Impact Statement

We analyzed this rule under Executive Order 13132, Federalism.

It is well settled that States are precluded from regulating in categories that are reserved for regulation by the Coast Guard. It has also been settled that all of the categories covered in 46 U.S.C. 3306 and 3703(a), 7101, and 8101 (*e.g.*, design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels) are within the field foreclosed from State regulation. See *United States* v. *Locke,*—U.S.—No. 98–1701 (March 6, 2000). *Ray* v. *Atlantic Richfield Co.,* 435 U.S. 151 (1978). This rule falls into the above mentioned categories, thereby precluding State regulation. Because states may not promulgate regulations within these categories, preemption is not an issue under E.O. 13132.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Environment

We considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(c), (d), and (e) of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. This rule will not result in any significant cumulative impact on the human environment; any substantial controversy or substantial change to existing environmental conditions; any impact, which is more than minimal, on properties protected under 4(f) of the DOT Act, as superseded by Public Law 97–449 and Section 106 of the National Historic Preservation Act; or any inconsistencies with any Federal, State,

or local laws or administrative determinations relating to the environment. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 46 CFR Part 26

Marine safety, Penalties, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard amends 46 CFR part 26 as follows:

PART 26—OPERATIONS

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

Authority: 46 U.S.C. 3306, 4104, 6101, 8105; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

2. Add § 26.03–8 to read as follows:

§ 26.03–8 Marine Event of National Significance special permits.

(a) For a Marine Event of National Significance, as determined by the Commandant, U.S. Coast Guard, a vessel may be permitted to engage in excursions while carrying passengers-for-hire for the duration of the event. Event sponsors seeking this determination must make written request to the Commandant (G–M) at least one year prior to the event.

(b) The owner, operator, or agent of a vessel that is registered as a participant in a Marine Event of National Significance, may apply for a special permit to carry passengers-for-hire for the duration of the event. The master, owner, or agent of the vessel must apply to the Coast Guard OCMI who has jurisdiction over the vessel's first United States port of call. The OCMI may issue a Form CG–949 ''Permit to Carry Excursion Party'' if in the opinion of the OCMI the operation can be undertaken safely. The OCMI may require an inspection prior to issuance of a special permit to insure that the vessel can safely operate under the conditions for which the permit is issued.

(c) The permit will state the conditions under which it is issued. These conditions must include the number of passengers-for-hire the vessel may carry, the crew required, the number and type of lifesaving and safety equipment required, the route and operating details for which the permit is issued, and the dates for which the permit will be valid.

(d) The permit must be displayed in a location visible to passengers.

(e) The carrying of passengers-for-hire during a Marine Event of National Significance must comply with the regulations governing coastwise transportation of passengers under 19 CFR 4.50 (b) and 19 CFR 4.80 (a).

Dated: April 21, 2000.

R.C. North,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 00–10499 Filed 4–27–00; 8:45 am]

BILLING CODE 4910–15–U

Proposed Rules

Federal Register
Vol. 65, No. 83
Friday, April 28, 2000

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–326–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–80 Series Airplanes and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to all McDonnell Douglas Model DC–9–80 series airplanes and Model MD–88 airplanes, that would have superseded an existing AD that currently requires revisions to the Airplane Flight Manual (AFM) and installation of tufts and triangular decals on the wing upper surfaces. The proposed AD would have required installation of an overwing heater blanket system or a primary wing ice detection system and a new AFM revision. For certain airplanes, this action proposes new repetitive tests and a one-time inspection, as applicable, to ensure the integrity of the electrical installation of the overwing heater blanket, and corrective action, if necessary. This new action also proposes installation of a heater protection panel or an equipment protection device on certain overwing heater blanket systems, which would constitute terminating action for the new repetitive tests for affected airplanes. The actions specified by this proposed AD are intended to prevent ice accumulation on the wing upper surfaces, which could result in ingestion of ice into one or both engines and consequent loss of thrust from one or both engines.

DATES: Comments must be received by June 12, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–326–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from The Boeing Company, Douglas Products Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Albert Lam, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5346; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–326–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–326–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to all McDonnell Douglas Model DC–9–80 series airplanes and Model MD–88 airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on March 8, 1999 (64 FR 10959). That NPRM proposed to supersede AD 92–03–02, amendment 39–8156 (57 FR 2014, January 17, 1992), which is applicable to all McDonnell Douglas Model DC–9–80 series airplanes and Model MD–88 airplanes. That proposal would have continued to require a revision to the Airplane Flight Manual (AFM) to specify restrictions on operations during icing conditions, installation of tufts and triangular decals on the inboard side of the wing upper surfaces, and a revision to the AFM to specify restrictions on operations when such tufts or decals are missing. That proposal would have added a requirement for installation of an overwing heater blanket system or a primary wing ice detection system, and a new revision to the AFM to advise the flightcrew of the hazards associated with ice accumulation on wing surfaces. That NPRM was prompted by incidents in which ice accumulation on the wing upper surfaces shed into the engines during takeoff. That condition, if not corrected, could result in consequent loss of thrust from one or both engines.

Actions Since Issuance of Previous Proposal

Since the issuance of that NPRM, the FAA has received several reports of

arcing of overwing heater blankets installed on the wing upper surfaces. Investigation revealed that the arcing was caused by damaged wiring in an overwing heater blanket. Investigation further revealed that the arcing current was too low for the circuit breaker of the overwing heater blanket system to disconnect power to the heater blanket. This condition, if not corrected, could result in a fire on the overwing heater blanket.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD80–30A087, dated September 22, 1997. For airplanes on which an overwing heater blanket system has been installed in accordance with certain service bulletins or supplemental type certificates (STC), that service bulletin describes procedures for repetitive dielectric withstanding voltage and resistance tests of overwing heater blankets to ensure the integrity of the electrical installation of the overwing heater blanket and to ensure that there is no damage to the heater blanket. For airplanes on which the overwing heater blanket system was installed in accordance with TDG Aerospace, Inc., STC SA6042NM, the service bulletin also describes procedures for a one-time detailed visual inspection to detect discrepancies of the overwing heater blanket, including mechanical damage or punctures in the upper skin of the blanket, prying damage on the panel, and fuel leakage. McDonnell Douglas Alert Service Bulletin MD80–30A087 references TDG Aerospace Document E95–451, Revision B, dated January 31, 1996, as an additional source of service information for accomplishment of corrective actions, including repair or replacement of the overwing heater blanket, if any discrepancy is detected.

The FAA also has reviewed and approved McDonnell Douglas Service Bulletin MD80–30–090, dated October 19, 1999. For airplanes on which the overwing heater blanket system was installed in accordance with certain service bulletins or STC's, that service bulletin describes procedures for installation of a heater protection panel (HPP) and associated wiring on the overwing heater blanket system, or modification of the existing HPP, if one is installed. Installation of an HPP is intended to protect the overwing heater blanket from damage by detecting abnormal current flow, and interrupting and shutting off power to the heater blanket. Accomplishment of the installation or modification of the HPP, as applicable, eliminates the need for the repetitive tests described in McDonnell Douglas Alert Service Bulletin MD80–30A087, dated September 22, 1997.

Accomplishment of the actions described in these service bulletins is intended to adequately address the new identified unsafe condition (arcing of overwing heater blankets, which could result in a fire on the overwing heater blanket).

Comments

Due consideration has been given to the comments received in response to the NPRM, and two comments have resulted in a change to this proposed rule.

Request To Incorporate Ground Fault Protection System

One commenter, the airplane manufacturer, requests that the proposed AD be revised to add a requirement for installation of ground fault protection for the overwing heater blanket system. The commenter states no justification for its request in its comment. However, as stated previously, there have been several incidents of arcing of overwing heater blankets due to damaged wiring, and the manufacturer has issued McDonnell Douglas Service Bulletin MD80–30–090, described previously, which describes procedures for installation of ground fault protection.

The FAA partially concurs with the commenter's request. The FAA concurs that it is necessary to require installation of ground fault protection for the overwing heater blanket systems installed in accordance with certain service bulletins or STC's. Therefore, paragraphs (f)(1)(i) and (f)(1)(ii) of this supplemental NPRM would require installation or modification, as applicable, of an HPP on any overwing heater blanket system installed in accordance with McDonnell Douglas Service Bulletin MD80–30–071, Revision 02, dated February 6, 1996; or McDonnell Douglas Service Bulletin MD80–30–078, Revision 01, dated April 8, 1997. Similarly, paragraph (f)(1)(iii) of this supplemental NPRM proposes to require installation of an equipment protection device (EPD) approved by the Manager, Los Angeles Aircraft Certification Office, to provide ground fault protection for the overwing heater blanket system installed in accordance with TDG Aerospace, Inc., Supplemental Type Certificate (STC) SA6042NM. In addition, for airplanes on which overwing heater blankets are already installed, this supplemental NPRM proposes to require accomplishment of the previously described repetitive dielectric withstanding voltage and resistance tests of overwing heater blankets.

However, the FAA finds that it is not necessary to require installation of ground fault protection for airplanes on which overwing heater blankets are installed in accordance with AlliedSignal STC SA6061NM, because a ground fault protection circuit is integrated as part of the system.

Request To Reference Holders of STC's

One commenter states that, although the McDonnell Douglas service bulletins are quoted repeatedly in the NPRM by both name and service bulletin numbers, the NPRM makes no mention of the holders of the STC's referenced in paragraph (d)(1) of the NPRM. The commenter requests that the holders of the STC's be identified in the AD.

The FAA concurs with the commenter's request. Therefore, paragraph (f)(1)(iii)(B) identifies TDG Aerospace, Inc., as the holder of STC 6042NM, and paragraph (f)(1)(iii)(C) of this supplemental NPRM identifies AlliedSignal as the holder of STC SA6061NM.

Request To Revise Cost Impact Information

One commenter, the airplane manufacturer, requests revisions to the cost impact estimates for installation of the wing heater system and primary wing ice detector system. Certain changes suggested by the commenter are related to the incorporation of the ground fault protection system along with the wing heater system; various other changes relate to the estimate of work hours and costs for installation of the primary wing ice detection system. The commenter provides no justification for its requests, but does indicate that the cost of parts will vary depending on factors such as parts suppliers, airplane fleet size, and airplane configuration.

The FAA partially concurs with the commenter's requests. The FAA finds that it is appropriate to update the cost estimate in this supplemental NPRM to reflect the work hours and parts costs associated with installation of the HPP or EPD along with the wing heater system. Therefore, this supplemental NPRM has been revised to update the cost of installation of the overwing heater blankets to reflect the figures provided by the commenter. The FAA has also determined that it is appropriate to revise the estimated costs for installation of the primary wing ice detection system; however, the cost estimates have been updated to reflect

the most recent information provided by the manufacturer and do not necessarily reflect the figures provided by the commenter in its written comment.

Explanation of New Requirements of Proposal

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would continue to require a revision to the Airplane Flight Manual (AFM) to specify restrictions on operations during icing conditions, installation of tufts and triangular decals on the inboard side of the wing upper surfaces, and a revision to the AFM to specify restrictions on operations when such tufts or decals are missing. The proposed AD would also require installation of an overwing heater blanket system or a primary wing ice detection system, and a new revision to the AFM to advise the flightcrew of the hazards associated with ice accumulation on wing surfaces. Installation of an overwing heater blanket system, if accomplished, would be required to be accomplished in accordance with the applicable service bulletin described in the NPRM, except as discussed in the ''Differences Between Proposed Rule and Service Bulletins'' section of the original NPRM; or in accordance with certain STC's. Installation of a primary wing ice detection system, if accomplished, would be required to be accomplished in accordance with a method approved by the FAA.

For certain airplanes on which an overwing heater blanket system has already been installed prior to the effective date of the AD, the proposed AD also would require repetitive tests to ensure the integrity of the electrical installation of the overwing heater blanket; a one-time inspection to detect discrepancies in repaired areas of the overwing heater blanket system, as applicable; and corrective action, if necessary. The proposed AD also would require installation or modification of an HPP, as applicable, or installation of an EPD, to provide circuit protection to the overwing heater blanket system. Such installation or modification, as applicable, would constitute terminating action for the new proposed repetitive tests for affected airplanes. The repetitive inspections and installation or modification of an HPP, as applicable, would be required to be accomplished in accordance with the service bulletins described previously, except as discussed below. Installation of an EPD would be required to be accomplished in accordance with a method approved by the FAA.

Explanation of Differences Between Service Bulletins and Supplemental NPRM

Operators should note that, although McDonnell Douglas Service Bulletin MD80–30–090 recommends that an HPP be installed in conjunction with installation of an overwing heater blanket within 18 months after receipt of that service bulletin, this supplemental NPRM proposes to require installation of an HPP (or an EPD) within 3 years after the effective date of this AD. The FAA finds that it is appropriate for the HPP (or EPD) to be installed in conjunction with the overwing heater blanket system, and the compliance time for installation of the overwing heater blanket system specified in this proposed AD is 3 years after the effective date of this AD. Therefore, the FAA finds that it is appropriate to require installation of both the overwing heater blanket system and an HPP or EPD within 3 years after the effective date of this AD. However, for overwing heater blankets installed prior to the effective date of this AD without an HPP or EPD, this proposed AD would require repetitive tests, described previously, to ensure the integrity of the electrical installation of the overwing heater blanket (and a one-time detailed visual inspection to detect discrepancies in repaired areas of the overwing heater blanket system, if applicable) until an HPP or EPD is installed.

Conclusion

Since these changes expand the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

Cost Impact

There are approximately 1,153 airplanes of the affected design in the worldwide fleet. The FAA estimates that 643 airplanes of U.S. registry would be affected by this proposed AD.

The AFM revision that is currently required by AD 92–03–02 takes approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required AFM revision on U.S. operators is estimated to be $38,580, or $60 per airplane.

The revision of the CDL that is currently required by AD 92–03–02 takes approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the CDL revision on U.S. operators is estimated to be $38,580, or $60 per airplane.

The installation of tufts and decals that is currently required by AD 92–03–02 takes approximately 3 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts cost approximately $25 per airplane. Based on these figures, the cost impact of the currently required installation of tufts and decals on U.S. operators is estimated to be $131,815, or $205 per airplane.

The installation of the wing heater system that is proposed as one option for compliance with this AD action would take approximately 200 to 350 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $76,000 to $130,000 per airplane, depending on suppliers, airplane fleet size, and configuration. Based on these figures, the cost impact of the installation proposed by this AD on U.S. operators is estimated to range from $88,000 to $151,000 per airplane.

In lieu of installation of a wing heater system, this proposed AD provides for installation of a primary wing ice detector system. Because the manufacturer has not issued service information that describes the procedures for such an installation, the FAA is unable at this time to provide specific information as to the number of work hours or cost of parts that would be required to accomplish that proposed installation. However, based on estimated costs provided by the manufacturer, the FAA can reasonably estimate that the proposed installation would require 290 work hours to accomplish, at an average labor rate of $60 per work hour. The cost of required parts is estimated to range from $30,000 to $70,000 per airplane, depending on fleet size and airplane configuration. Based on these figures, the cost impact of the installation of a primary wing ice detector system proposed by this AD on U.S. operators is estimated to range from $47,400 to $87,400 per airplane.

The new AFM revision that is proposed in this AD action would take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the new AFM revision proposed by this AD on U.S. operators is estimated to be $38,580, or $60 per airplane.

For affected airplanes, the new repetitive tests proposed in this AD action would take approximately 3 work hours per airplane to accomplish, at an

average labor rate of $60 per work hour. Based on these figures, the cost impact of the repetitive tests proposed by this AD on U.S. operators is estimated to be $180 per airplane, per test cycle.

For affected airplanes, the one-time detailed visual inspection proposed in this AD action would take approximately 3 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the detailed visual inspection proposed by this AD on U.S. operators is estimated to be $180 per airplane.

For airplanes listed in Group 1 of McDonnell Douglas Alert Service Bulletin MD80–30–090, the modification of the existing HPP would take approximately 5 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. The manufacturer has committed previously to its customers that it will bear the cost of necessary parts. As a result, the cost of those parts is not attributable to this proposed AD. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $300 per airplane.

For airplanes listed in Group 2 of McDonnell Douglas Alert Service Bulletin MD80–30–090, the installation of the HPP and associated wiring would take approximately 3 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. The manufacturer has committed previously to its customers that it will bear the cost of necessary parts. As a result, the cost of those parts is not attributable to this proposed AD. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $180 per airplane.

Because no service information that describes procedures for installation of an EPD has been issued, such installation for affected airplanes would be required to be accomplished in accordance with a method approved by the FAA, and the FAA is unable at this time to provide specific information as to the number of work hours that would be required to accomplish the proposed installation. However, based on the information available for installation of an HPP, the FAA estimates that the proposed installation of an EPD would require approximately 3 hours per airplane, at an average labor rate of $60 per work hour. Based on information from the supplier on parts cost for the EPD, the cost of required parts is estimated to be $5,475 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $5,655 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. However, the FAA has been advised that the terminating modification has already been installed on a number of airplanes that are subject to this AD. Therefore, the future economic cost impact of this rule on U.S. operators is expected to be less than the cost impact figures indicated above.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8156 (57 FR 2014, January 17, 1992), and by adding a new airworthiness directive (AD), to read as follows:

McDonnell Douglas: Docket 98–NM–326–AD. Supersedes AD 92–03–02, Amendment 39–8156.

Applicability: All Model DC–9–81, –82, –83, and –87 series airplanes; and Model MD–88 airplanes; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent ice accumulation on the wing upper surfaces, which could result in ingestion of ice into one or both engines and consequent loss of thrust from one or both engines, accomplish the following:

Restatement of Requirements of AD 92–03–02

Airplane Flight Manual Revision

(a) Within 10 days after January 17, 1992 (the effective date of AD 92–03–02, amendment 39–8156), revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following. This may be accomplished by inserting a copy of this AD in the AFM.

''Ice on Wing Upper Surfaces

Caution

Ice shedding from the wing upper surface during takeoff can cause severe damage to one or both engines, leading to surge, vibration, and complete thrust loss. The formation of ice can occur on wing surfaces during exposure of the airplane to normal icing conditions. Clear ice can also occur on the wing upper surfaces when cold-soaked fuel is in the main wing fuel tanks, and the airplane is exposed to conditions of high humidity, rain, drizzle, or fog at ambient temperatures well above freezing. Often, the ice accumulation is clear and difficult to detect visually. The ice forms most frequently on the inboard, aft corner of the main wing tanks. [END OF CAUTIONARY NOTE]

The wing upper surfaces must be physically checked for ice when the airplane has been exposed to conditions conducive to ice formation. Takeoff may not be initiated unless the flight crew verifies that a visual check and a physical (hands-on) check of the wing upper surfaces have been accomplished, and that the wing is clear of ice accumulation when any of the following conditions occur:

(1) When the ambient temperature is less than 50 degrees F and high humidity or visible moisture (rain, drizzle, sleet, snow, fog, etc.) is present;

(2) When frost or ice is present on the lower surface of either wing;

(3) After completion of de-icing.

When tufts and triangular decals are installed in accordance with McDonnell Douglas MD–80 Service Bulletin 30–59, the physical check may be made by assuring that all installed tufts move freely.

Note

This limitation does not relieve the requirement that aircraft surfaces are free of frost, snow, and ice accumulation, as required by Federal Aviation Regulations Sections 91.527 and 121.629. [END OF NOTE]''

AFM Configuration Deviation List Revision

(b) Within 10 days after January 17, 1992, revise the Configuration Deviation List (CDL) Appendix of the FAA-approved AFM to include the following. This may be accomplished by inserting a copy of this AD in the AFM.

''30–80–01 Triangular Decal and Tuft Assemblies

Up to two (2) decals or tufts per side may be missing, provided:

(a) At least one decal and tuft on each side is located along the aft spar line; and

(b) The tufts are used for performing the physical check to determine that the upper wing is free of ice by observing that the tufts move freely.

Up to eight (8) decals and/or tufts may be missing, provided:

(a) Takeoff may not be initiated unless the flight crew verifies that a physical (hands-on) check is made of the upper wing in the location of the missing decals and/or tufts to assure that there is no ice on the wing when icing conditions exist;

OR

(b) When the ambient temperature is more than 50 degrees F.''

Installation of Tufts and Triangular Decals

(c) Within 30 days after January 17, 1992, install tufts and triangular decals on the inboard side of the wings' upper surfaces, in accordance with McDonnell Douglas Service Bulletin 30–59, dated September 18, 1989; Revision 1, dated January 5, 1990; or Revision 2, dated August 15, 1990.

New Requirements of This AD

Repetitive Tests and One-Time Inspection

(d) For airplanes on which an overwing heater blanket system was installed without installation of a heater protection panel (HPP) or an equipment protection device (EPD) prior to the effective date of this AD: Within 60 days after the effective date of this AD, accomplish the actions specified in paragraph (d)(1) or (d)(2) of this AD, as applicable.

(1) For airplanes on which the overwing heater blanket system was installed in accordance with McDonnell Douglas Service Bulletin MD80–30–071, Revision 02, dated February 6, 1996; or McDonnell Douglas Service Bulletin MD80–30–078, Revision 01, dated April 8, 1997: Accomplish paragraphs (d)(1)(i) and (d)(1)(ii) of this AD.

(i) Remove secondary access covers, and perform a one-time detailed visual inspection to detect discrepancies (mechanical damage or punctures in the upper skin of the blanket, prying damage on the panel, and fuel leakage) of the overwing heater blanket, in accordance with McDonnell Douglas Alert Service Bulletin MD80–30A087, dated September 22, 1997. And,

(ii) Accomplish paragraph (d)(1)(ii)(A) or (d)(1)(ii)(B) of this AD.

(A) Perform dielectric withstanding voltage and resistance tests in accordance with McDonnell Douglas Alert Service Bulletin MD80–30A087, dated September 22, 1997. Repeat the tests thereafter at intervals not to exceed 150 days, until installation of an HPP in accordance with paragraph (f)(1)(i) or (f)(1)(ii) of this AD, as applicable.

(B) Deactivate the overwing heater blanket system until accomplishment of dielectric withstanding voltage and resistance tests specified in paragraph (1)(2)(ii)(A). If the overwing heater blanket system is deactivated as provided by this paragraph, continue to accomplish the requirements of paragraphs (a), (b), and (c) of this AD.

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

(2) For airplanes on which the overwing heater blanket system was installed in accordance with TDG Aerospace, Inc., STC SA6042NM: Accomplish paragraphs (d)(2)(i) and (d)(2)(ii) of this AD.

(i) Remove secondary access covers, and perform a one-time detailed visual inspection to detect discrepancies (mechanical damage or punctures in the upper skin of the blanket, prying damage on the panel, and fuel leakage) of the overwing heater blanket, in accordance with McDonnell Douglas Alert Service Bulletin MD80–30A087, dated September 22, 1997. And,

(ii) Accomplish paragraph (d)(2)(ii)(A) or (d)(2)(ii)(B) of this AD.

(A) Perform dielectric withstanding voltage and resistance tests in accordance with McDonnell Douglas Alert Service Bulletin MD80–30A087, dated September 22, 1997. Repeat the tests thereafter at intervals not to exceed 150 days, until installation of an EPD in accordance with paragraph (f)(1)(iii)(B) of this AD.

(B) Deactivate overwing heater blanket system until accomplishment of dielectric withstanding voltage and resistance tests specified in paragraph (d)(2)(ii)(A). If the overwing heater blanket system is deactivated as provided by this paragraph, continue to accomplish the requirements of paragraphs (a), (b), and (c) of this AD.

Corrective Action

(e) If any discrepancy is detected during any inspection or test performed in accordance with paragraph (d) of this AD, prior to further flight, repair or replace the affected heater blanket, in accordance with McDonnell Douglas Alert Service Bulletin MD80–30A087, dated September 22, 1997.

Note 3: McDonnell Douglas Alert Service Bulletin MD80–30A087, dated September 22, 1997, references TDG Aerospace Document E95–451, Revision B, dated January 31, 1996, as an additional source of service information for accomplishment of repair or replacement of the overwing heater blanket.

Installation of Overwing Heater Blanket or Primary Wing Ice Detection System

(f) Within 3 years after the effective date of this AD, accomplish the requirements of either paragraph (f)(1) or (f)(2) of this AD.

(1) Accomplish the actions specified in paragraph (f)(1)(i), (f)(1)(ii), or (f)(1)(iii) of this AD, as applicable.

(i) For airplanes listed in Group 1 in McDonnell Douglas Service Bulletin MD80–30–090, dated October 19, 1999: Install an overwing heater blanket system in accordance with McDonnell Douglas Service Bulletin MD80–30–071, Revision 02, dated February 6, 1996; and modify and reidentify the existing HPP in accordance with McDonnell Douglas Service Bulletin MD80–30–090. Modification of the existing HPP in accordance with this paragraph constitutes terminating action for the repetitive inspections required by (d)(1)(ii)(A) of this AD.

(ii) For airplanes listed in Group 2 in McDonnell Douglas Service Bulletin MD80–30–090, dated October 19, 1999: Install an overwing heater blanket system in accordance with McDonnell Douglas Service Bulletin MD80–30–078, Revision 01, dated April 8, 1997; and install an HPP and associated wiring in accordance with McDonnell Douglas Service Bulletin MD80–30–090. Installation of an HPP and associated wiring in accordance with this paragraph constitutes terminating action for the repetitive inspections required by (d)(1)(ii)(A) of this AD.

(iii) For airplanes other than those identified in paragraph (f)(1)(i) or (f)(1)(ii) of this AD: Accomplish the requirements of paragraph (f)(1)(iii)(A), (f)(1)(iii)(B), or (f)(1)(iii)(C) of this AD.

(A) Accomplish the actions specified in either paragraph (f)(1)(i) or (f)(1)(ii) of this AD.

(B) Install an overwing heater blanket system in accordance with TDG Aerospace, Inc., Supplemental Type Certificate (STC) SA6042NM, and install an EPD that provides a circuit protection function to the overwing heater blanket, in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Installation of an EPD in accordance with this paragraph constitutes terminating action for the repetitive inspections required by (d)(2)(ii)(A) of this AD.

(C) Install an overwing heater blanket system in accordance with AlliedSignal STC SA6061NM.

(2) Install an FAA-approved primary wing ice detection system in accordance with a method approved by the Manager, Los Angeles ACO.

Note 4: McDonnell Douglas has received FAA approval of an acceptable primary wing ice detection system. This modification has been assigned a McDonnell Douglas service bulletin number but, at this time, no service bulletin is available.

AFM Revision

(g) Prior to further flight after accomplishment of the installation required by paragraph (f)(1) or (f)(2) of this AD, revise the Limitations Section of the FAA-approved AFM to include the following. This may be accomplished by inserting a copy of this AD in the AFM. After accomplishment of the installation required by paragraph (f) of this AD and this AFM revision, the AFM revisions required by paragraphs (a) and (b) of this AD may be removed from the AFM, and the tufts and triangular decals required by paragraph (c) of this AD may be removed from the airplane.

"Ice on Wing Upper Surfaces

Caution

Ice shedding from the wing upper surface during takeoff can cause severe damage to one or both engines, leading to surge, vibration, and complete thrust loss. The formation of ice can occur on wing surfaces during exposure of the airplane to normal icing conditions. Clear ice can also occur on the wing upper surfaces when cold-soaked fuel is in the main wing fuel tanks, and the airplane is exposed to conditions of high humidity, rain, drizzle, or fog at ambient temperatures well above freezing. Often, the ice accumulation is clear and difficult to detect visually. The ice forms most frequently on the inboard, aft corner of the main wing tanks. [END OF CAUTIONARY NOTE]"

Alternative Methods of Compliance

(h)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

(2) Alternative methods of compliance, approved previously in accordance with AD 92–03–02, amendment 39–8156, are NOT approved as alternative methods of compliance with this AD.

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

Special Flight Permits

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

Issued in Renton, Washington, on April 24, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–10672 Filed 4–27–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–90–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–7–100, and DHC–8–100, –200, and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Bombardier Model DHC–7–100, and DHC–8–100, –200, and –300 series airplanes. This proposal would require a one-time inspection of maintenance records to determine the method used during the most recent weight and balance check of the airplane and, if necessary, accomplishment of a weight and balance check. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent unusual handling characteristics and consequent reduced controllability during ground operations due to incorrect methods of weighing and balancing the airplane.

DATES: Comments must be received by May 30, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–90–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Centre-ville, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: James E. Delisio, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7521; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2000–NM–90–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–90–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on all Bombardier Model DHC–7–100, and all Model DHC–8–100, –200, and –300

series airplanes. TCCA advises that it has received reports of airplanes having unusual handling characteristics during ground operations. Investigation into the occurrences revealed discrepancies between the actual center of gravity (CG) of the airplane and the recorded CG in the airplane's maintenance records. All of the airplanes involved had, since delivery from the manufacturer, accomplished a weight and balance check using wing jacks. Further investigation conducted by the manufacturer (Bombardier) revealed that, for high wing airplanes, the use of wing jacks can result in CG errors as large as 2 to 3 percent of the mean aerodynamic chord (MAC). Such errors could result in unusual handling characteristics and consequent reduced controllability during ground operations.

Explanation of Relevant Service Information

The manufacturer has issued de Havilland Weight and Balance Manuals, as follows:

- PSM 1–7–8, Issue 1, dated November 1978 (For Model DHC–7–100 series airplanes).
- PSM 1–7C–8, Issue 1, dated November 1978 (For Model DHC–7–101 series airplanes).
- PSM 1–71–8, Issue 2, dated February 1982 (For Model DHC–7–102 series airplanes).
- PSM 1–71C–8, Issue 1, dated November 1979 (For Model DHC–7–103 series airplanes).
- PSM 1–8–8, Issue 3, dated March 1996 (For Model DHC–8–100 series airplanes).
- PSM 1–82–8, Issue 2, dated March 1996 (For Model DHC–8–200 series airplanes).
- PSM 1–83–8, Issue 3, dated March 1996 (For Model DHC–8–300 series airplanes).

The de Havilland Weight and Balance Manuals describe specific methods for weighing and balancing the airplane to ensure the proper CG for the airplane. The methods involve using platform scales or bottle neck jacks at the undercarriage jacking points, and specifically recommend NOT using wing jacks. TCCA classified this service information as mandatory and issued Canadian airworthiness directive CF–98–32R1, dated March 11, 1999, in order to assure the continued airworthiness of these airplanes in Canada.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require a one-time inspection of the maintenance records to determine the method used during the most recent weight and balance check of the airplane and, if necessary, accomplishment of a weight and balance check. The actions would be required to be accomplished in accordance with the service information described previously.

Differences Between Proposed Rule and Foreign Airworthiness Directive

The proposed AD would differ from the parallel Canadian airworthiness directive in that it would require the inspection of the maintenance records within 60 days after the effective date of this AD. The parallel Canadian airworthiness directive recommends the inspection within 1 year after the effective date of that AD. In developing an appropriate compliance time for this AD, the FAA considered not only TCCA's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, and the average utilization of the affected fleet. In light of these factors, the FAA finds a 60-day compliance time for performing the inspection actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Cost Impact

The FAA estimates that 207 series airplanes of U.S. registry would be affected by this proposed AD, and that it would take approximately 1 work hour per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $12,420, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier Inc. (Formerly de Havilland, Inc.): Docket 2000–NM–90–AD.

Applicability: All Model DHC–7–100 series airplanes and all Model DHC–8–100, –200, and –300 series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent unusual handling characteristics and consequent reduced controllability during ground operations due to incorrect methods of weighing and balancing the airplane, accomplish the following:

(a) Within 60 days after the effective date of this AD, perform a one-time inspection of maintenance records to determine the method used during the most recent weight and balance check of the airplane.

(1) If the maintenance records indicate that platform scales or bottle jacks at the undercarriage jacking points were used during the most recent weight and balance check, no further action is required by this AD.

(2) If the maintenance records indicate that wing jacks were used during the most recent weight and balance check, or if the maintenance records do not verify the use of platform scales or bottle jacks at the undercarriage jacking points, prior to further flight, accomplish a weight and balance check of the airplane in accordance with the applicable de Havilland Weight and Balance Manual procedures specified in paragraph (a)(2)(i), (a)(2)(ii), (a)(2)(iii), (a)(2)(iv), (a)(2)(v), (a)(2)(vi), or (a)(2)(vii), of this AD.

(i) For Model DHC–7–100 series airplanes: Accomplish the actions in accordance with de Havilland Weight and Balance Manual PSM 1–7–8, Issue 1, dated November 1978.

(ii) For Model DHC–7–101 series airplanes: Accomplish the actions in accordance with de Havilland Weight and Balance Manual PSM 1–7C–8, Issue 1, dated November 1978.

(iii) For Model DHC–7–102 series airplanes: Accomplish the actions in accordance with de Havilland Weight and Balance Manual PSM 1–71–8, Issue 2, dated February 1982.

(iv) For Model DHC–7–103 series airplanes: Accomplish the actions in accordance with de Havilland Weight and Balance Manual PSM 1–71C–8, Issue 1, dated November 1979.

(v) For Model DHC–8–100 series airplanes: Accomplish the actions in accordance with de Havilland Weight and Balance Manual PSM 1–8–8, Issue 3, dated March 1996.

(vi) For Model DHC–8–200 series airplanes: Accomplish the actions in accordance with de Havilland Weight and Balance Manual PSM 1–82–8, Issue 2, dated March 1996.

(vii) For Model DHC–8–300 series airplanes: Accomplish the actions in accordance with de Havilland Weight and Balance Manual PSM 1–83–8, Issue 3, dated March 1996.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Note 3: The subject of this AD is addressed in Canadian airworthiness directive CF–98–32R1, dated March 11, 1999.

Issued in Renton, Washington, on April 24, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–10671 Filed 4–27–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–78–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Boeing Model 737–100, –200, –300, –400, and –500 series airplanes. That AD currently requires inspection of the fueling float switch wiring in the center fuel tank to detect discrepancies, accomplishment of corrective actions, and installation of double Teflon sleeving over the wiring of the float switch. In lieu of the above mentioned requirements, that AD provides for deactivation of the float switch. This proposed action would eliminate the option for deactivation of the float switch and require, for all affected airplanes, repetitive inspections of the float switch wiring to detect discrepancies; replacement of the float switch and wiring, if necessary; and replacement of the double Teflon sleeving. For certain airplanes, this action also would add a new requirement for inspection and installation of partial double Teflon sleeving in a certain area. The actions specified by the proposed AD are intended to detect and correct chafing of the direct current powered float switch wiring insulation in the center fuel tank and the resultant arcing from the wiring to the in-tank conduit, which could present an ignition source inside the fuel tank and result in a consequent fire or explosion.

DATES: Comments must be received by June 12, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–78–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Dorr M. Anderson, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2684; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–78–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–78–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On February 23, 1999, the FAA issued AD 99–05–12, amendment 39–11060 (64 FR 10213, March 3, 1999), applicable to certain Boeing Model 737–100, –200, –300, –400, and –500 series airplanes. [A correction of that AD was published in the **Federal Register** on March 9, 1999 (64 FR 11533).] That AD requires removal of the fueling float switch and wiring in the center fuel tank and inspection of the float switch wiring to detect discrepancies, and either reinstallation of existing float switch and wiring, or replacement of the float switch and wiring with a new float switch and wiring. That action also requires installation of double Teflon sleeving over the wiring of the float switch. In lieu of the above mentioned requirements, that AD requires deactivation of the float switch, accomplishment of specific fueling procedures, and installation of Caution signs. That action was prompted by a report indicating that chafing of the direct current (DC) powered float switch wiring insulation in the center fuel tank has occurred on several airplanes. The requirements of that AD are intended to detect and correct such chafing and the resultant arcing from the wiring to the in-tank conduit, which could present an ignition source inside the fuel tank and consequent fire/explosion.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, the airplane manufacturer has examined fueling float switch wiring removed from the center fuel tank of airplanes that have accumulated between 4,000 and 20,000 total flight hours. Significant wire chafing was observed on wiring removed from airplanes that have accumulated as few as 12,000 total flight hours.

In addition, the FAA finds that the conduit-enclosed float switch wiring installation is not a fail-safe design. Therefore, the FAA finds that repetitive inspections to detect discrepancies of the fueling float switch wiring in the center fuel tank are necessary to ensure safe operation.

Furthermore, when AD 99–05–12 was issued, it contained provisions for deactivation of the center tank float switch, and reinstallation of any existing float switch wiring having worn insulation. In the preamble to that AD, the FAA indicated that the actions required by that AD were considered ''interim action'' and that further rulemaking action was being considered. Such further rulemaking could include a requirement for replacement of the existing float switch and wiring with a new float switch and wiring for any airplane on which the float switch was deactivated or on which an existing float switch with worn insulation was reinstalled. The FAA now has determined that further rulemaking action is indeed necessary, and this proposed AD follows from that determination.

Other Relevant Rulemaking

On January 26, 1999, the FAA issued AD 99–03–04, amendment 39–11018 (64 FR 4959, February 2, 1999), which requires modification of certain Model 737 series airplanes to provide shielding and separation of the fuel system wiring (that is routed to the fuel tanks) from adjacent wiring. That AD is intended to prevent electrical transients induced by electromagnetic interference or electrical short circuit conditions that could cause arcing of fuel system wiring or fuel quantity indication system probes. Such electrical transients would not cause ignition of fuel vapors in the fuel tank unless the wiring or probes in the tank had a latent short circuit condition between probe terminals, between probe to structure, between terminal block to structure, between in-tank wires, or between an in-tank wire to structure. This proposed rule is intended to address a separate possible source of ignition in the fuel tanks: arcing from the float switch wiring to the in-tank conduit that burns through the conduit wall into the fuel tank.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 737–28A1132, Revision 2, dated June 17, 1999. Except as discussed below, the procedures described in Revision 2 are essentially similar to those described in the original issue and Revision 1 of the alert service bulletin, which were referenced as the appropriate sources of service information for the actions in AD 99–05–12.

For airplanes that have accumulated between 10,000 and 30,000 total flight hours, Revision 2 of the alert service bulletin describes procedures for a detailed visual inspection of the fueling float switch wiring in the center fuel tank at the exit of the conduit on the front spar; replacement of the float switch and wiring with a new float switch and wiring, if necessary; and installation of partial double Teflon sleeving over the wiring of the float switch.

Accomplishment of the actions specified in the alert service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 99–05–12 to continue to require inspection of the fueling float switch wiring in the center fuel tank to detect discrepancies, accomplishment of corrective actions, and installation of double Teflon sleeving over the wiring of the float switch. The proposed AD would remove the option for deactivation of the float switch, which was provided in AD 99–05–12, and, for airplanes on which such deactivation was accomplished previously, would require accomplishment of the inspection to detect discrepancies of the fueling float switch wiring in the center fuel tank, corrective actions, and installation of double Teflon sleeving. For certain airplanes, the proposed AD also would add a new requirement for inspection and installation of partial double Teflon sleeving over the wiring of the fueling float switch in the center fuel tank. The proposed AD also would require repetitive inspections of the float switch wiring to detect discrepancies; replacement of the float switch and wiring, if necessary; and replacement of the double Teflon sleeving. The actions would be required

to be accomplished in accordance with the alert service bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Alert Service Bulletin

Operators should note that the alert service bulletin only describes a one-time inspection of the float switch wiring and installation of double Teflon sleeving for airplanes that were not originally manufactured with double Teflon sleeving. However, this proposed AD would require *repetitive* inspections of the fueling float switch wiring in the center fuel tank to detect discrepancies; replacement of the float switch and wiring, if necessary; and replacement of the double Teflon sleeving for all affected Model 737–100, –200, –300, –400, and –500 series airplanes. As stated previously, the conduit-enclosed float switch wiring installation is not a fail-safe design; therefore, repetitive inspections are necessary to ensure safe operation.

Operators also should note that this proposed AD would be applicable to all Model 737–100, –200, –300, –400, and –500 series airplanes; on which the center wing tanks are activated; excluding those airplanes equipped with center wing tank volumetric topoff systems, or alternate current (AC) powered center tank float switches. The effectivity listing of Boeing Alert Service Bulletin 737–28A1132, Revision 2, dated June 17, 1999, includes Model 737–200, –300, –400, and –500 series airplanes having L/N 1 through 3108. The effectivity listing of Revision 2 of the alert service bulletin does not include airplanes on which Teflon sleeving was installed during production (i.e., L/N 3109 and subsequent). However, as explained above, this proposed AD would require *repetitive* inspections of the fueling float switch wiring in the center fuel tank to detect discrepancies; replacement of the float switch and wiring, if necessary; and replacement of the double Teflon sleeving with new sleeving. Therefore, airplanes on which Teflon sleeving was installed during production would not be exempt from these repetitive actions.

Operators also should note that, although the alert service bulletin allows deactivation of the center tank float switch for up to 18 months in lieu of installation of partial double Teflon sleeving, this proposed AD would only allow deactivation of the fueling float switch in the event that exposed copper conductor is detected during the inspection specified in paragraph (h) of this AD, and would require replacement of the float switch and wiring, and installation of double Teflon sleeving, within 90 days after deactivation. This proposed AD also would no longer allow deactivation in lieu of the inspection and sleeving installation specified in paragraph (b) of this AD. For those airplanes on which the float switch was deactivated prior to the effective date of this AD in accordance with paragraph (c) of AD 99–05–12, this proposed AD would require reactivation of the float switch; inspections of the fueling float switch wiring in the center fuel tank to detect discrepancies; replacement of the float switch and wiring, if necessary; and installation of double Teflon sleeving; within 12 months after the effective date of this AD.

Explanation of Change Made to Restatement of AD 99–05–12

Paragraph (a) of this proposed rule, which is restated from AD 99–05–12, states that the paragraph applies to airplanes having line numbers 1 through 3108 inclusive. Paragraph (a) of AD 99–05–12 did not specify that the paragraph applied to particular line numbers. The FAA has determined that airplanes having line numbers 3109 and subsequent have double Teflon sleeving installed over the wiring of the float switch during production. Therefore, it is not necessary for operators of these airplanes to accomplish paragraph (a). [The appropriate inspection procedures for airplanes having line numbers 3109 and subsequent are specified in paragraph (k) of this AD.]

Also, the FAA has clarified the inspection requirement contained in AD 99–05–12. Whereas the AD specified a visual inspection, the FAA has revised the restatement of requirements in this proposed AD to clarify that its intent is to require a detailed visual inspection. Additionally, a note has been added to the proposed AD to define that inspection.

Cost Impact

There are approximately 2,870 Model 737–100, –200, –300, –400, and –500 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,121 airplanes of U.S. registry would be affected by this proposed AD.

The removal and inspection of the fueling float switch in the center fuel tank and installation of double Teflon sleeving that is provided as an option for compliance with AD 99–05–12, and would be required as a repetitive inspection in this proposed AD, takes approximately 18 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts cost approximately $30 per airplane. Based on these figures, the cost impact of the removal and inspection of the float switch and installation of double Teflon sleeving on U.S. operators is estimated to be $1,244,310, or $1,110 per airplane, per inspection cycle.

For operators required to accomplish the inspection of the float switch at the exit of the conduit on the front spar and installation of partial double Teflon sleeving that are proposed in this AD action, it would take approximately 3 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $5 per airplane. Based on these figures, the cost impact of the proposed inspection of the float switch at the exit of the conduit on the front spar and installation of partial double Teflon sleeving of this AD on U.S. operators is estimated to be $185 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation

Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–11060 (64 FR 11533, March 9, 1999), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 99–NM–78–AD. Supersedes AD 99–05–12, Amendment 39–11060.

Applicability: Model 737–100, –200, –300, –400, and –500 series airplanes, on which the center wing tanks are activated; excluding those airplanes equipped with center wing tank volumetric topoff systems, or alternate current (AC) powered center tank float switches; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct chafing of the direct current powered float switch wiring insulation in the center fuel tank and the resultant arcing from the wiring to the in-tank conduit, which could present an ignition source inside the fuel tank and result in a consequent fire or explosion, accomplish the following:

Restatement of Requirements of AD 99–05–12

Compliance Time for Initial Inspection

(a) For airplanes having line numbers (L/N) 1 through 3108 inclusive: Prior to the accumulation of 30,000 total flight hours, or within 30 days after March 18, 1999 (the effective date of AD 99–05–12), whichever occurs later, accomplish the requirements of paragraph (b) or (c) of this AD. For airplanes on which the requirements of this paragraph are accomplished after the effective date of this AD: Except as provided in paragraph (h)(2)(i) of this AD, only the requirements of paragraph (b) of this AD may be accomplished.

Initial Inspection: Procedures

(b) Remove the fueling float switch and wiring from the center fuel tank and perform a detailed visual inspection of the float switch wiring to detect discrepancies (i.e., evidence of electrical arcing, exposure of the copper conductor, presence or scent of fuel on the electrical wires, or worn insulation), in accordance with Part 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–28A1132, dated December 2, 1998; Revision 1, dated January 15, 1999; or Revision 2, dated June 17, 1999. After the effective date of this AD, only Revision 2 may be used. Pay particular attention to the wire bundle where it passes through the wing pylon vapor seals and under the wire bundle clamps.

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

Initial Inspection: Follow-On Actions

(1) If no discrepancy is detected, prior to further flight, accomplish either paragraph (b)(1)(i) or (b)(1)(ii) of this AD.

(i) Measure the resistance between the wires and the float switch housing, in accordance with the alert service bulletin.

(A) If the resistance is less than 200 megohms, prior to further flight, replace the float switch and wiring with a new float switch and wiring, and install double Teflon sleeving over the wiring of the float switch, in accordance with the alert service bulletin. For airplanes on which the actions required by this paragraph were accomplished prior to the effective date of this AD in accordance with AD 99–05–12, amendment 39–11060: If the replacement float switch and wiring are not available, prior to further flight, accomplish the requirements specified in paragraphs (c) and (d) of this AD.

(B) If the resistance is greater than or equal to 200 megohms, prior to further flight, blow dirt out of the conduit, install double Teflon sleeving over the wiring of the float switch, and reinstall the existing float switch, in accordance with the alert service bulletin.

(ii) Replace the float switch and wiring with a new float switch and wiring, and install double Teflon sleeving over the wiring of the float switch, in accordance with the alert service bulletin. For airplanes on which the actions required by this paragraph were accomplished prior to the effective date of this AD in accordance with AD 99–05–12, amendment 39–11060: If the replacement float switch and wiring are not available, prior to further flight, accomplish the requirements specified in paragraphs (c) and (d) of this AD.

(2) If any worn insulation is detected, and if no copper conductor is exposed, and if no evidence of arcing is detected; accomplish the requirements specified in either paragraph (b)(1)(i) or (b)(1)(ii) of this AD. After the effective date of this AD, only the requirements of paragraph (b)(1)(ii) may be accomplished.

(3) If any electrical arcing or exposed copper conductor is detected, prior to further flight, accomplish either paragraph (b)(3)(i) or (b)(3)(ii) of this AD.

(i) Replace any section of the electrical conduit where the arcing occurred with a new section, in accordance with the alert service bulletin, and accomplish the requirements specified in paragraph (b)(1)(ii) of this AD.

(ii) Perform a detailed visual inspection to detect fuel leaks of the electrical conduit, in accordance with the alert service bulletin.

(A) If no fuel leak is detected, prior to further flight, accomplish the requirements specified in paragraph (b)(1)(ii) of this AD. For airplanes on which the inspection required by paragraph (b)(3)(ii) was accomplished PRIOR to the effective date of this AD in accordance with AD 99–05–12, amendment 39–11060: Repeat the inspection required by paragraph (b)(3)(ii) of this AD thereafter at intervals not to exceed 1,500 flight hours, until the replacement required by paragraph (b)(3)(ii)(B) or (f) of this AD is accomplished. For airplanes on which the inspection required by paragraph (b)(3)(ii) is accomplished AFTER the effective date of this AD: Within 1,500 flight hours or 6 months after accomplishment of the inspection in accordance with paragraph (b)(3)(ii) of this AD, whichever occurs first, replace the electrical conduit with new conduit in accordance with Boeing Alert Service Bulletin 737–28A1132, Revision 2. The existing float switch, wiring, and double Teflon sleeving may be reinstalled after replacement of the conduit.

(B) If any fuel leak is detected, prior to further flight, replace any section of the electrical conduit where the leak is with a new section, in accordance with the alert service bulletin. Prior to further flight after accomplishment of the replacement, accomplish the requirements specified in paragraph (b)(1)(ii) of this AD. Accomplishment of electrical conduit replacement constitutes terminating action for the repetitive inspection requirements of paragraph (b)(3)(ii)(A) of this AD.

(4) If any presence or scent of fuel on the electrical wires is detected, prior to further flight, locate the source of the leak and replace the damaged conduit with a new conduit, in accordance with the alert service bulletin; and accomplish the requirements specified in either paragraph (b)(1)(i) or (b)(1)(ii) of this AD, unless accomplished previously in accordance with paragraph (b)(1), (b)(2), or (b)(3) of this AD.

Deactivation of Float Switch

(c) Accomplish the requirements specified in either paragraph (c)(1) or (c)(2) of this AD, in accordance with Part 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–28A1132, dated December 2, 1998; Revision 1, dated January 15, 1999; or Revision 2, dated June 17, 1999. Except as provided by paragraph (h)(2)(i) of this AD, after the effective date of this AD, the requirements of this paragraph may no longer be accomplished.

(1) Deactivate the center tank float switch (i.e., cut the two wires for the float switch at the splices on the front spar and cap and

stow the four wire ends), paint a Caution that shows a conservative maximum fuel capacity for the center tank on the underside of the right-hand wing near the fueling station door, and install an INOP placard on the fueling panel.

(2) Deactivate the center tank float switch (i.e., cut, stow, and splice the two wires for the float switch at the splices on the front spar), and paint a Caution that shows a conservative maximum fuel capacity for the center tank on the underside of the right-hand wing near the fueling station door.

Deactivation of Float Switch: Additional Requirements

(d) For airplanes on which the requirements specified in paragraph (c) of this AD have been accomplished: Accomplish the requirements specified in paragraphs (d)(1), (d)(2), and (d)(3) of this AD. Except as provided by paragraph (h)(2)(i) of this AD, after 12 months after the effective date of this AD, the requirements of this paragraph may no longer be accomplished.

(1) Operators must ensure that airplane fueling crews are properly trained in accordance with the procedures specified in Boeing Telex M–7200–98–04486, dated December 1, 1998, or procedures approved by the FAA. This one-time training must be accomplished prior to utilizing the procedures specified in paragraph (d)(3) of this AD.

(2) Prior to fueling the airplane, perform a check to verify that the fueling panel center tank quantity indicator is operative. Repeat this check thereafter prior to fueling the airplane. If the fueling panel center tank quantity indicator is not operative, prior to further flight, replace the fueling panel center tank quantity indicator with a serviceable part.

(3) One of the two manual fueling procedures for the center fuel tank must be used for each fueling occurrence, in accordance with Boeing Telex M–7200–98–04486, dated December 1, 1998, or a method approved by the FAA.

Note 3: For the purposes of this AD, the term ''the FAA,'' is defined in paragraph (d) of this AD as ''the cognizant Principal Maintenance Inspector (PMI).''

Note 4: Where there are differences between Boeing Alert Service Bulletin 737–28A1132 and this AD, the AD prevails.

Deactivation of Float Switch: Dispatch

(e) Dispatch with the center fuel tank float switch deactivated, in accordance with Boeing Alert Service Bulletin 737–28A1132, dated December 2, 1998; Revision 1, dated January 15, 1999; or Revision 2, dated June 17, 1999; is allowed until replacement float switches and wiring are available for installation. Where there are differences between the Master Minimum Equipment List (MMEL) and the AD, the AD prevails. Except as provided by paragraph (h)(2)(i) of this AD, after 12 months after the effective date of this AD, the requirements of this paragraph may no longer be accomplished.

New Requirements of This AD

Replacement of Conduit

(f) For airplanes having L/N 1 through 3108 inclusive, on which the inspection required by paragraph (b)(3)(ii) of this AD has been accomplished prior to the effective date of this AD in accordance with AD 99–05–12, amendment 39–11060, and on which replacement of the conduit specified in paragraph (b)(3)(ii)(B) has NOT been accomplished: Within 1,500 flight hours or 6 months after the effective date of this AD, whichever occurs first, replace the electrical conduit with new conduit in accordance with Boeing Alert Service Bulletin 737–28A1132, Revision 2, dated June 17, 1999. Following replacement of the conduit, the existing float switch, wiring, and double Teflon sleeving may be reinstalled. Such replacement of the conduit constitutes terminating action for the repetitive inspection requirements of paragraph (b)(3)(ii)(A) of this AD.

Initial Inspection: Airplanes With Deactivated Float Switch

(g) For airplanes having line numbers 1 through 3108 inclusive on which paragraphs (c) and (d) have been accomplished prior to the effective date of this AD: Within 12 months after the effective date of this AD, reactivate the center tank float switch in accordance with Boeing Alert Service Bulletin 737–28A1132, Revision 2, dated June 17, 1999; and accomplish the requirements of paragraph (b) of this AD. Following accomplishment of paragraph (b) of this AD, ''Cautions'' painted and placards installed in accordance with paragraph (c) of this AD may be removed from the airplane.

Initial Inspection and Follow-On Actions

(h) For airplanes having line numbers 1 through 3108 inclusive on which the actions required by paragraph (b) or (c) of this AD have NOT been accomplished prior to the effective date of this AD: Prior to the accumulation of 10,000 total flight hours or within 90 days after the effective date of this AD, whichever occurs later, except as provided by paragraph (i) of this AD, perform a detailed visual inspection to detect exposure of the copper conductor of the float switch wiring at the exit of the conduit on the front spar in accordance with Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–28A1132, Revision 2, dated June 17, 1999.

(1) If no exposed copper conductor is detected, prior to further flight, install partial double Teflon sleeving over the wiring of the float switch in accordance with the alert service bulletin, and, prior to the accumulation of 30,000 total flight hours, accomplish paragraph (b) of this AD.

(2) If any exposed copper conductor is detected, accomplish the requirements of paragraphs (h)(2)(i), (h)(2)(ii), and (h)(2)(iii) of this AD.

(i) Prior to further flight, accomplish the deactivation requirements specified in paragraphs (c) and (d) of this AD. And,

(ii) Within 90 days after deactivation, remove the float switch and wiring and replace with a new float switch and wiring, and install double Teflon sleeving over the wiring of the float switch, in accordance with Part 1 of the Accomplishment Instructions of the alert service bulletin, and reactivate the switch. Accomplishment of the requirements of this paragraph constitutes terminating action for the inspection required by paragraph (b) of this AD. And,

(iii) Following accomplishment of paragraph (h)(2)(ii) of this AD, ''Cautions'' painted and placards installed in accordance with paragraph (c) of this AD may be removed from the airplane.

Exception to Requirements of Paragraph (h)

(i) Airplanes on which the inspection required by paragraph (b) of this AD is accomplished within 90 days after the effective date of this AD are not required to be inspected in accordance with paragraph (h) of this AD.

Repetitive Inspections: Compliance Times

(j) For all airplanes: Accomplish the inspection specified in paragraph (k) of this AD at the time specified in paragraph (j)(1), (j)(2), or (j)(3), as applicable, and repeat the inspection thereafter at intervals not to exceed 30,000 flight hours.

(1) For airplanes having line numbers 1 through 3108 inclusive on which a new float switch and wiring was installed in accordance with paragraph (b)(1)(ii) or (h)(2)(ii) of this AD, OR on which no discrepancy was found during the inspection specified in paragraph (b) of this AD and the existing float switch and wiring were reinstalled: Inspect within 30,000 flight hours after installation of double Teflon sleeving.

(2) For airplanes having line numbers 1 through 3108 inclusive on which worn insulation of the existing float switch wiring was found during the inspection specified in paragraph (b) of this AD and the existing float switch and wiring were reinstalled: Inspect within 15,000 flight hours after installation of the double Teflon sleeving.

(3) For airplanes having line numbers 3109 and subsequent: Inspect prior to the accumulation of 30,000 total flight hours.

Repetitive Inspections: Procedures

(k) Remove the fueling float switch and wiring from the center fuel tank and perform a detailed visual inspection of the float switch wiring to detect discrepancies (i.e., evidence of electrical arcing, exposure of the copper conductor, presence or scent of fuel on the electrical wires, or worn insulation), in accordance with Part 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–28A1132, Revision 2, dated June 17, 1999. Pay particular attention to the wire bundle where it passes through the wing pylon vapor seals and under the wire bundle clamps.

Repetitive Inspections: Follow-On Actions

(1) If no discrepancy is detected, prior to further flight, accomplish either paragraph (k)(1)(i) or (k)(1)(ii) of this AD.

(i) Measure the resistance between the wires and the float switch housing, in accordance with the alert service bulletin.

(A) If the resistance is less than 200 megohms, prior to further flight, replace the float switch and wiring with a new float

switch and wiring, and replace the double Teflon sleeving over the wiring of the float switch with new sleeving, in accordance with the alert service bulletin.

(B) If the resistance is greater than or equal to 200 megohms, prior to further flight, blow dirt out of the conduit, replace the double Teflon sleeving over the wiring of the float switch with new sleeving, and reinstall the existing float switch, in accordance with the alert service bulletin.

(ii) Replace the float switch and wiring with a new float switch and wiring, and replace the double Teflon sleeving over the wiring of the float switch with new sleeving, in accordance with the alert service bulletin.

(2) If any worn insulation is detected, and if no copper conductor is exposed, and if no evidence of arcing is detected: Prior to further flight, accomplish the requirements specified in paragraph (k)(1)(ii) of this AD.

(3) If any electrical arcing or exposed copper conductor is detected, prior to further flight, accomplish either paragraph (k)(3)(i) or (k)(3)(ii) of this AD.

(i) Replace any section of the electrical conduit where the arcing occurred with a new section, in accordance with the alert service bulletin, and accomplish the requirements specified in paragraph (k)(1)(ii) of this AD.

(ii) Perform a detailed visual inspection to detect fuel leaks of the electrical conduit, in accordance with the alert service bulletin.

(A) If no fuel leak is detected, prior to further flight, accomplish the requirements specified in paragraph (k)(1)(ii) of this AD. Within 1,500 flight hours or 6 months after accomplishment of the inspection specified in paragraph (k)(3)(ii), whichever occurs first, replace the electrical conduit with new conduit, in accordance with Boeing Alert Service Bulletin 737–28A1132, Revision 2, dated June 17, 1999. The existing float switch, wiring, and double Teflon sleeving may be reinstalled after replacement of the conduit.

(B) If any fuel leak is detected, prior to further flight, replace any section of the electrical conduit where the leak is with a new section, in accordance with the alert service bulletin. Prior to further flight after accomplishment of the replacement, accomplish the requirements specified in paragraph (k)(1)(ii) of this AD.

(4) If any presence or scent of fuel on the electrical wires is detected, prior to further flight, locate the source of the leak and replace the damaged conduit with a new conduit, in accordance with the alert service bulletin; and accomplish the requirements specified in either paragraph (k)(1)(i) or (k)(1)(ii) of this AD, unless accomplished previously in accordance with paragraph (k)(1), (k)(2), or (k)(3) of this AD.

Alternative Methods of Compliance

(l)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

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

(2) Alternative methods of compliance, approved previously in accordance with AD 99–05–12, amendment 39–11060, are approved as alternative methods of compliance with this AD.

Special Flight Permits

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

Issued in Renton, Washington, on April 24, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–10670 Filed 4–27–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–69–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10 Series Airplanes, and KC–10A and KDC–10 (Military) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all McDonnell Douglas Model DC–10 series airplanes, and KC–10A and KDC–10 (military) airplanes. This proposal would require certain modifications of the thrust reverser control and indication system and wiring on each engine. This proposal is prompted by a determination that the current thrust reverser systems do not adequately preclude unwanted deployment of a thrust reverser. The actions specified by the proposed AD are intended to prevent unwanted deployment of a thrust reverser, which could significantly jeopardize continued safety of flight and landing of the airplane.

DATES: Comments must be received by June 12, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–69–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Philip Kush, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5263; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–69–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–69–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

In 1992, the FAA issued a document identified as, ''Criteria for Assessing Transport Turbojet Fleet Reverser System Safety.'' Relative to the new criteria contained in that document, Boeing recently completed an update of the System Safety Analysis (SSA) for McDonnell Douglas Model DC–10 series airplanes. This SSA identified a number of latent (hidden) failures that could contribute to unwanted deployment of a wing engine thrust reverser in flight. Based on this SSA, the FAA has determined that the thrust reverser systems on all McDonnell Douglas Model DC–10 series airplanes, and KC–10A and KDC–10 (military) airplanes do not adequately preclude unwanted deployment of a thrust reverser. Such unwanted deployment of a thrust reverser could significantly jeopardize continued safety of flight and landing of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved the following service information:

• McDonnell Douglas Service Bulletin DC10–78–060, dated December 17, 1999, which describes procedures for modification of the indication light system for the thrust reversers. This service bulletin specifies prior or concurrent accomplishment of McDonnell Douglas DC–10 Service Bulletin 78–40, Revision 1, dated July 24, 1979, which describes procedures for installation of a thrust reverser interlock. (Service Bulletin 78–40, Revision 1, was specified as the appropriate source of service information for accomplishment of the thrust reverser interlock installation in a Notice of Proposed Rulemaking action issued previously.) In addition, Service Bulletin DC10–78–060 specifies prior or concurrent accomplishment of McDonnell Douglas DC–10 Service Bulletin 78–7, Revision 1, dated April 17, 1975, which describes procedures for modification of the overpressure shutoff valve light circuits; and Rohr Incorporated Service Bulletin MDC–CNS 78–41, dated June 11, 1999, which describes procedures for modification of the wire harnesses for the left and right thrust reversers.

• McDonnell Douglas Service Bulletin DC10–78–061, dated February 9, 2000, which describes procedures for installation of provisional wiring for an additional thrust reverser locking system. This service bulletin specifies prior or concurrent accomplishment of Service Bulletin DC10–78–060, described previously, and concurrent accomplishment of Middle River Aircraft Systems provisional installation drawing 537L68229 (for CF6–50 powered airplanes) or 537L68231 (for CF6–6 powered airplanes). These drawings illustrate the installation of mounting hardware for the electromechanical locking system for the thrust reversers.

• McDonnell Douglas Service Bulletin DC10–78–062, dated February 14, 2000, which describes procedures for installation of an additional thrust reverser locking system. This service bulletin specifies prior or concurrent accomplishment of Service Bulletin DC10–78–061, described previously, and concurrent accomplishment of Middle River Aircraft Systems activation installation drawing 537L68230 (for CF6–50 powered airplanes, or 537L68232 (for CF6–6 powered airplanes). These drawings illustrate the installation of the electromechanical locking system for the thrust reversers.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service information described previously.

Cost Impact

There are approximately 409 Model DC–10 series airplanes and KC–10A and KDC–10 (military) airplanes of the affected design in the worldwide fleet.

For airplanes listed in McDonnell Douglas DC–10 Service Bulletin DC10–78–060, (301 U.S.-registered airplanes) described below:

For General Electric (GE) powered airplanes (277 U.S.-registered airplanes), it would take approximately 56 work hours per airplane to accomplish the proposed modification of the indication light system, at an average labor rate of $60 per work hour. Required parts would cost between $6,419 and $11,315 per airplane. Based on these figures, the cost impact of this proposed modification on U.S. operators is estimated to be between $9,779 and $14,675 per airplane.

For Pratt & Whitney-powered airplanes (24 U.S.-registered airplanes), it would take approximately 140 work hours per airplane to accomplish the proposed modification of the indication light system, at an average labor rate of $60 per work hour. Required parts would cost between $8,753 and $12,674 per airplane. Based on these figures, the cost impact of this proposed modification on U.S. operators is estimated to be between $17,153 and $21,074 per airplane.

For airplanes listed in McDonnell Douglas DC–10 Service Bulletin 78–40 (179 U.S-registered airplanes): It would take approximately 10 work hours per airplane to accomplish the proposed installation of a thrust reverser interlock, at an average labor rate of $60 per work hour. Required parts would be obtained from the operators stock. Based on these figures, the cost impact of this proposed installation on U.S. operators is estimated to be $107,400, or $600 per airplane.

For airplanes listed in McDonnell Douglas DC–10 Service Bulletin 78–7 (56 U.S-registered airplanes): It would take approximately 52 work hours per airplane to accomplish the proposed modification of the overpressure shutoff valve, at an average labor rate of $60 per work hour. Required parts would cost approximately $2,100 per airplane. Based on these figures, the cost impact of this proposed modification on U.S. operators is estimated to be $292,320, or $5,220 per airplane.

For airplanes listed in Rohr Service Bulletin MDC–CNS 78–41 (3 U.S.-registered airplanes): It would take approximately 6 work hours per airplane to accomplish the proposed wiring modification, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this proposed wiring modification on U.S. operators is estimated to be $1,080, or $360 per airplane.

For airplanes listed in McDonnell Douglas DC–10 Service Bulletin 78–061 (284 U.S.-registered airplanes), it would take between 222 and 364 work hours per airplane to accomplish the proposed installation of provisional wiring, at an average labor rate of $60 per work hour. Required parts would cost between $11,216 and $17,986 per airplane. Based on these figures, the cost impact of this proposed installation on U.S. operators is estimated to be between $24,536 and $39,826 per airplane.

For airplanes on which Middle River Aircraft Systems provisional installation drawing 537L68229 or 537L68231 is accomplished (284 U.S.-registered airplanes), it would take 96 work hours per airplane to accomplish the proposed installation of the mounting hardware for the electromechanical locking system for the thrust reversers, at an

average labor rate of $60 per work hour. Required parts would cost approximately $14,307 per airplane. Based on these figures, the cost impact of this proposed installation on U.S. operators is estimated to be $5,699,028, or $20,067 per airplane.

For airplanes listed in McDonnell Douglas DC–10 Service Bulletin 78–062 (284 U.S.-registered airplanes), it would take approximately 622 work hours per airplane to accomplish the proposed activation installation of an additional thrust reverser locking system, at an average labor rate of $60 per work hour. Required parts would cost approximately $236,000 per airplane. Based on these figures, the cost impact of this proposed installation on U.S. operators is estimated to be $77,622,880, or $273,320 per airplane.

For airplanes on which Middle River Aircraft Systems activation installation drawing 537L68230 or 537L68232 is accomplished (284 U.S.-registered airplanes), it would take 32 work hours per airplane to accomplish the proposed activation installation of the electromechanical locking system for the thrust reversers, at an average labor rate of $60 per work hour. Required parts would cost approximately $252,856 per airplane. Based on these figures, the cost impact of this proposed installation on U.S. operators is estimated to be $72,356,384, or $254,776 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 2000–NM–69–AD.

Applicability: All Model DC–10 series airplanes and KC–10A and KDC–10 (military) airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent unwanted deployment of a thrust reverser, which could significantly jeopardize continued safety of flight and landing of the airplane, accomplish the following:

Thrust Reverser System Modifications

(a) For all airplanes: Within 18 months or 12,000 flight hours after the effective date of this AD, whichever occurs first, modify the position indicator light system for each thrust reverser in accordance with Part 3 of the Accomplishment Instructions in McDonnell Douglas Service Bulletin DC10–78–060, dated December 17, 1999. Prior to or concurrent with accomplishment of the service bulletin, install the thrust reverser interlocks as specified in McDonnell Douglas DC–10 Service Bulletin 78–40, Revision 1, dated July 24, 1979, and accomplish the requirements in paragraph (a)(1) or (a)(2) of this AD, as applicable. The requirements of this paragraph must be accomplished prior to or concurrent with the requirements of paragraph (b) or (c) of this AD, as applicable.

(1) For General Electric (GE)-powered airplanes: Modify the overpressure shutoff valve light circuits in accordance with McDonnell Douglas DC–10 Service Bulletin 78–7, Revision 1, dated April 17, 1975.

(2) For Pratt and Whitney-powered airplanes: Modify the left and right thrust reverser wire harnesses in accordance with Rohr Incorporated Service Bulletin MDC–CNS 78–41, dated June 11, 1999.

(b) For Model DC–10–10, –10F, –15, –30, and –30F series airplanes; and KC–10A and KDC–10 (military) airplanes; listed in McDonnell Douglas Service Bulletin DC10–78–061, dated February 9, 2000: Within 5 years after the effective date of this AD, accomplish the thrust reverser wiring modification on each engine in accordance with Part 3 of the Accomplishment Instructions in the service bulletin. Concurrent with accomplishment of this service bulletin, accomplish Middle River Aircraft Systems provisional installation drawing 537L68229 (for CF6–50-powered airplanes) or 537L68231 (for CF6–6-powered airplanes), as applicable.

(c) For Model DC–10–10, –10F, –15, –30, and –30F series airplanes; and KC–10A and KDC–10 (military) airplanes; listed in McDonnell Douglas Service Bulletin DC10–78–062, dated February 14, 2000: Within 5 years after the effective date of this AD, install an additional locking system on each thrust reverser in accordance with Part 3 of the Accomplishment Instructions in the service bulletin. Concurrent with accomplishment of this service bulletin, accomplish Middle River Aircraft Systems provisional installation drawing 537L68230 (for CF6–50-powered airplanes) or 537L68232 (for CF6–6-powered airplanes), as applicable.

Alternative Methods of Compliance

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

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

Special Flight Permit

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

Issued in Renton, Washington, on April 24, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–10669 Filed 4–27–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–111119–99]

RIN 1545–AX32

Partnership Mergers and Divisions; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: This document cancels the public hearing on proposed regulations on the tax consequences of partnership mergers and divisions.

DATES: The public hearing originally scheduled for Thursday, May 4, 2000, at 10 a.m., is cancelled.

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

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice of public hearing that appeared in the **Federal Register** on Tuesday, January 11, 2000 (65 FR 1572), announced that a public hearing was scheduled for Thursday, May 4, 2000, at 10 a.m., in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is proposed regulations under section 708 of the Internal Revenue Code. The public comment period for these proposed regulations expired on Monday, April 10, 2000. The outlines of topics to be addressed at the hearing were due on Thursday, April 13, 2000.

The notice of proposed rulemaking and notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of Friday, April 21, 2000, no one has requested to speak. Therefore, the public hearing scheduled for Thursday, May 4, 2000, is cancelled.

Cynthia Grigsby,

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

[FR Doc. 00–10524 Filed 4–27–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

[MD–046–FOR]

Maryland Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Maryland regulatory program (Maryland program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Maryland regulations regarding a definition of previously mined area, termination of jurisdiction, permitting requirements, bond release requirements and performance standards for inspections. The amendment is intended to revise the Maryland program to be no less effective than the corresponding Federal regulations.

DATES: If you submit written comments, they must be received by 4:00 p.m., E.D.T., May 30, 2000. If requested, a public hearing on the proposed amendment will be held on May 24, 2000. Requests to speak at the hearing must be received by 4:00 p.m., E.D.T., on May 15, 2000.

ADDRESSES: Mail or hand-deliver your written comments and requests to speak at the hearing to Mr. George Rieger, Manager, Oversight and Inspection Office, at the address listed below. You may review copies of the Maryland program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the proposed amendment by contacting OSM's Appalachian Regional Coordinating Center.

George Rieger, Manager, Oversight and Inspection Office, Appalachian Regional Coordinating Center, Office of Surface Mining Reclamation and Enforcement, 3 Parkway Center, Pittsburgh, PA 15220, Telephone: (412) 937–2153, E-mail: *grieger@osmre.gov*

Maryland Bureau of Mines, 160 South Water Street, Frostburg, Maryland 21532, Telephone: (301) 689–4136

FOR FURTHER INFORMATION CONTACT: George Rieger, Manager, Oversight and Inspection Office, Appalachian Regional Coordinating Center, Telephone: (412) 937–2153.

SUPPLEMENTARY INFORMATION:

I. Background on the Maryland Program

On February 18, 1982, the Secretary of the Interior approved the Maryland program. You can find background information on the Maryland program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the February 18, 1982, **Federal Register** (47 FR 7214). You can find subsequent actions concerning the conditions of approval and program amendments at 30 CFR 920.15 and 920.16.

II. Description of the Proposed Amendment

By letter dated September 14, 1999 (Administrative Record No. 577–04), Maryland provided an informal amendment to OSM regarding a definition of previously mined area, termination of jurisdiction, permitting requirements, bond release requirements and performance standards for inspections. Maryland submitted the informal amendment in response to requests made by OSM as required under 30 CFR 732.17(d) in letters dated July 8, 1997, and August 11, 1999 (Administrative Record Nos. 577–01 and 577–03, respectively). OSM completed its review of the informal amendment and submitted comments to Maryland in a letter dated March 20, 2000 (Administrative Record No. 577–05). By letter dated April 11, 2000 (Administrative Record No. MD–577–06), Maryland submitted its response to OSM's comments in the form of a proposed amendment to the Code of Maryland Regulations (COMAR) as follows:

1. COMAR 26.20.01.02B Definitions

Maryland proposes to add item (72–1) to the definitions as follows: ''Previously Mined Area'' means land affected by surface coal mining operations prior to August 3, 1977 that

have not been reclaimed to the standards of this subtitle.

2. COMAR 26.20.02.01 Scope

Maryland proposes to add new paragraphs C. and D. as follows:

C. The Bureau may terminate its jurisdiction under the regulatory program over the reclaimed site of a completed surface coal mining and reclamation operation or increment thereof, when the Bureau determines, in writing, that under the regulatory program, all requirements imposed under the applicable regulatory program have been successfully completed or, where a performance bond was required, the bureau has made a final decision in accordance with this subtitle to fully release the performance bond.

D. Following a termination under section C. of this regulation, the Bureau shall reassert jurisdiction under the regulatory program over a site if it is demonstrated that the bond release or written determination referenced in section C. of this regulation was based upon fraud, collusion, or misrepresentation of a material fact.

3. COMAR 26.20.02.13 Description of Proposed Mining Operations

Maryland proposes to modify paragraph M. by inserting the phrase ''Except as provided in COMAR 26.20.26.01B,'' before the existing text. This section will now read as ''Except as provided in COMAR 26.20.26.01B, maps, plans and cross sections required under §§ K and L of this regulation shall be prepared by, or under the direction of and certified by, a qualified registered professional engineer or professional geologist.''

4. COMAR 26.20.03.05 Prime Farmlands

Maryland proposes to modify paragraph I. by adding new subsection (5) as follows:

The aggregate total prime farmland acreage shall not be decreased from that which existed prior to mining. Water bodies, if any, to be constructed during mining and reclamation operations must be located within the post-reclamation non-prime farmland portions of the permit area. The creation of any such water bodies must be approved by the Bureau and the consent of all affected property owners within the permit area must be obtained.

5. COMAR 26.20.14.09 Procedures for Release of Bonds

Maryland proposes to modify Paragraph A., Application for Release, by adding new subsection (5) as follows:

The permittee shall include in the application for bond release a notarized statement which certifies that all applicable reclamation activities have been accomplished in accordance with the requirements of Environmental Article, Title 15, Subtitle 5, Annotated Code of Maryland, the Regulatory Program, and the approved reclamation plan. Such certification shall be submitted for each application or phase of bond release.

6. COMAR 26.20.31.02 Inspections

Maryland proposes to modify paragraph H. by changing the reference pertaining to Reclamation Phase III from COMAR 26.20.14.08F to COMAR 26.20.14.08E and by adding the following sentence:

If a permit is revoked and the performance bond is forfeited in accordance with COMAR 26.20.33, the Bureau shall continue to inspect the permit area in accordance with this regulation until the completion of all reclamation required on the permit.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Maryland program.

Written Comments

If you submit written or electronic comments on the proposed rule during the 30-day comment period, they should be specific, should be confined to issues pertinent to the notice, and should explain the reason for your recommendation(s). We may not be able to consider or include in the Administrative Record comments delivered to an address other than the one listed above (see **ADDRESSES**).

Electronic Comments

Please submit Internet comments as an ASCII, WordPerfect, or Word file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SPATS NO. MD–046–FOR'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Appalachian Regional Coordinating Center at (412) 937–2153.

Availability of Comments

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours at the OSM Administrative Record Room (see **ADDRESSES**). Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Public Hearing

If you wish to speak at the public hearing, you should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., E.D.T. on May 15, 2000. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who testifies at a public hearing provide us with a written copy of his or her testimony. The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. If you wish to meet with OSM representatives to discuss the proposed amendment, you may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES.** A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart federal regulation.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the federal and state governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that state laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that state programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of state regulatory programs and program amendments since each such program is drafted and promulgated by a specific state, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed state regulatory programs and program amendments submitted by the states must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed state regulatory program provision does not constitute a major federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

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

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

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

This determination is based upon the fact that the state submittal which is the subject of this rule is based upon counterpart federal regulations for which an analysis was prepared and a determination made that the federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 920

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 20, 2000.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 00–10609 Filed 4–27–00; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 08–99–066]

RIN 2115–AE46

Special Local Regulations: Eighth Coast Guard District Annual Marine Events

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to revise Table 1 to 33 CFR 100.801, the list of annual marine events that occur within the Eighth Coast Guard District. This proposed revision reflects additions and deletions of annual marine events from the previously published table.

DATES: Comments and related material must reach the Coast Guard on or before May 30, 2000.

ADDRESSES: You may mail comments and related material to Commander (dl), Eighth Coast Guard District, 501 Magazine Street, New Orleans, LA 70130–3396. Commander (dl) maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection and copying at the District Legal Office, Room 1311, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA. Office hours are between 8 a.m. and 4 p.m., Monday through Friday, except holidays. Comments may also be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT: Project Attorney, Lieutenant Junior Grade Curtis Borland at Commander (dl), Eighth Coast Guard District, 501 Magazine Street, New Orleans, LA 70130–3396, (504) 589–6188.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their name

and address, identify this rulemaking [CGD 08–99–066] and the specific section of this document to which each comment applies, and give a reason for each comment. The comment period for this proposed regulation is 30 days. this time period is adequate to allow local input because the events occur annually and are highly publicized. The shortened comment period will allow the full 30-day publication requirement prior to the final rule becoming effective. Please submit two copies of all comments and attachments in an unbound format, no larger than 8.5 by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope. The Coast Guard will consider all comments received during the comment period. The Coast Guard may change this proposed rule in view of the comments.

Public Meeting

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Project Attorney at the address under **ADDRESSES** explaining why one would be beneficial. If it is determined that a public hearing would aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

This rulemaking will update the existing list of anticipated annual marine events in the Eighth Coast Guard District, providing interested parties, mariners and recreational boaters with sufficient notice of date, time and place of these annual marine events.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The economic impact is not significant because this proposed rule serves only to update an already existing list of marine events and does not change the process for reviewing such occurrences.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated, and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities. The segments of the listed waterways regulated are the minimum necessary to assure the safety of life and property on or adjacent to navigable waters. These regulations are relatively brief in duration and will only affect marine traffic. If, however, you think your business, organization or governmental jurisdiction qualifies as a small entity and this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this proposed rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard encourages small businesses to participate in this rulemaking. The Coast Guard will assist small entities in understanding this proposed rule so that they can better evaluate the rule's effect on them. If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, contact Project Attorney, Lieutenant Junior Grade Curtis Borland at Commander (dl), Eighth Coast Guard District, 501 Magazine Street, New Orleans, LA 70130–3396, (504) 589–6188.

Collection of Information

No information is collected under this proposed rule. This rule complies with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

The Coast Guard has analyzed this proposed rule under E. O. 13132 and have determined that this proposed rule does not have implications for federalism under that order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government, or the private sector, to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under E. O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

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

Protection of Children

The Coast Guard has analyzed this proposed rule under E. O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard is proposing to revise its list of recurring marine events. The listing itself will not affect the environment. When an event application is received, the Coast Guard will conduct an environmental analysis for the event. Under figure 2–1 paragraph, (34)(h) of Coast Guard Commandant Instruction M16475.1C, this proposed revision is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

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

Final Regulations

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46; and 33 CFR 100.35.

2. § 100.801 Eighth Coast District Table of Annual Marine Events.

Eighth Coast Guard District Table of Annual Marine Events

Group Upper Mississippi River

1. Riverfest Power Boat Grand Prix
   Sponsor: Twin City Power Boat Association
   Date: 1 Day—2nd Saturday in June
   Regulated Area: Upper Mississippi River miles 980.0–981.0, Little Falls, MN
2. W.A.M.S.O. Ball Fireworks
   Sponsor: St. Paul Parks and Recreation
   Date: 1 Day—1st or 2nd Saturday in June
   Regulated Area: Upper Mississippi River miles 839.1–839.7, St. Paul, MN
3. Winona Downtown Arts & River Festival
   Sponsor: Winona Downtown Cooperative
   Date: 2 Days—2nd or 3rd Weekend in June
   Regulated Area: Upper Mississippi River miles 725.0–726.0, Winona, MN
4. La Crosse Riverfest
   Sponsor: Riverfest, Inc.
   Date: 5 Days—Last Week of June or 1st Week of July
   Regulated Area: Upper Mississippi River miles 698.0–699.0, La Crosse, WI
5. Fair St. Louis
   Sponsor: Fair St. Louis Committee
   Date: 3 Days—1st Week in July
   Regulated Area: Upper Mississippi River miles 179.2–180.0, St. Louis, MO
6. Fourth of July River Front Blast
   Sponsor: Alton Exposition Commission
   Date: 1 Day—1st Week in July
   Regulated Area: River Front Park, Upper Mississippi River miles 202.5–203.5, Alton, IL
7. Steamboat Days
   Sponsor: Winona Area Jaycees
   Date: 3 Days—1st Weekend in July
   Regulated Area: Upper Mississippi River miles 725.0–726.0, Winona, MN
8. Independence Day Celebration
   Sponsor: Marquette American Legion
   Date: 2 Days—1st Week in July
   Regulated Area: Upper Mississippi River miles 634.5–634.7, Marquette, IA
9. City of Redwing 4th of July Fireworks
   Sponsor: City of Redwing
   Date: 1 Day—4th of July
   Regulated Area: Upper Mississippi River miles 790.0–791.0, Red Wing, MN
10. City of Minneapolis 4th of July Fireworks
    Sponsor: City of Minneapolis
    Date: 1 Day—4th of July
    Regulated Area: Upper Mississippi River miles 854.7–855.8, Minneapolis, MN
11. The Great Steamboat Race
    Sponsor: Delta Queen Steamboat Company
    Date: 1 Day—4th of July
    Regulated Area: Upper Mississippi River miles 173.6–179.2, St. Louis, MO
12. Celebrate the Bridge Regatta
    Sponsor: Minneapolis Rowing Club
    Date: 1 Day—2nd or 3rd Saturday in July
    Regulated Area: Upper Mississippi River miles 849.8–850.4, Minneapolis, MN
13. Hastings Rivertown Days
    Sponsor: Hastings Chamber of Commerce
    Date: 3 Days—3rd Weekend in July
    Regulated Area: Upper Mississippi River miles 813.0–815.2, Hastings, MN
14. Lumberjack Days Festival
    Sponsor: St. Croix Events and/or City of Stillwater
    Date: 4 Days—3rd or 4th Weekend in July
    Regulated Area: Lower St. Croix River miles 22.9–23.5, Stillwater, MN
15. Minneapolis Aquatennial
    Sponsor: Minneapolis Aquatennial Association
    Date: 9 Days—3rd Weekend through 4th Weekend in July
    Regulated Area: Upper Mississippi River miles 854.7–856.2, Minneapolis, MN
16. Big Splash Festival
    Sponsor: City of Prairie du Chien and Lentzkow Racing
    Date: 4 Days—3rd Weekend of July
    Regulated Area: Upper Mississippi River miles 634.5–636.0, Prairie du Chien, WI
17. RiverFeast
    Sponsor: Capital City Partnership d.b.a. RiverFeast
    Date: 1 Day—3rd or 4th Saturday in July
    Regulated Area: Upper Mississippi River miles 839.0–839.8, St. Paul, MN
18. River City Days
    Sponsor: Red Wing Chamber of Commerce
    Date: 2 Days—1st or 2nd Weekend in August
    Regulated Area: Upper Mississippi River miles 790.0–792.0, Red Wing, MN
19. Riverboat Days
    Sponsor: City of Yankton, Twin City Power Boat Association, WNAX Radio
    Date: 3 Days—3rd Weekend in August
    Regulated Area: Missouri River miles 805.0–806.0, Yankton, SD
20. Labor Day Celebration
    Sponsor: City of McGregor Chamber of Commerce
    Date: 4 Days—Last Weekend in August
    Regulated Area: Upper Mississippi River miles 633.0–634.0, McGregor, IA
21. Busch Beer Drag Boat Classic
    Sponsor: St. Louis Drag Boat Association
    Date: 2 Days—1st or 2nd Week of September
    Regulated Area: Kaskaskia River miles 28.0–29.0, New Athens, IL
22. Minnesota Orchestra on the Mississippi Fireworks Show
    Sponsor: City of St. Paul Parks and Recreation
    Date: 1 Day—1st or 2nd Saturday in September
    Regulated Area: Upper Mississippi River miles 839.1–839.7, St. Paul, MN

Group Ohio Valley

1. Eskimo Escapades—Water Ski Race
   Sponsor: Skiers of Knoxville, TN
   Date: 1 Day—2nd Saturday in January
   Regulated Area: Tennessee River miles 648.0–649.0, Knoxville, TN
2. Tom White Invitational—Rowing
   Sponsor: Oak Ridge (Tennessee) Rowing Association
   Date: 1 Day—2nd or 3rd Saturday in March
   Regulated Area: Clinch River miles 49.8–51.1, Anderson County, TN
3. Thunder Over Louisville
   Sponsor: Thunder Over Louisville
   Date: 1 Day—3rd Saturday in April
   Regulated Area: Ohio River miles 602.0–605.0, Louisville, KY
4. Marietta Invitational Rowing Regatta
   Sponsor: Marietta High School
   Date: 2nd Week of April
   Regulated Area: Muskingum River Mile .5–1.5, Marietta, OH
5. Southeast Intercollegiate Rowing Championships—Rowing Race
   Sponsor: Oak Ridge (Tennessee) Rowing Association
   Date: 2 Days—3rd Weekend in April
   Regulated Area: Clinch River miles 49.8–51.1, Anderson County, TN
6. Oak Ridge Scholastics—Rowing Shells
   Sponsor: Oak Ridge (Tennessee) Rowing Association
   Date: 1 Day—4th Saturday in April
   Regulated Area: Clinch River miles 49.8–51.1, Anderson County, TN
7. Kentucky Derby Festival Great Steamboat Race
   Sponsor: Kentucky Derby Festival/

Belle of Louisville Operating Board
Date: 1 Day—Last Week in April or First Week in May
Regulated Area: Ohio River 597.0–604.0, Louisville, KY

8. Annual Boat Review—Marine Parade
Sponsor: Chattanooga Marine Trade Association
Date: 1 Day—1st Saturday in May
Regulated Area: Tennessee River miles 471.0–478.0, Hamilton County, TN

9. TRRA Scholastic Sprint
Sponsor: Three Rivers Rowing Association, Pittsburgh, PA
Date: 1 Day—1st Sunday in May
Regulated Area: Allegheny River miles 2.0–4.0, Pittsburgh, PA

10. UT Coaches Regatta—Rowing Race
Sponsor: Oak Ridge (Tennessee) Rowing Association
Date: 1 Day—2nd or 3rd Saturday in May
Regulated Area: Clinch River miles 49.8–51.1, Anderson County, TN

11. NCAA Regional Championships—Rowing Race
Sponsor: Oak Ridge (Tennessee) Rowing Association
Date: 1 Day—2nd or 3rd Saturday in May
Regulated Area: Clinch River miles 49.8–51.1, Anderson County, TN

12. Blessing of the Fleet—Parade of Boats
Sponsor: Jonathan Aurora Action Committee, Aurora, KY
Date: 1 Day—2nd or 3rd Weekend in May
Regulated Area: Tennessee River miles 42.0–43.0, Aurora, KY

13. West Virginia Governors Cup Regatta
Sponsor: University of Charleston
Date: 3rd Week of May
Regulated Area: Kanawha River Mile 59.5–62.0, Charleston, WV

14. Boats and Music Regatta
Sponsor: The Great Kanawha River Navy
Date: Last Week of May
Regulated Area: Kanawha River Mile 57.9–58.9, Charleston, WV

15. Albert Gallatin Regatta
Sponsor: Point Marion (Pennsylvania) Rotary Club
Date: 2 Days—Saturday & Sunday of Memorial Day Weekend
Regulated Area: Monongahela River miles 89.9–90.8, Point Marion, PA

16. West Virginia Symphony Fireworks
Sponsor: West Virginia Symphony
Date: 1st Week of June
Regulated Area: Kanawha River Mile 59.4–60.4, Charleston, WV

17. Riverbend Festival—Concerts and Fireworks
Sponsor: Friends of the Festival, Chattanooga, TN
Date: 4 Days—1st & 2nd Weekend in June
Regulated Area: Tennessee River miles 463.4–464.5, Chattanooga, TN

18. Annual Superman Celebration—Fireworks
Sponsor: Metro Chamber, Metropolis, IL
Date: 1 Day—2nd Saturday in June
Regulated Area: Ohio River miles 942.0–943.0, Metropolis, IL

19. Saint Brendan Cup Rowing Race
Sponsor: Pittsburgh Irish Rowing Club
Date: 1 Day—2nd or 3rd Saturday in June
Regulated Area: Ohio River miles 7.0–9.0, Pittsburgh, PA

20. Blessing of The Fleet
Sponsor: Pittsburgh Safe Boating Committee
Date: 1 Day—2nd or 3rd Sunday in June
Regulated Area: Allegheny River miles 0.0–0.2, Pittsburgh, PA

21. River Heritage Days Regatta And Powerboat Races
Sponsor: River Heritage Days Committee
Date: 2 Days—Saturday & Sunday—2nd or 3rd Weekend in June
Regulated Area: Ohio River miles 127.6–128.5, New Martinsville, WV

22. Picnic With the Pops
Sponsor: Huntington Symphony Orchestra
Date: 2nd or 3rd week of June
Regulated Area: Ohio River Mile 307.5–308.5, Huntington, WV

23. Point Pleasant Sternwheel Regatta and River Festival
Sponsor: Point Pleasant Sternwheel Regatta
Date: 3 Days—Last Weekend in June
Regulated Area: Ohio River miles 265.0–266.0, Point Pleasant, WV

24. Thunder On The Ohio
Sponsor: Evansville Freedom Festival
Date: 3 Days—Last Weekend in June
Regulated Area: Ohio River miles 792.0–793.0, Evansville, IN

25. Augusta Sternwheel Days
Sponsor: City of Augusta/Sternwheel Days Committee
Date: 1 Day—Last Saturday in June
Regulated Area: Ohio River miles 426.0–429.0, Augusta, KY

26. Festival On The Lake—Rowing Race
Sponsor: Oak Ridge (Tennessee) Rowing Association
Date: 2 Days—4th Weekend in June
Regulated Area: Clinch River miles 50.3–50.8, Anderson County, TN

27. Chattanooga Dam Triathlon—Lake Swim
Sponsor: Chattanooga Track Club
Date: 1 Day—4th Sunday in June
Regulated Area: Tennessee River miles 471.0–471.5, Chattanooga, TN

28. Charleston 4th of July Celebration
Sponsor: Charleston Festival Commission
Date: 1st Week of July
Regulated Area: Kanawha River Mile 50.9–51.9, Charleston, WV

29. Annual River Recreational Festival
Sponsor: Gallia County Chamber of Commerce
Date: 1st Week of July
Regulated Area: Ohio River Mile 269.0–270.0, Gallipolis, OH

30. Civic Forum Fireworks and Entertainment
Sponsor: Civic Forum
Date: 1st Week of July
Regulated Area: Ohio River Mile 355.5–356.5, Portsmouth, OH

31. Freedomfest
Sponsor: WTCR FM
Date: 1st Week of July
Regulated Area: Ohio River Mile 307.5–308.5, Huntington, WV

32. City of Pittsburgh July 4th Celebration
Sponsor: Citiparks
Date: 1 Day—4th of July
Regulated Area: Ohio River miles 0.0–0.2, Pittsburgh, PA

33. EZ Challenge Speedboat Race
Sponsor: APR Events Group, New Martinsville, WV
Date: 2 Days—Saturday & Sunday on or about 4th of July
Regulated Area: Ohio River miles 77.0–78.0, Brooke County, WV

34. St. Albans Riverfest
Sponsor: St. Albans Riverfest, Inc.
Date: 2 Days—1st Weekend in July
Regulated Area: Kanawha River miles 46.0–47.0, St. Albans, WV

35. Summer Motion Festival Tri-State Fireworks
Sponsor: Tri-State Fair and Regatta Committee
Date: 1 Day—4th of July
Regulated Area: Ohio River miles 322.4–322.6, Ashland, KY

36. Indiana Governor's Cup
Sponsor: Madison Regatta Inc.
Date: 3 Days—1st Weekend in July
Regulated Area: Ohio River miles 557.0–558.0, Madison, IN

37. The New Kensington Recreational Commission's Fireworks Display
Sponsor: New Kensington Recreation Commission
Date: One day—July 3rd
Regulated Area: Allegeheny River mile 18.3–18.7

38. Toronto 4th of July Celebration
Sponsor: Toronto 4th of July Committee
Date: One day—July 3rd
Regulated Area: Ohio River between mile 58.1–59.1

39. Wheeling Symphony Conducky Derby
Sponsor: Wheeling Symphony Society Inc.

Date: One day—July 4th
Regulated Area: Ohio River between mile 90.2–90.7
40. Independence Day Celebration—Fireworks
Sponsor: Paducah Parks Department
Date: 1 Day—4th of July
Regulated Area: Ohio River miles 935.5–936.0, Paducah, KY
41. Independence Day Celebration—Boat Parade and Fireworks
Sponsor: Metropolitan Board of Parks and Recreation, Nashville, TN
Date: 1 Day—4th of July
Regulated Area: Cumberland River miles 190.0–191.0, Nashville, TN
42. 4th of July Celebration—Fireworks
Sponsor: Players Riverboat Casino, Metropolis, IL
Date: 1 Day—3rd or 4th of July
Regulated Area: Ohio River miles 943.0–944.0, Metropolis, IL
43. Lottie McAlice Rowing Race
Sponsor: Three Rivers Rowing Association, Pittsburgh, PA
Date: 2 Days—Saturday & Sunday Near July 15
Regulated Area: Allegheny River miles 2.0–3.0, Pittsburgh, PA
44. Rocketman Triathlon—Lake Swim
Sponsor: Spring City Triathletes, Huntsville, AL
Date: 1 Day—2nd or 3rd Saturday in July
Regulated Area: Tennessee River miles 324.0–324.5, Madison County, TN
45. Cross River Swim Paducah Summerfest
Sponsor: Paducah Tourist & Convention Commission
Date: 1 Day—3rd Saturday in July
Regulated Area: Ohio River miles 934.5–936.0, Paducah, KY
46. Oak Ridge Sprints—Rowing Race
Sponsor: Oak Ridge (Tennessee) Rowing Association
Date: 3 Days—3rd Weekend in July
Regulated Area: Clinch River miles 49.8–51.1, Anderson County, TN
47. Summerfest
Sponsor: Tri-State Fair and Regatta
Date: 3rd or 4th Week of July
Regulated Area: Ohio River Mile 307.5–308.5, Huntington ,WV
48. Fitness System's Lock Triathlon—Lake Swim
Sponsor: Greater Knoxville Triathlon Club
Date: 1 Day—4th Weekend in July
Regulated Area: Clinch River miles 22.0—23.0, Loudon County, TN
49. Paducah Summer Festival—Fireworks
Sponsor: Paducah Promotions
Date: 1 Day—4th Weekend In July
Regulated Area: Ohio River miles 934.0–935.0, Paducah, KY
50. Oakmont Regatta
Sponsor: Oakmont Yacht Club, Oakmont, PA
Date: 2 Days—Last Saturday and Sunday in July
Regulated Area: Allegheny River miles 11.8–12.3, Oakmont, PA
51. Pittsburgh Three Rivers Regatta
Sponsor: Pittsburgh Three Rivers Regatta, Inc.
Date: 7 Days—End of July or beginning of August
Regulated Area: One mile around point at confluence of Allegheny River miles 0.0–1.0, Monongahela River miles 0.0—0.2, and Ohio River miles 0.0—0.9, Pittsburgh, PA
52. Beaver County Riverfest
Sponsor: Beaver County Chamber of Commerce, Beaver, PA
Date: 3 Days—Friday, Saturday & Sunday nearest August 15
Regulated Area: Ohio River miles 25.1—25.8, Beaver River miles 0.1–0.3, Beaver County, PA
53. Belpre Ohio Homecoming
Sponsor: Belpre Ohio Chamber of Commerce
Date: 2nd Week of August
Regulated Area: Ohio River Mile 185.5–186.5, Belpre, OH
54. Rumble on the River
Sponsor: Southern Ohio Water Sports
Date: 2nd Week of August
Regulated: Ohio River Mile 355.5–356.5, Portsmouth OH
55. Steubenville (Ohio) Regatta Rumble On The River
Sponsor: Steubenville Regatta And Racing Association, Inc.
Date: 3 Days—Friday, Saturday & Sunday nearest August 15
Regulated Area: Ohio River miles 65.0–67.0, Jefferson County, OH
56. Armstrong County (Pennsylvania) Regatta
Sponsor: Three Rivers Outboard Racing Association
Date: 2 Days—Saturday & Sunday nearest August 15
Regulated Area: Allegheny River miles 43.8–45.7, Armstrong County, PA
57. Parkersburg Homecoming Festival
Sponsor: Parkersburg Homecoming Festival
Date: 2 Days-3rd Weekend in August
Regulated Area: Ohio River miles 184.0–185.0, Parkersburg, WV
58. Kentucky Drag Boat Association Inc.: Drag Boat Races
Sponsor: Kentucky Drag Boat Association Inc.
Date: 3 Days—End of August
Regulated Area: Green River miles 70.0–71.5, Livermore, KY
59. WEBN/Toyota Fireworks
Sponsor: WEBN
Date: 1 Day—Sunday before Labor Day
Regulated Area: Ohio River 469.2–470.5, Cincinnati, OH
60. Charleston Sternwheel Regatta
Sponsor: Charleston Festival Commission
Date: 4 Days—The 2 Weekends before Labor Day
Regulated Area: Kanawha River miles 57.0–59.0, Charleston, WV
61. Aurora APR Power Boat Races
Sponsor: Aurora Riverfront Beautification
Date: August 29
Regulated Area: Ohio River, at approximately mile 496.0–499.0, mid-channel, Aurora, IN
62. Portsmouth River Days
Sponsor: Portsmouth River Days Inc.
Date: 1st Week of September
Regulated Area: Ohio River Mile 355.5–356.5, Portsmouth, OH
63. Ohio River Sternwheel Festival
Sponsor: Ohio River Sternwheel Festival Commission
Date: 2 Days—1st or 2nd Weekend in September
Regulated Area: Ohio River miles 170.0–180.0, Marietta, OH
64. My 102 Booms Day—Fireworks
Sponsor: WMYU Radio, Knoxville, TN
Date: 1 Day—1st Weekend in September
Regulated Area: Tennessee River miles 645.0–649.0, Knoxville, TN
65. Ducks On The Ohio
Sponsor: Goodwill Industries, Inc.
Date: 1 Day—2nd or 3rd Weekend in September
Regulated Area: Ohio River miles 792.0–793.0, Evansville, IN
66. Head of Licking Regatta
Sponsor: Kendle, Cincinnati Rowing Club, City of Newport
Date: 1 Day—Last Saturday in September
Regulated Area: Licking River miles 0.0–3.5, Newport, KY
67. Fleur De Lis Regatta
Sponsor: City of Louisville, KY
Date: 2 Days—Last Weekend in September
Regulated Area: Ohio River miles 602.0–604.0, Louisville, KY
68. Head of The Ohio
Sponsor: Pittsburgh Mercy Foundation
Date: 1 Day—1st Saturday in October
Regulated Area: Allegheny River miles 0.0–4.0, Pittsburgh, PA
69. Chattanooga Head Race—Rowing Race
Sponsor: Look Out Rowing Club
Date: 1 Day—2nd Saturday in October
Regulated Area: Tennessee River miles 464.0–467.0, Chattanooga, TN
70. Head of Tennessee Regatta
Sponsor: Knoxville Rowing Association

Date: 1 Day—2nd Saturday in October
Regulated Area: Tennessee River miles 641.5–645.0, Knoxville, TN
71. City of Pittsburgh Light Up Night Fireworks
Sponsor: Citiparks
Date: 1 Day—1st Friday in November
Regulated Area: Ohio River miles 0.0–0.2, Pittsburgh, PA
72. Light Up Pittsburgh
Sponsor: Kauffmans
Date: 3rd Friday in November
Regulated Area: Ohio River mile 0.0–0.1
73. Christmas on the River—Marine Parade
Sponsor: Chattanooga Downtown Partnership
Date: 1 Day—Last Weekend in November or 1st Weekend in December
Regulated Area: Tennessee River miles 464.0–469.0, Chattanooga, TN
74. First Night Pittsburgh
Sponsor: Forest City Management
Date: One day—31 December
Regulated Area: Ohio River mile 0.0–0.1

Group Lower Mississippi River

1. Memphis in May Canoe & Kayak Race
Sponsor: Outdoors, Inc.
Date: 1 Day—1st or 2nd Saturday in May
Regulated Area: Lower Mississippi River miles 735.5–738.5, Memphis, TN
2. Duckin' Down the River Rubber Duck Race
ponsor: Young Women's Community Guild
Date: 1 Day—1st or 2nd Saturday in May
Regulated Area: Arkansas River miles 308.2–308.6, Fort Smith, AR
3. Memphis in May Sunset Symphony Fireworks Display
Sponsor: Memphis in May International Festival, Inc.
Date: 1 Day—Saturday before Memorial Day
Regulated Area: Lower Mississippi River miles 735.0–736.0, Memphis, TN
4. Riverfest, Little Rock Arkansas
Sponsor: Riverfest, Inc.
Date: 1 Day—Sunday before Memorial Day
Regulated Area: Arkansas River miles 118.8–119.5, Main Street Bridge, Little Rock, AR
5. Riverfest Fireworks Display
Sponsor: Old Fort Riverfest Committee
Date: 1 Day—2nd or 3rd Saturday in June
Regulated Area: Arkansas River miles 297.0—298.0, Fort Smith, AR
6. Fourth of July Fireworks
Sponsor: Memphis Center City Commission
Date: 1 Day—4th of July
Regulated Area: Lower Mississippi River miles 735.5—736.5, Mud Island, Memphis, TN
7. Pops on the River Fireworks Display
Sponsor: Arkansas Democrat-Gazette
Date: 1 Day—4th of July
Regulated Area: Arkansas River miles 118.8—119.5, Main Street Bridge, Little Rock, AR
8. Fourth of July Celebration
Sponsor: Pickwick Landing State Park
Date: 4th of July
Regulated Area: Tennessee River Mile 206.7—209.0, Pickwick Dam, TN
9. Independence Day Celebration
Sponsor: City of Guntersville
Date: 4th of July
Regulated Area: Tennessee River Miles 356.0—360.0, Guntersville, AL
10. Spirit of Freedom Celebration
Sponsor: WLAY Radio
Date: 4th of July
Regulated Area: Tennessee River Mile 255.0—256.5, Sheffield, AL
11. Meat on the River Barbecue Cook-Off Fireworks Display
Sponsor: Meat on the Mississippi
Date: 1 Day—1st Friday or Saturday in August
Regulated Area: Lower Mississippi River miles 847.0—849.0, Caruthersville, MO
12. Budweiser/Jesse Brent Memorial Boat Racing Association
Sponsor: Budweiser/Jesse Brent Memorial Boat Racing Association
Date: 1 Day—Sunday before Labor Day
Regulated Area: Lake Ferguson, Greenville, MS
13. Arkansas National Drag Boat Races
Sponsor: Mid-South Drag Boat Association
Date: 2 Days—Saturday and Sunday before Labor Day
Regulated Area: Lake Langhofer, Arkansas River miles 71.0—71.5, Pine Bluff, AR
14. The Great River Cook-Off Ski Exhibition
Sponsor: North Little Rock Junior League
Date: 2nd Weekend in September
Regulated Area: Arkansas River miles 118.8—119.1, Little Rock, AR

Group Mobile

1. Air Sea Rescue
Sponsor: Gulf Coast Shows
Date: 1st or 2nd Weekend in February
Regulated Area: Mobile River 1/2 mile upriver and 1/2 mile down river from the Mobile Convention Center, Mobile, AL
2. Bass Tournament Weigh-In
Sponsor: Gulf Coast Shows
Date: 2 Days—3rd or 4th Weekend in February
Regulated Area: Mobile River 1/2 mile upriver and 1/2 mile down river from the Mobile Convention Center, Mobile, AL
3. Water Ski Demonstrations
Sponsor: Gulf Coast Shows
Date: 2 Days—3rd or 4th Weekend in February
Regulated Area: Mobile River 1/2 mile upriver and 1/2 mile down river from the Mobile Convention Center, Mobile, AL
4. Mobile Boat and Sportsman Show
Sponsor: Gulf Coast Shows
Date: Last week of February
Regulated Area: Mobile River, 1/2 mile upriver and 1/2 mile down river from the Mobile Convention Center, Lower Mobile River
5. Blessing of the Fleet—Biloxi, MS
Sponsor: St. Michael's Catholic Church
Date: 1 Day—1st or 2nd Sunday in May
Regulated Area: Entire Biloxi Channel, Biloxi, MS
6. Blessing of the Fleet—Bayou La Batre, AL
Sponsor: St. Margaret Church
Date: 1 Day—2nd or 3rd Sunday in May
Regulated Area: Entire Bayou La Batre, Bayou La Batre, AL
7. Annual Krewe of Billy Bowlegs Pirate Festival
Sponsor: Krewe of Billy Bowlegs of Okaloosa County, Inc.
Date: First weekend in June
Regulated Area: Santa Rosa Sound, east of the Brooks Bridge to Fort Walton Yacht Club at Smack Point at the western end of Choctowatchee Bay and Cinco Bayou
8. Independence Day Fireworks, Destin, FL
Sponsor: City of Destin
Date: 1 Day—4th of July
Regulated Area: The entire Destin East Pass Between and Including Buoys 5 to 11, Destin, FL
9. Independence Day Fireworks, Gulf Shores, AL
Sponsor: City of Gulf Shores
Date: 1 Day—4th of July
Regulated Area: 500 yard radius around fireworks platform adjacent to Main Pavilion at Gulf Shore Public Beach, Gulf Shores, AL
10. Independence Day Fireworks, Panama City, FL
Sponsor: US Navy MWR NSWCCSS CP21
Date: 1 Day—4th of July
Regulated Area: 500 yard radius around fireworks platform adjacent

to Hathaway Bridge in St. Andrews Bay, Panama City, FL
11. Independence Day Fireworks, Niceville & Valparaiso, FL
Sponsor: Niceville-Valparaiso Bay Chamber of Commerce
Date: 1 Day—4th of July
Regulated Area: Entire Boggy Bayou, Valparaiso, FL
12. Fourth of July Fireworks, Mobile
Sponsor: Mobile Register
Date: 1 Day—4th of July
Regulated Area: 500 feet from the east bank of the Lower Mobile River between latitudes 30–41.34N and 30–41.24N.
13. Flag Day Parade
Sponsor: Warrior River Boating Association
Date: 1 Day—July 5th
Regulated Area: Warrior River Bankhead Lake River miles 368.4–386.4, Cottondale AL
14. Blue Angels Air Show, Pensacola Beach
Sponsor: Naval Air Station, Pensacola, FL
Date: 2nd weekend in July
Regulated Area: A 5 nautical mile radius from a center point located 1500 feet out from the Pensacola Beach shoreline in front of the Pensacola Beach water tank.
15. MWR Fort to Fort Swim
Sponsor: Morale, Welfare and Recreation, Naval Air Station, Pensacola, FL
Date: First weekend in August
Regulated Area: Fort Pickens Pier to Barrancas Beach, crossing the Gulf Intracoastal Water Eay at statute mile 180, between buoys 13, 14, 15, and 16.
16. Annual Labor Day Fireworks
Sponsor: City of Destin, FL
Date: Day of or day before Labor Day
Regulated Area: The entire Destin East Pass Between and Including Buoys 5 to 11, Destin, FL
17. Christmas Afloat, Tuscaloosa, AL
Sponsor: Christmas Afloat, Inc.
Date: 1 Day—2nd or 3rd Weekend in December
Regulated Area: Warrior River miles 338.0–341.0, Tuscaloosa County, AL

Group New Orleans

1. Blessing of The Fleet
Sponsor: Our Lady of Prompt Succor Catholic Church, Golden Meadow, LA
Date: 1 Day—2nd Saturday in May
Regulated Area: Bayou Lafourche in the area between Galliano, LA to the area of downtown Golden Meadow, LA
2. The Blessing of the Fleet and Fireworks Display, Morgan City, LA
Sponsor: LA Shrimp And Petroleum Festival and Fair Assoc., Inc.
Date: 1 Day—Sunday of Labor Day Weekend
Regulated Area: Berwick Bay From Junction of the Lower Atchafalaya River at Morgan City, LA to Berwick Locks Buoy 1 (LLNR 18445)
3. July Fourth Fireworks Display
Sponsor: City of Morgan City, LA
Date: 1 Day—4th of July
Regulated Area: Mile marker 0.0–1.0, Morgan City Port Allen Route
4. Annual Patterson Pirogue Race, Patterson, LA
Sponsor: Rotary Club of Patterson
Date: 1 Day—4th of July
Regulated Area: Lower Atchafalaya River—Jennings Bridge to 1 mile South of Jennings Bridge, Patterson, LA
5. USS KIDD Star Spangled Celebration, Baton Rouge, LA
Sponsor: USS KIDD and Nautical Center
Date: 1 Day—4th of July
Regulated Area: Lower Mississippi River miles 229.4–229.6, Baton Rouge, LA
6. Uncle Sam Jam Fireworks, Alexandria, LA
Sponsor: Champion Broadcasting of Alexandria
Date: 1 Day—4th of July
Regulated Area: Red River, miles 83.0–87.0, Alexandria, LA
7. Monroe Jaycees Fireworks, Monroe, LA
Sponsor: Monroe Jaycees
Date: 1 Day—4th of July
Regulated Area: Ouachita River, miles 164.0–169.0, at the Parish Court House, Monroe, LA
8. Boomtown Casino Fireworks, Harvey, LA
Sponsor: Boomtown Casino
Date: 1 Day—4th of July
Regulated Area: Harvey Canal, miles 3.5–5.5, the entire width of the canal, Harvey, LA
9. Kenner Fireworks, Kenner, LA
Sponsor: City of Kenner
Date: 1 Day—4th of July
Regulated Area: 500 yard radius around fireworks platform in Lake Pontchartrain at Williams Blvd, Kenner, LA
10. Bally's Casino Fireworks, New Orleans, LA
Sponsor: Bally's Casino
Date: 1 Day—4th of July
Regulated Area: 500 yard radius around fireworks platform in Lake Pontchartrain, 1/4 miles North of Bally's Casino, New Orleans, LA
11. Riverfront Marketing Fireworks, New Orleans, LA
Sponsor: Riverfront Marketing Group
Date: 1 Day—4th of July
Regulated Area: 500 yard radius around fireworks platform adjacent to Woldenburg Park in Mississippi River, New Orleans, LA
12. Annual Hogdown Fireworks, Mandeville, LA
Sponsor: Mr. R. C. Lunn
Date: 1-Day—4th of July
Regulated Area: 500 yard radius around fireworks platform adjacent to intersection of Tangipahoa River and Lake Pontchartrain, Mandeville, LA
13. Riverfront Marketing Fireworks, New Orleans
Sponsor: Jax Brewery
Date: 1 Day—December 31
Regulated Area: 500 yard radius around fireworks platform in Mississippi River adjacent to Woldenburg Park, New Orleans, LA
14. Riverfront Marketing Fireworks, New Orleans
Sponsor: Riverfront Marketing Group
Date: 1 Day—Lundi Gras Day
Regulated Area: 500 yard radius around fireworks platform in Mississippi River adjacent to Algiers Point, New Orleans, LA

Group Galveston

1. Neches River Festival, Beaumont, TX
Sponsor: Neches River Festival, Inc.
Date: 2 Days—3rd Weekend in April
Regulated Area: Neches River from Collier's Ferry Landing to Lawson's Crossing at the end of Pine St. Beaumont, TX
2. Contraband Days Fireworks Display, Lake Charles, LA
Sponsor: Contraband Days Festivities, Inc.
Date: 1 Day—2nd Saturday of May
Regulated Area: 500 foot radius from the fireworks barge in Lake Charles anchored at approximate position 30°13′54″ N–093°13′42″ W, Lake Charles, LA
3. National Safe Boating Week
Sponsor: Houston Power Squadron
Date: Last weekend in May or first weekend in June
Regulated Area: Clear Creek Channel from Light 2 up to, but not including, the South Shore Harbor Marina.
4. Sylvan Beach Fireworks Display, Sylvan Beach, Houston, TX
Sponsor: City of LaPorte
Date: 1 Day—End of June or Early July
Regulated Area: Rectangle Extending 250 feet East, 250 feet West; 1000 feet North, and 1000 feet South, centered around fireworks barge at Sylvan Beach, Houston, TX
5. Neches River 4th of July Celebration, Beaumont, Texas
Sponsor: City of Beaumont
Date: 1 Day—4th of July

Regulated Area: River Front Park, Beaumont, TX—All waters of the Neches River, bank to bank, from the Trinity Industries Dry Dock to the northeast corner of the Port of Beaumont's dock No. 5

6. Clear Lake Fireworks Display, Clear Lake, Houston, TX
   Sponsor: Clear Lake Chamber of Commerce
   Date: 1 Day—4th of July
   Regulated Area: Rectangle extending 500 feet East, 500 feet West; 1000 feet North, and 1000 feet South, centered around fireworks barge at Light #19 on Clear Lake, Houston, TX
7. Blessing of the Fleet
   Sponsor: Clear Lake Elks Club
   Date: First Sunday in August
   Regulated Area: Clear Creek Channel from Light 2 up to, but not including, the South Shore Harbor Marina.
8. Galveston Harbor Lighted Boat Parade
   Sponsor: Historic Downtown/Strand Partnership
   Date: Last Saturday in November
   Regulated Area: Galveston Channel from Pier 9 to the Pelican Island Bridge
9. Christmas on the Neches River, Port Neches Park
   Sponsor: Port Neches Chamber of Commerce
   Date: 1 Day—1st Saturday in December
   Regulated Area: The areas of the Neches River from Neches River light 26 to Neches River light 30, Neches River Front Park, Port Neches, TX
10. Christmas Boat Parade on Clear Lake
   Sponsor: Clear Lake Area Chamber of Commerce
   Date: 2nd Saturday in December
   Regulated Area: Clear Lake, Texas. From South Shore Harbor Marina down Clear Lake Channel, to Clear Creek Channel Light 2.

Group Corpus Christi

1. Buccaneer Days Fireworks Display
   Sponsor: Buccaneer Commission, Inc.
   Date: 1 Day—Last Friday in April or First Friday in May
   Regulated Area: Bayfront, All Waters inside Corpus Christi Marina Levee, Corpus Christi Bay, TX
2. SPI Windsurf Blowout
   Sponsor: South Padre Island Convention and Visitors Bureau
   Date: 2 Day—First Saturday and Sunday in May
   Regulated Area: Rectangle extending one mile East, Half mile North and Half mile South from Position 26–08N, 97–10.5W, in the Laguna Madre area known as ''The Flats'', South Padre Island, TX
3. Corpus Christi 4th of July Fireworks Display
   Sponsor: City of Corpus Christi
   Date: 1 Day—4th of July
   Regulated Area: Bayfront, All Waters inside Corpus Christi Marina Levee, Corpus Christi Bay, TX
4. City of Port Aransas 4th of July Fireworks Display
   Sponsor: City of Port Aransas
   Date: 1 Day—4th of July
   Regulated Area: 600 foot radius from a point half way between Port Aransas Harbor Daybeacon 2 to Port Aransas Ferry landing in the Corpus Christi Ship Channel, Port Aransas, TX
5. Bayfest Fireworks Display
   Sponsor: Bayfest, Inc.
   Date: 2 Days—3rd Friday & Saturday in September
   Regulated Area: Bayfront, All Waters inside Corpus Christi Marina Levee, Corpus Christi Bay, TX
6. Great Tugboat Challenge
   Sponsor: Bayfest Inc.
   Date: 2 Days—3rd Friday & Saturday in September
   Regulated Area: Bayfront, All Waters inside Corpus Christi Marina Levee, Corpus Christi Bay, TX
7. Harbor Lights
   Sponsor: City of Corpus Christi
   Date: 1 Day—1st Saturday in December
   Regulated Area: Bayfront, All Waters inside Corpus Christi Marina Levee, Corpus Christi Bay, TX

Dated: April 10, 2000.

Paul J. Pluta,

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

[FR Doc. 00–10605 Filed 4–27–00; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Parts 212, 261, and 295

RIN 0596—AB67

Administration of the Forest Development Transportation System; Prohibitions; Use of Motor Vehicles Off Forest Service Roads

AGENCY: Forest Service, USDA.

ACTION: Proposed rule; extension of public comment period.

SUMMARY: On March 3, 2000, in Part III, of the **Federal Register**, the Forest Service published a proposed rule revising regulations concerning the development, use, maintenance, and management of the national forest transportation system (65 FR 11680). A number of organizations have requested an extension of the public comment period. In considering these requests, the agency has determined that the public initially had difficulty obtaining a copy of the proposed rule and accompanying documents. Additionally, the agency has concluded that a limited extension will not impede adoption of the final rule. Therefore, the agency is extending the comment period for 15 calendar days. Because the proposed rule was accompanied by a related proposed administrative policy, the agency, by separate notice in today's **Federal Register**, also is extending the comment period on the proposed policy for 15 calendar days.

DATES: Comments must be received in writing by May 17, 2000.

ADDRESSES: Send written comments to USDA, CAET, Attention: Roads, P. O. Box 221090, Salt Lake City, UT 84122.

Send comments electronically to roads/wo_caet-slc@fs.fed.us.

All comments received, including names and addresses when provided, are placed in the record and are available for public inspection and copying at Forest Service, 201 14th Street SW, Washington, D.C. 20250. Persons wishing to inspect the comments are encouraged to call 202–205–1400 to facilitate building entrance.

FOR FURTHER INFORMATION CONTACT: Heidi Valetkevitch, Office of Communication, 202–205–0914.

Dated: April 24, 2000.

James R. Furnish,

Deputy Chief, National Forest System.

[FR Doc. 00–10656 Filed 4–27–00; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 000425113–0113–01; I.D. 042400H]

RIN 0648–AM16

Fisheries off West Coast States and in the Western Pacific; Western Pacific Crustacean Fisheries; Northwestern Hawaiian Islands Lobster Fishery

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

ACTION: Proposed rule; emergency closure; request for comments.

SUMMARY: NMFS proposes a rule that would amend current regulations promulgated under the Fishery Management Plan for Crustacean Fisheries of the Western Pacific Region (FMP). This proposed rule would close the 2000 Northwestern Hawaiian Islands (NWHI) commercial lobster fishery, which is scheduled to open on July 1, 2000, and will be promulgated under the emergency rulemaking authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Closure of the fishery is being proposed to address concerns raised by NMFS scientists for the health of the fishery and the potential for overfishing lobster resources.

DATES: Comments will be considered if received on or before May 15, 2000.

ADDRESSES: Comments should be sent to Dr. Charles Karnella, Administrator, Pacific Islands Area Office, NMFS (PIAO), 1601 Kapiolani Blvd., Rm 1101, Honolulu, HI 96814. Comments also may be sent via facsimile (fax) to 808–973–2941. Comments submitted via e-mail or Internet will not be accepted. Copies of the Environmental Assessment/Initial Regulatory Flexibility Analysis (IRFA) are available from Dr. Karnella.

FOR FURTHER INFORMATION CONTACT: Alvin Katekaru, PIAO, 808–973–2937, fax 808–973–2941, e-mail *alvin.katekaru@noaa.gov*.

SUPPLEMENTARY INFORMATION: The NWHI crustacean fishery is managed under the FMP, which was developed by the Western Pacific Fishery Management Council (Council) and implemented under the authority of the Magnuson-Stevens Act by regulations appearing at 50 CFR part 660. Under the FMP, NMFS determines annually the harvest guideline for the fishery, which is expressed as the maximum number of lobsters (spiny and slipper lobsters combined) that may be harvested by federally permitted vessels from each of the four established lobster fishing grounds. Each year, the lobster fishery opens on July 1 and a lobster ground closes either when its harvest guideline has been reached, or December 31, whichever occurs first. Although the FMP allows a maximum of 15 permit holders in the fishery, during the 1998 and 1999 lobster seasons only 5 and 6 vessels, respectively, participated in the fishery.

On February 3, 2000, NMFS scientists calculated the 2000 lobster harvest guidelines based on estimates of exploitable lobster populations. While analyzing the data, the scientists noted an increase in uncertainty of model parameters in their calculation and determined that the population estimates for 2000 may not be accurate and should be viewed with extreme caution. Also, they observed a lack of appreciable rebuilding of lobster populations, despite significant reductions in fishing effort throughout the NWHI. Because of the uncertainty in calculating the exploitable population estimates used to derive accurate harvest guidelines and the potential for overfishing the lobster resources at certain lobster grounds, the Director of the Southwest Fisheries Science Center, NMFS, recommended that the NWHI be closed to commercial lobster fishing during the 2000 lobster season.

At its meeting on March 1, 2000, the Council reviewed the exploitable lobster population estimates derived by NMFS and suggested that a bias-adjustment factor be used to refine the exploitable population estimates. Subsequently, NMFS calculated bias-adjusted exploitable lobster population estimates, which resulted in the following harvest guidelines: (spiny and slipper lobsters combined); Necker Island, 35,230 lobsters; Gardner Pinnacles, 17,550 lobsters; and Maro Reef, 35,490 lobsters (total NWHI harvest guideline equaling 88,270 lobsters). The harvest guideline for the remaining NWHI lobster grounds combined (Area 4) could not be determined because no bias-adjusted estimate of abundance could be computed.

Despite the Council's suggestion to utilize the bias-adjusted estimate of abundance, NMFS, however, has determined that a precautionary closure of the fishery is necessary to respond to concerns about the health of the fishery and potential for overfishing the NWHI lobster resources. Accordingly, this proposed rule would prohibit all vessels registered for use under NWHI crustacean limited access permits to fish for, take, or retain lobsters or possess on board any gear (trap) for the fishing or taking of lobsters by extending the current closed season.

Because it is important for NMFS to continue lobster research and stock assessment efforts to improve lobster population models for better estimating exploitable lobster populations in the future, NMFS is likely to implement an experimental fishing program (EFP), during the proposed extended closed season. This EFP would allow for the harvesting of lobsters at a level below the harvest guideline considered by the Council. Any EFP would be conducted under regulations appearing at 50 CFR 660.17 which would allow harvest at a reduced level during the proposed closed season. The EFP would be conducted in accordance with regulations appearing at 660.17. If approved for implementation, details of the EFP, including solicitation of interested participants, will be published as a separate notice in the **Federal Register**. Also, NMFS will directly notify all current holders of NWHI crustacean fishery limited access permits about an EFP.

This closed season extension is being proposed as an emergency action under the authority of section 305(c) of the Magnuson-Stevens Act. Under section 305(c)(3), the emergency regulation may remain in effect for not more than 180 days after the date of publication, and may be extended for one additional period of not more than 180 days, if public comments have been solicited on the rule. The emergency regulation may be terminated at an earlier date.

Criteria for Issuing an Emergency Rule

This emergency rule meets NMFS policy guidelines for the use of emergency rules (62 FR 44421, August 21, 1997), because the emergency situation results from recent, unforeseen events, or recently discovered circumstances. Recent data suggest low recruitment in this fishery. Because of the uncertainty in lobster population estimates and the resultant possibility of overharvesting of lobster resources, the Director of the NMFS Southwest Fisheries Science Center recommended that the NWHI lobster fishery be closed to commercial lobster fishing during the 2000 lobster season.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this proposed rule is necessary to respond to an emergency situation concerning the NWHI lobster fishery and resources. The AA has also determined that this proposed rule is consistent with the Magnuson-Stevens Act and other applicable laws.

NMFS has prepared an IRFA that describes the impact the proposed rule would have on small entities. The reasons for, objectives of, and legal basis for this proposed rule are described elsewhere in this preamble. Three alternative actions including the preferred alternative (closure of the fishery) are discussed. The IRFA discusses the economic impacts under the following scenarios: (1) Alternative 1—the fishery opens on July 1, 2000, with a harvest guideline of 194,350 lobsters (spiny and slipper lobsters combined) distributed among the established lobster grounds as follows: Necker Island, 58,110 lobsters; Gardner

Pinnacles, 28,860 lobsters; Maro Reef, 85,150 lobsters; and all other NWHI lobster grounds combined, 22,230 lobsters; (2) Alternative 2—the fishery opens on July 1, 2000, with a harvest guideline of 88,270 lobsters (spiny and slipper lobsters combined) distributed among the established lobster grounds as follows: Necker Island, 35,230 lobsters; Gardner Pinnacles, 17,550 lobsters; Maro Reef, 35,490 lobsters; all other NWHI lobster grounds combined, 0 lobsters; and Alternative 3 (preferred alternative)—extend the closed season from July 1 through December 31, 2000 (the NWHI commercial lobster fishery is closed during 2000). The preferred alternative is anticipated to preserve and enhance the productive capability of the fishery's target lobster stocks as well as any incidentally caught species. However, a fishery closure will have negative impacts on fishery participants who rely on this fishery for a portion of their annual income. The five to six participants in this fishery have realized average annual ex-vessel revenues of $1.1 million during the last two seasons (approximately $200,000 per vessel). Although all participants also engage in other fisheries, the NWHI lobster fishery occurs during a slow season for their alternate fisheries, and, as such, represents a component of their annual activities and income. This component and its associated revenue will be lost to fishery participants under the preferred alternative. The relative importance of this fishery to participants is undetermined, but may be roughly considered to be equal to 25 percent to 33 percent (three to four months) of their annual gross revenues. This fishery has not been a consistently profitable undertaking, but it is not inconsequential to fishery participants. The opportunity to participate in the 2000 NWHI commercial lobster fishery, and its associated revenues will be lost to fishery participants under the preferred alternative.

The number of fishery participants directly impacted is likely to be less than the 15 permit holders, as only 10 vessels have participated in the fishery in the past two seasons, 5 in 1998 and 6 in 1999 (only one vessel participated in both seasons); however, all permit holders will be vulnerable to reductions in the value of their permits. Seasonal markets for NWHI lobster may also be adversely affected under the preferred alternative. Because this is a relatively small fishery, marketing of its product has been challenging, as wholesalers and retailers prefer predictable and reliable supply sources. However, a reputation for a locally produced quality product has been established and buyers willing to participate on a seasonal basis have been found. The preferred alternative will have a negative impact on these connections and reestablishment of market channels may be difficult when the fishery does reopen.

Nonetheless, the preferred alternative is expected to promote a sustainable fishery which will have greater positive impacts on fishery revenues and participants over the long term. The preferred alternative will not implement any additional recordkeeping or other compliance requirements, and does not duplicate, overlap or conflict with other Federal regulations.

Alternative 1 and Alternative 2, which include commercial fishing were rejected; they did not address concerns for the status of the lobster resources in a sufficiently precautionary manner, particularly in light of the concerns raised by NMFS scientists. However, the scientists have expressed concern for the lack of data, that would result from a complete fishery closure. They are developing a research plan that would allow for the controlled collection of fishery data. The results of an EFP are expected to provide informed recommendations for the 2001 season as well as subsequent seasons. NMFS is considering an experimental fishery which, if approved, will be assessed prior to implementation. A copy of the IRFA is available for public review and comment (see **ADDRESSES**).

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

An informal consultation under the Endangered Species Act was concluded for the proposed action on April 18, 2000. As a result of the informal consultation, the Regional Administrator determined that fishing activities under this proposed rule is not likely to affect adversely endangered and threatened species or critical habitat.

List of Subjects in 50 CFR Part 660

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

Dated: April 26, 2000.

Andrew J. Kemmerer,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, NMFS proposes to amend 50 CFR part 660 as follows:

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

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

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

2. In § 660.45, effective from July 1, 2000, through December 31, 2000, paragraph (a) is suspended, and add a new paragraph (c) to read as follows:

§ 660.45 Closed seasons.

* * * * *

(c) Lobster fishing is prohibited in Permit Area 1 from July 1, 2000, through December 31, 2000.

3. In § 660.48, paragraph (a)(9) is suspended effective from July 1, 2000, through December 31, 2000.

4. In Subpart D, § 660.50 is suspended effective from July 1, 2000, through December 31, 2000.

[FR Doc. 00–10750 Filed 4–27–00; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 65, No. 83
Friday, April 28, 2000

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

Cooperative State Research, Education, and Extension Service

Notice of Intent To Revise and Request an Extension of a Currently Approved Information Collection

AGENCY: Cooperative State Research, Education, and Extension Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) implementing regulations this notice announces the Cooperative State Research, Education, and Extension Service's (CSREES) intention to revise and extend a currently approved information collection, Form CSREES–665 ''Assurance of Compliance with the Department of Agriculture Regulations Assuring Civil Rights Compliance,'' and Form CSREES–666, ''Organizational Information.''

DATES: Comments on this notice must be received no later than July 3, 2000, to be assured of consideration.

ADDRESSES: Address all comments concerning this notice to Dr. Sally J. Rockey, Deputy Administrator; Competitive Research Grants and Awards Management; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2240; 1400 Independence Avenue, S.W.; Washington, D.C. 20250–2240. E-mail: oep@reeusda.gov.

FOR FURTHER INFORMATION CONTACT: Sally J. Rockey, (202) 401–1761.

SUPPLEMENTARY INFORMATION:

Titles: Assurance of Compliance with the Department of Agriculture Regulations Assuring Civil Rights Compliance and Organizational Information.

OMB Number: 0524–0026.

Expiration Date of Approval: April 30, 2000.

Type of Request: Revise and extend currently approved information collection.

Abstract: CSREES has primary responsibility for providing linkages between the Federal and State components of a broad-based, national agricultural research, extension, and education system. Focused on national issues, its purpose is to represent the Secretary of Agriculture and carry out the intent of Congress by administering formula and grant funds appropriated for agricultural research, extension, and education. Before awards can be made, certain information is required from applicants to assure compliance with the applicable civil rights laws and to effectively assess the potential recipient's capacity to manage Federal funds.

The following information will continue to be collected:

Form CSREES–665—Assurance of Compliance with the Department of Agriculture Regulations Assuring Civil Rights Compliance: By signing this form the organization certifies that it complies with the Civil Rights Act of 1964, as amended. The applicant agrees that it will offer its programs to all eligible persons without regard to race, color, national origin, gender, disability, age, political beliefs, religion, marital status, or familial status and that people will not be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant receives Federal financial assistance from the Department of Agriculture. This information is submitted to CSREES on a one-time basis.

Form CSREES–666—Organizational Information: Enables CSREES to determine that applicants recommended for awards will be responsible recipients of Federal funds. The information pertains to organizational management and financial matters of the potential grantee. This form and the documents which the applicant attaches to it provide CSREES with information such as the legal name of the grantee, certification that the organization has the legal authority to accept Federal funding, identification and signatures of the key officials of the organization, the organization's practices in regard to compensation rates and benefits of employees, insurance for equipment, subcontracting with other organizations, etc., as well as the financial condition of the organization. All of this information is considered by CSREES prior to award to determine that grantees are both managerially and fiscally responsible. This information is submitted to CSREES on a one-time basis. If sufficient changes occur within the organization, the grantee submits revised information.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .5 hours for Form CSREES–665 and 3.5 hours for Form CSREES–666. These averages were based on a survey of grantees who had recently been approved for awards. They were asked to give an estimate of time it took them to complete each form. This estimate was to include such things as: 1) Reviewing the instructions; 2) Searching existing data sources; 3) Gathering and maintaining the data needed; and 4) Actual completion of the forms. The average time it took each respondent was calculated from their responses.

Respondents: Individuals or households, business or other for profit, non-profit institutions and small businesses or organizations.

Estimated Number of Respondents: 150.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondent: 600 hours.

Copies of this information collection can be obtained from Dr. Sally Rockey, Deputy Administrator, at (202) 401–1761.

Comments: 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, will have practical utility; (b) 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; (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 or other forms of information technology. Comments should be sent to the address stated in the preamble.

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

Done at Washington, DC, this 20th day of April, 2000.

Charles W. Laughlin,

Administrator, Cooperative State Research, Education, and Extension Service.

[FR Doc. 00–10568 Filed 4–27–00; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Intergovernmental Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of Meeting.

SUMMARY: The Intergovernmental Advisory Committee will meet on May 4, 2000, at the Embassy Suites Portland Downtown, 319 SW Pine Street, Portland, Oregon 97204–2726. The purpose of the meeting is to continue discussions on the implementation of the Northwest Forest Plan. The meeting will begin at 9:30 a.m. and continue until 3:30 p.m. Agenda items to be discussed include, but are not limited to: briefings and discussion on Monitoring efforts, the President's Roadless Area initiative, continued discussion on integrating the forest plan into the management landscape, the Survey and Manage Draft Supplemental Environmental Impact Statement, and progress reports on ongoing implementation issues. The IAC meeting will be open to the public and is fully accessible for people with disabilities. Interpreters are available upon request in advance. Written comments may be submitted for the record at the meeting. Time will also be scheduled for oral public comments. Interested persons are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Questions regarding this meeting may be directed to Curt Loop, Acting Executive Director, Regional Ecosystem Office, 333 SW 1st Avenue, P.O. Box 3623, Portland, OR 97208 (Phone: 503–808–2180).

Dated: April 21, 2000.

Curtis A. Loop,

Acting Designated Federal Official.

[FR Doc. 00–10685 Filed 4–27–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Olympic Provincial Interagency Executive Committee (PIEC) Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of Meeting.

SUMMARY: The Olympic PIEC Advisory Committee will meet on May 19, 2000. The meeting will be held at the Olympic Natural Resource Center's conference room in Forks, Washington. The meeting will begin at 9:00 AM and end at approximately 3:30 PM. Agenda topics are: (1) Survey and Manage Forest Management Strategy; (2) Intergovernmental Advisory Committee Update; (3) Regional Ecosystems Office Update; (4) Olympic Discovery Trail Proposal; (5) Open forum; and (6) Public comments.

All Olympic Province Advisory Committee Meetings are open to the public. Interested citizens are encourage to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Ken Eldredge, Province Liaison, USDA, Olympic National Forest Headquarters, 1835 Black Lake Blvd., Olympia, WA 98512–5623, (360) 956–2323 or Dale Hom, Forest Supervisor, at (360) 956–2301.

Dated: April 17, 2000.

Dale Hom,

Forest Supervisor, Olympic National Forest.

[FR Doc. 00–10629 Filed 4–27–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

RIN 0596—AB67

Forest Transportation System

AGENCY: Forest Service, USDA.

ACTION: Notice; extension of public comment period.

SUMMARY: On March 3, 2000, in Part III, of the **Federal Register**, the Forest Service published a proposed administrative policy concerning the development, use, maintenance, and management of the national forest transportation system (65 FR 11684). A number of organizations have requested an extension of the public comment period. In considering these requests, the agency has determined that the public initially had difficulty obtaining a copy of the proposed policy and accompanying documents. Additionally, the agency has concluded that a limited extension will not impede adoption of the final policy. Therefore, the agency is extending the comment period for 15 calendar days. Because the proposed administrative policy was accompanied by a related proposed rule regarding the Forest Transportation System, the agency, by separate notice in today's **Federal Register**, also is extending the comment period on the proposed rule for 15 calendar days.

DATES: Comments must be received in writing by May 17, 2000.

ADDRESSES: Send written comments to USDA, CAET, Attention: Roads, P.O. Box 221090, Salt Lake City, UT 84122.

Send comments electronically to roads/wocaet_slc@fs.fed.us.

All comments received, including names and addresses when provided, are placed in the record and are available for public inspection and copying at Forest Service, 201 14th Street SW., Washington, D.C. 20250. Persons wishing to inspect the comments are encouraged to call 202–205–1400 to facilitate building entrance.

FOR FURTHER INFORMATION CONTACT: Heidi Valetkevitch, Office of Communication, 202–205–0914.

Dated: April 24, 2000.

James R. Furnish,

Deputy Chief, National Forest System.

[FR Doc. 00–10655 Filed 4–27–00; 8:45 am]

BILLING CODE 3410–11–U

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Proposed collection; Comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Business-Cooperative Service's (RBS) intention to request an extension for a currently approved information collection in support of the program for the Annual Survey of Farmer Cooperatives, as authorized in the Cooperative Marketing Act of 1926.

DATES: Comments on this notice must be received by June 27, 2000 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Charles A. Kraenzle, Director, Statistics Staff, RBS, U.S. Department of Agriculture, STOP 3256, 1400

Independence Avenue, SW, Washington, DC 20250–3256, Telephone (202) 720–3189 or send an e-mail message to charles.kraenzle@usda.gov.

SUPPLEMENTARY INFORMATION:

Title: Annual Survey of Farmer Cooperatives.

OMB Number: 0570–0007.

Expiration Date of Approval: August 31, 2000.

Type of Request: Intent to extend and revise a currently approved information collection.

Abstract: The primary objective of Rural Business-Cooperative Service (RBS) is to promote understanding, use and development of the cooperative form of business as a viable option for enhancing the income of agricultural producers and other rural residents. RBS' direct role is providing knowledge to improve the effectiveness and performance of farmer cooperative businesses through technical assistance, research, information, and education. The annual survey of farmer cooperatives collects basic statistics on cooperative business volume, net income, members, financial status, employees, and other selected information to support RBS' objective and role. Cooperative statistics are published in various reports and used by the U.S. Department of Agriculture, cooperative leaders, educators and others in planning and promoting the cooperative form of business.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1 hour per response.

Respondents: Farmer cooperatives.

Estimated Number of Respondents: 2,649.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 2,404 Hours.

Copies of this information collection can be obtained from Cheryl Thompson, Regulations and Paperwork Management Division, at (202) 692–0043.

Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of RBS, including whether the information will have practical utility; (b) the accuracy of the RBS' estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or forms of information technology. Comments may be sent to Cheryl Thompson, Regulations and Paperwork Management Branch, Support Services Division, U.S. Department of Agriculture, Rural Development, STOP 0742, Washington, DC 20250-0742. 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: April 21, 2000.

Dayton J. Watkins,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 00–10648 Filed 4–27–00; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Southern Intertie Project Draft Environmental Impact Statement

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of Extension for the Southern Intertie Project Draft Environmental Impact Statement.

SUMMARY: The Rural Utilities Service (RUS), as lead Federal agency, is preparing an environmental impact statement (EIS) for the Southern Intertie Project, a proposal by six electric utilities that are collectively known as the Intertie Participants Group (IPG). The project consists of the construction and operation of a 230 kV transmission line and associated facilities to be located between Anchorage and a location on the Kenai Peninsula in Alaska. The U.S. Fish and Wildlife Service (FWS) and Army Corps of Engineers-Alaska District (ACE) are both cooperating agencies. A notice of intent to prepare an EIS was announced in the **Federal Register** on Wednesday, October 9, 1996, at 61 FR 52908.

The route proposed by the IPG would cross portions of the Kenai National Wildlife Refuge. On August 5, 1999, the IPG submitted an application for a right-of-way pursuant to Title XI of the Alaska National Interest Lands Conservation Act of 1980 (Pub. L. 96–487, U.S.C. 668dd) and its implementing regulations (43 CFR part 36). The application was accepted by the RUS, FWS, and ACE.

Regulations at 43 CFR 36.6(a)(2) require the lead agency to publish notification of an extension with reasons for the extension of a nine-month period to complete the draft EIS. Due to the magnitude and complexity of the proposed project and the number of resources that will potentially be impacted, the evaluation of the data compiled by the applicant's consultants is taking longer than expected. Because of the additional time needed to evaluate the data, RUS is providing notice that an additional four months is required to complete the draft EIS.

DATES: The draft EIS is expected to be available for public review in September of 2000. Public hearings on the draft EIS will be scheduled in Soldotna and Anchorage, Alaska, and Washington, DC in September/October of 2000.

FOR FURTHER INFORMATION CONTACT: Lawrence R. Wolfe, Senior Environmental Protection Specialist, RUS, Engineering and Environmental Staff, Stop 1571, 1400 Independence Ave., SW, Washington, DC 20250–1571, telephone (202) 720–5093 or e-mail: lwolfe@rus.usda.gov.

Dated: April 25, 2000.

Mark S. Plank,

Acting Director, Engineering and Environmental Staff.

[FR Doc. 00–10649 Filed 4–27–00; 8:45 am]

BILLING CODE 3410–15–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Addition and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Addition to and Deletions from the Procurement List.

SUMMARY: This action adds to the Procurement List a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List commodities previously furnished by such agencies.

EFFECTIVE DATE: May 30, 2000.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot (703) 603–7740.

SUPPLEMENTARY INFORMATION: On March 17, 2000, the Committee for Purchase

From People Who Are Blind or Severely Disabled published notices (65 FR 14532) of proposed addition to and deletions from the Procurement List:

Addition

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the service and impact of the addition on the current or most recent contractors, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.

2. The action will not have a severe economic impact on current contractors for the service.

3. The action will result in authorizing small entities to furnish the service to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List.

Accordingly, the following service is hereby added to the Procurement List: Parking Facility Attendant, Department of Veterans Affairs Medical Center, John D. Dingell VA Medical Center, 4646 John R Street, Detroit, Michigan.

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will not have a severe economic impact on future contractors for the service.

3. The action may result in authorizing small entities to furnish the service to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities deleted from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Accordingly, the following commodities are hereby deleted from the Procurement List:

Transparency Film, Xerographic

7530–01–386–2371

Tea Mix, Instant,

8955–00–823–7016

Louis R. Bartalot,

Deputy Director (Operations).

[FR Doc. 00–10653 Filed 4–28–00; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Technology Administration.

Title: Licensing of Government-Owned Inventions.

Agency Form Number: None.

OMB Approval Number: None.

Type of Request: Collection in use without OMB approval.

Burden: 1,200 hours.

Number of respondents: 400 Applicants.

Avg. Hours Per Response: 2 hours for applications, 15 minutes for reports.

Needs and Uses: The Bayh-Dole Act (Public Law 96–517) authorizes agencies to license their patented inventions to the public. In order to obtain a license, an application must be submitted to the agency owning the invention. The information provided (a marketing or development plan) is used by the government to negotiate the terms of the license and, when necessary, to choose between competing applications. Once awarded, the license holder must provide utilization reports. These are used by the government to ensure that the awardee is in compliance with the terms of the license.

Affected Public: Businesses or other for-profit organizations, not-for-profit institutions.

Frequency: On occasion, annually.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5027, 14th and Constitution Avenue, N.W., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, N.W., Washington, D.C. 20503.

Dated: April 20, 2000.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 00–10577 Filed 4–27–00; 8:45 am]

BILLING CODE 3510–18–P

DEPARTMENT OF COMMERCE

Census Bureau

Shipper's Export Declaration Program

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before June 27, 2000.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5033, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Jerome Greenwell, U.S. Census Bureau, Room 3125, Federal Office Building No. 3, Washington, DC 20233–0001, 301–457–2238.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Shipper's Export Declaration (SEDs), Forms 7525–V, 7525–V–Alternate (Intermodal), and the electronic equivalent, the Automated Export System (AES) are the basis for the official export trade statistics compiled by the U.S. Census Bureau (Census Bureau). Title 13, United States Code, Chapter 9, Sections 301–307

authorizes the collection of all these data. Title 15, Code of Federal Regulations, Part 30 contains the regulatory provisions for preparing and filing the SED or the AES record. The Census Bureau has the primary responsibility for the collection, compilation and publication of the official statistics on U.S. exports used for determining the balance of trade, a principal economic indicator. These data are essential in formulating basic government policy decisions affecting the economy. U.S. businesses rely heavily on these data to develop export leads, export marketing strategies and assessing the impact of exports on the domestic economy.

The statistical information on the SED or the AES record shows what is being exported (description and commodity classification number), how much (quantity, gross weight and value), how it is being exported (mode of transportation, exporting carrier and whether containerized), from where (state of origin, and port of export), to where (port of unloading and country of ultimate destination), and when (date of exportation). The identification of the exporter, forwarding agent, and consignee provide contacts for verification of the statistical information. The Census Bureau uses every data element on the SED/AES record for statistical purposes only. Other Government agencies may use the SED/AES information for export control purposes, and/or to obtain trade information to avoid conducting additional surveys.

The SED/AES records are also used for export control purposes under Title 50, United States Code and are used to detect and prevent the export of certain commodities (for example, high technology or military goods) to unauthorized destinations or end users. The SED/AES records, as official documents or export transactions, enable the U.S. Customs Service (Customs) and the Bureau of Export Administration (BXA) to enforce the Customs and Export Administration Regulations and thereby detect and prevent the export of high technology commodities to unauthorized destinations. The Department of State uses the SED/AES information to enforce the International Traffic in Arms Regulations (ITAR) to detect and prevent the export of arms and ammunition to unauthorized destinations.

In the past, each different type of paper SED was cleared separately. In recent years the number of submissions via automated programs, the Automated Export Reporting Program (AERP) operated by the Census Bureau and the new Automated Export System operated jointly by the Census Bureau and Customs, have grown rapidly and are now considered as part of SED submissions. With the rapid growth of the AES, the Census Bureau discontinued the AERP program as of December 31, 1999. Filers using the AERP program, which was strictly used for Census Bureau statistical collection purposes, are now filing their information through the AES, paper documents, or are in the process of converting to the AES.

The authority for clearance of the Shipper's Export Declaration for In-Transit Goods, Form 7513, which serves as the source document from which the official U.S. statistics on outbound in-transit waterborne shipments is collected and compiled has been transferred to the U.S. Army Corps of Engineers (Corps). This program was transferred to the Corps, as they are the primary users of the in-transit data.

With this submission the Census Bureau is requesting clearance for the reporting of export data: (1) using the two types of paper SEDs, Form 7525–V and Form 7525–V Alternate (Intermodal); and (2) through the AES. The Census Bureau is eliminating clearances for the AERP program and for the in-transit Form 7513, which were included in our previous submission.

II. Method of Collection

A paper SED or electronic AES record is required for all export shipments valued over $2,500 from the United States, Puerto Rico, and the U.S. Virgin Islands. The SED or AES record is also required for all licensed shipments, (i.e. State Department or Bureau of Export Administration export licenses) regardless of value. The SED program is unique among Census Bureau statistical collections since it is not sent to respondents soliciting responses as is the case in surveys. Filing the SED/AES information is mandatory under Title 13, Chapter 9 of the United States Code. Over 5.5 million paper SEDs, over 2.5 million automated AES records and over 5.5 million automated AERP records were submitted in 1999. In addition, data for over 63,000 exporters has been filed by participants in AES and AERP during 1999. For this reason the Census Bureau attempts to avoid frequent changes in data content and format. The paper SEDs have been in continuous use since 1985 with minor revisions in 1988. The AES format has been in use since 1995 and the format has been approved by the trade community through a series of Interest Based Negotiation meetings. Exporters can purchase the paper SEDs or they may have them privately printed. They can also download the SED forms over the Internet and print them on the required ''buff'' colored paper.

For this submission, the Census Bureau is planning revisions to the paper SED forms to bring them up to date with current regulatory and policy changes reflected by the implementation of the AES. The changes include: (1) Revising box 1a (7525–V) and box 2 (7525–V–ALT) to read ''Exporter (U.S. Principal Party In Interest)'' (2) revising box 1b (7525–V) and box 7 (7525–V–ALT) to read ''Exporter's EIN (IRS) or ID No''; (3) adding an ''M'' indicator code to box 16 (7525–V) and box 23 (7525–V–ALT) for Foreign Military Sales Shipments; (4) deleting the check digit field on both forms, and replacing it with a field for the Export Information Code ''(EIC)''; (5) revising box 21 (7525–V) and box 27 (7525–V–ALT) to read ''License No./License Exception Symbol/Authorization''; (6) adding a box for a ''Carrier Identification'' Code (i.e. SCAC/IATA code); (7) adding a box for ''Shipment Reference Number''; (8) adding a box for the ''In Bond'' number; (9) adding a box for a Hazardous Material Indicator; (10) adding a box for ''Used Vehicle Identification No.''; (11) adding a box for ''Vehicle Title No.''; and (12) adding a box for ''Entry No.'' for bonded shipments. All changes to the paper SED format are also applicable to the AES format. These additional items are conditional data elements and will not be reported for all transactions. Therefore, we do not estimate these revisions will increase response time.

Exporters or their agents file individual paper SEDs with the exporting carriers at the time that each export shipment leaves the United States. For AES, exporters or their agents file the export data electronically directly with the U.S. Customs Service, according to the filing provisions established in Title 15, Code of Federal Regulations, Part 30, Subpart E, ''Electronic Filing Requirements—Shipper's Export Information''. The carriers submit the paper SED documents to Customs officials when the carrier departs the United States and Customs then transmits the SEDs to the Census Bureau on a flow basis for statistical processing. For AES, the Census Bureau extracts export data files from the Customs AES, for statistical processing.

For exports to Canada, the United States is substituting Canadian import statistics for U.S. exports to Canada in accordance with a Memorandum of Understanding (MOU) signed by both Customs and statistical agencies in both

countries. Similarly, under this MOU, Canada is substituting U.S. import statistics for Canadian exports to the United States. These data exchanges eliminate the requirement for U.S. exporters to file any information with the U.S. government. This results in the elimination of over four million SEDs annually. However, for exports to Canada that require a license, a SED or AES record must be filed. Also, a SED or AES record is required for exports from the United States through Canada destined to a country other than Canada.

In addition, the Census Bureau and Customs are continuing to implement and expand the use of the AES for filing shipper's export information electronically. The AES provides a voluntary automated alternative to filing the paper SED. Extensive outreach and education efforts have been and continue to be made to encourage the trade community to use the AES for filing its export data. The Census Bureau has implemented the AESDirect system to allow AES filers to file their export information directly to AES via the Internet. The Census Bureau anticipates a gradual and progressive growth in the number of electronic filers, with a comparable decrease in the number of paper filers over the course of the next few years.

During the past several years the Census Bureau and Customs have also been involved in an intensive outreach and education program to improve compliance with Customs and Census Bureau regulatory provisions in reference to filing Customs manifest documents and the Census Bureau SED/AES documents/records. During these compliance programs, the Census Bureau and Customs conducted seminars with the trade community to inform them of the regulatory filing requirements. In addition, Customs has also increased its enforcement effort for those filers not in compliance with the export laws and regulations. This compliance effort, in addition to the outreach and education effort encouraging the use of electronic filing through the AES has led to a significant increase in both paper and electronic filings. Also, with the expansion of the global economy and the increased emphasis on international trade, the Census Bureau has experienced a significant increase in the number of export transactions being filed. For example, in 1993 the Census Bureau received 1.1 million transactions per month. In 1999 the Census Bureau received 1.7 million transactions per month. This represents an increase of 55 percent in the number of monthly transactions processed by the Census Bureau. The Census Bureau expects this trend to continue for the next several years. All these factors combined, have resulted in an increase in our estimate of annual responses from the previous submission.

In summary, for non-Canadian exports, approximately 55 percent of export transactions are reported electronically using the AES, and approximately 45 percent of export transactions are reported using the paper SEDs. The Census Bureau expects the percentage of electronic filings through the AES to substantially increase during the next several years.

III. Data

OMB Number: 0607–0152.

Form Number: 7525–V, 7525–V–Alternate (Intermodal), Automated Export System (AES) submissions.

Type of Review: Regular Submission.

Affected Public: Exporters, Forwarding Agents, Export Carriers.

Estimated Number of Respondents: 200,000.

Estimated Number of Responses: 13,449,996..

Estimated Time Per Response: 11.166 minutes for 7525–V, 7525–V–Alternate 3.0 minutes for AES submissions.

Estimated Total Annual Burden Hours: 1,284,949.

SEDs, 837,450.

AES, 447,499.

Estimated Total Annual Cost: $19,274,235.

SEDs—837,450 hrs @ $15/hr = $12,561,750.

AES—447,499 hrs @ $15/hr = $6,712,485.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13, United States Code, Chapter 9.

IV. Request for Comments

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 (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 25, 2000.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 00–10650 Filed 4–27–00; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Manufacturers' Shipments, Inventories, and Orders (M3) Survey

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before June 27, 2000.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5033, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Lee Wentela, Bureau of the Census, FOB #4 Room 2232, Washington, DC 20233–6913 and (301) 457–4832.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau plans to submit the Manufacturers' Shipments, Inventories, and Orders (M3) survey to the Office of Management and Budget for review. The M3 requests data from domestic manufacturers on form M–3(SD). The survey is mailed at the end of each month. Data requested are shipments, new orders, unfilled orders, total inventory, materials and supplies, work-in-process, and finished goods. It is currently the only survey that provides broad-based monthly statistical data on the economic conditions in the domestic manufacturing sector.

The M3 survey is designed to measure current industrial activity and to provide an indication of future production commitments. The value of

shipments measures the value of goods delivered during the month by domestic manufacturers. Estimates of new orders serve as an indicator of future production commitments and represent the current sales value of new orders received during the month, net of cancellations. Substantial accumulation or depletion of unfilled orders measures excess or deficient demand for manufactured products. The level of inventories, especially in relation to shipments, is frequently used to monitor the business cycle.

The estimated total annual burden hours are increased from 20,600 to 24,000 to reflect an increase in the survey panel. The conversion of the survey from the Standard Industrial Classification system to the North American Industry Classification System will result in new and reconfigured industry categories, which require a larger survey panel to ensure sufficient coverage in all industries.

II. Method of Collection

Respondents submit data on form M–3(SD) via mail, facsimile machine, Touchtone Data Entry (TDE), Voice Recognition Entry (VRE), or via the Internet. Analysts call respondents who usually report, to obtain data in time for preparing the monthly estimates.

III. Data

OMB Number: 0607–0008.
Form Number: M–3(SD).
Type of Review: Regular.
Affected Public: Businesses, large and small, or other for profit organizations.
Estimated Number of Respondents: 6,000 monthly.
Estimated Time Per Response: 20 minutes.
Estimated Total Annual Burden Hours: 24,000.
Estimated Total Annual Cost: $436,800.
Respondent's Obligation: Voluntary.
Legal Authority: Title 13 USC, Sections 131 and 182.

IV. Request for Comments

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 (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 25, 2000.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 00–10651 Filed 4–27–00; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Census 2000 Evaluation Followup Interview

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before June 27, 2000.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5033, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Dave Raglin, Bureau of the Census, Room BH–121/SFC2, Washington, DC 20233–9200, 301–457–4238.

SUPPLEMENTARY INFORMATION:

I. Abstract

The U.S. Bureau of the Census will conduct an Accuracy and Coverage Evaluation as a quality assurance program to measure coverage of the population in the decennial census. In the Accuracy and Coverage Evaluation, we independently count a sample of housing units and the people living in those units, then compare those results to the census.

The U.S. Bureau of the Census would like to determine the magnitude of and sources of measurement errors in the residence classification of persons in the Accuracy and Coverage Evaluation. To do this the Census Bureau plans to conduct the Evaluation Followup Interview (EFU), a follow-up interview of a subsample of Accuracy and Coverage Evaluation clusters. The types of information collected during the interview will help determine whether or not a person mentioned in the Census or in the Accuracy and Coverage Evaluation Person Interview lived in the housing unit on census day (Saturday April 1, 2000) or on the Accuracy and Coverage Evaluation interview day (sometime between late-April and mid-August, 2000). The information will also help identify possible reasons a person was missed or enumerated in error in the Census or the Accuracy and Coverage Evaluation. This is accomplished by asking the respondent more specific questions than the Accuracy and Coverage Evaluation about specific types of group quarters or other residences a person may have lived at, and by determining if persons have moved in and moved out of a household. The interview will be conducted using the Evaluation Followup Questionnaires, forms D–1301(EFU), the English language version and D–1301(EFU–S), the Spanish language version of the form. The data from the EFU will be used for four Census evaluations.

II. Method of Collection

Person interview.

III. Data

OMB Number: Not available.
Form Number: D–1301(EFU), D–1301(EFU–S)
Type of Review: Regular.
Affected Public: Individuals or households.
Estimated Number of Respondents: 40,000 Housing units.
Estimated Time Per Response: 20 minutes.
Estimated Total Annual Burden Hours: 13,333 hours.
Estimated Total Annual Cost: There is no cost to the respondent other than the time to provide the requested information.
Respondent's Obligation: Mandatory.
Legal Authority: Title 13, United States Code, Sections 141, 193, and 221.

IV. Request for Comments

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 (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 25, 2000.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 00–10652 Filed 4–27–00; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–835]

Oil Country Tubular Goods From Japan: Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of extension of time limit for preliminary results of antidumping duty administrative review.

EFFECTIVE DATE: April 28, 2000.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0666.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (1999).

Extension of Time Limit for Preliminary Results

The Department of Commerce has received a request to conduct an administrative review of the antidumping duty order on oil country tubular goods from Japan. The Department initiated this review for Hallmark Tubulars Ltd., Itochu Corporation, Itochu Project Management Corp., Nippon Steel Corp., and Sumitomo Metal Industries, Ltd. on October 1, 1999 (64 FR 53318). The review covers the period August 1, 1998 through July 31, 1999.

Because of the complexity of certain issues, it is not practicable to complete this review within the time limit mandated by section 751(a)(3)(A) of the Act. Therefore, in accordance with that section, the Department is extending the time limit for the preliminary results to August 11, 2000 (*See Memorandum from Edward C. Yang to Joseph A. Spetrini, Extension of Time Limit,* April 7, 2000).

Dated: April 7, 2000.

Joseph A. Spetrini,

Deputy Assistant Secretary for AD/CVD Enforcement Group III.

[FR Doc. 00–10528 Filed 4–27–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–835]

Oil Country Tubular Goods From Japan; Amended Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of Amended Final Results of Antidumping Duty Administrative Review.

SUMMARY: We are amending our final results of the 1997–98 administrative review of the antidumping duty order on oil country tubular goods (OCTG) from Japan, published on March 22, 2000 (65 FR 15305), to reflect the correction of ministerial errors made in the calculations of our final results. We are publishing this amendment to the final results in accordance with 19 CFR 351.224(e). The final weighted-average dumping margin for the reviewed firm is listed below in the section entitled ''Amended Final Results of Review.'' The period of review is August 1, 1997 through July 31, 1998.

EFFECTIVE DATE: April 28, 2000.

FOR FURTHER INFORMATION CONTACT: Thomas Gilgunn or Mark Hoadley, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 482–0648 and (202) 482–0666, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 351 (1999).

Background

On September 7, 1999, the Department published the preliminary results of the administrative review of the antidumping duty order on OCTGs from Japan (64 FR 48589). We published the final results of review on March 22, 2000 (65 FR 15305).

On March 14, 2000, we received allegations from respondent, Sumitomo Metal Industries (SMI), that we had made ministerial errors in our calculations of the final results of review.

Scope of Review

The merchandise covered by this order consists of OCTGs, hollow steel products of circular cross-section, including oil well casing, tubing, and drill pipe, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished or unfinished (including green tubes and limited service OCTG products). This scope does not cover casing, tubing, or drill pipe containing 10.5 percent or more of chromium. The products subject to this order are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.21.30.00, 7304.21.60.30, 7304.21.60.45, 7304.21.60.60, 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.30.10, 7304.29.30.20, 7304.29.30.30, 7304.29.30.40, 7304.29.30.50, 7304.29.30.60, 7304.29.30.80, 7304.29.40.10, 7304.29.40.20,

7304.29.40.30, 7304.29.40.40, 7304.29.40.50, 7304.29.40.60, 7304.29.40.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.60.15, 7304.29.60.30, 7304.29.60.45, 7304.29.60.60, 7304.29.60.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this review is dispositive.

Comments

1. Conversion of Data

SMI alleges that the Department committed a ministerial error by calculating its margin on a per meter basis, as opposed to a per metric ton basis. SMI argues that calculations pertaining to OCTGs should be made on a per metric ton basis because (1) this has been the Department's policy in the past, (2) as a result of varying wall thickness, one meter of two different products will not weigh the same and will have different costs, values, and prices, (3) transactions in OCTGs are commonly conducted on a per metric ton basis, (4) the steel industry tracks OCTG costs, values, and prices on a per-weight basis, and (5) SMI's cost accounting system is based on weight.

Department's Position: We agree with SMI. SMI reported data on a per foot, per meter, per kilogram, per metric ton, and per piece basis. For our preliminary results, we attempted to convert all data into per metric ton values. For our final results, we reconverted SMI's data as a result of a conversion error discovered in our preliminary calculations. In reconverting the data, however, we converted to per meter values, instead of per metric ton values.

Calculating the margin on a per metric ton basis will be consistent with previous reviews and the investigation, with SMI's cost accounting system, and with the way in which the merchandise is sold. Therefore, we have recalculated SMI's margin on a per metric ton basis for these amended final results.

2. Conversion of Variable Cost of Manufacturing Data

SMI alleges that we used an incorrect conversion rate when we converted the variable cost of manufacturing of its U.S. product from a per metric ton amount to a per meter amount.

Department's Position: Because we agree that SMI's reported values should not have been converted to per meter values, this allegation is moot.

Amended Final Results of Review

Upon review of the submitted allegations, we determine that the following percentage weighted-average margin exists for the period August 1, 1997 through July 31, 1998:

Manufacturer/exporter	Margin (percent)
Sumitomo Metal Industries	0.00

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of oil country tubular goods from Japan entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate shown above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 44.2 percent. This rate is the ''All Others'' rate from the LTFV investigation.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

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

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: April 18, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–10529 Filed 4–27–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Advanced Technology Program Advisory Committee

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of partially closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the Advanced Technology Program Advisory Committee, National Institute of Standards and Technology (NIST), will meet Tuesday, May 16, 2000, from 8:30 a.m. to 5 p.m. The Advanced Technology Program Advisory Committee is composed of eight members appointed by the Director of NIST; who are eminent in such fields as business, research, new product development, engineering, education, and management consulting. The purpose of this meeting is to review and make recommendations regarding general policy for the Advanced Technology Program (ATP), its organization, its budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress.

The agenda will include an update on ATP; a discussion of the Next Generation Mission/Vision; ATP Awardee Demographics—Business Reporting System; Finding from Status Report Volume II; ATP Competition Formats; and a discussion of 2000 National Meeting—Critical Themes and Technology Research Priorities. Discussions scheduled to begin at 8:30 a.m. and to end at 9:30 a.m. and to begin at 3 p.m. and to end at 5 p.m. on May 16, 2000, on the ATP budget issues and staffing of positions will be closed.

DATES: The meeting will convene May 16, 2000, at 8:30 a.m. and will adjourn at 5 p.m. on May 16, 2000.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, Administration Building Lecture Room A, Gaithersburg, Maryland 20899.

FOR FURTHER INFORMATION CONTACT: Janet R. Russell, National Institute of Standards and Technology, Gaithersburg, MD 20899–1004; telephone number (301) 975–2107.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on March 30, 2000 that portions of the meeting of the Advanced Technology Program Advisory Committee which involve discussion of proposed funding of the Advanced Technology Program may be closed in accordance with 5 U.S.C. 552b(c)(9)(B), because those portions of the meetings will divulge matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency actions; and that portions of meetings which involve discussion of staffing of positions in ATP may be closed in accordance with 5 U.S.C. 552b(c)(6), because divulging information discussed in those portions of the meetings is likely to reveal information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Dated: April 24, 2000.

Karen H. Brown,

Deputy Director.

[FR Doc. 00–10654 Filed 4–27–00; 8:45 am]

BILLING CODE 3510–13–M

COMMODITY FUTURES TRADING COMMISSION

Application of the Chicago Board of Trade for Designation as a Contract Market in Dow Jones Composite Average SM Index Futures and Futures Options

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of terms and conditions of proposed commodity futures and futures options contract.

SUMMARY: The Chicago Board of Trade (CBT or Exchange) has applied for designation as a contract market in Dow Jones Composite Average SM futures and options. The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purpose of the Commodity Exchange Act.

DATES: Comments must be received on or before May 15, 2000.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521 or by electronic mail to secretary@cftc.gov. Reference should be made to the Chicago Board of Trade (CBT) Dow Jones Composite Average SM Index futures and futures options contracts.

FOR FURTHER INFORMATION CONTACT: Please contact Thomas Leahy of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC (202 418–5278. Facsimile number: (202) 418–5527. Electronic mail: tleahy@cftc.gov.

SUPPLEMENTARY INFORMATION: There do not appear to be any substantive issues raised by the applications. In this regard, the contracts are substantially the same as previously approved contracts on the Dow Jones Industrial Average, Dow Jones Utility Average, and Dow Jones Transportation Average. In addition, the proposed underlying index is the composite of the indexes underlying those previously approved contracts. Accordingly, the Division believes that an abbreviated 15-day comment period is appropriate for the subject applications.

Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418–5100.

Other materials submitted by the CBT in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1997)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the CBT should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581 by the specified date.

Issued in Washington, DC, on April 24, 2000.

Richard A. Shilts,

Acting Director.

[FR Doc. 00–10643 Filed 4–27–00; 8:45 am]

BILLING CODE 6351–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

New Information Collection; Submission for OMB Review; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

The Corporation for National and Community Service (hereinafter the ''Corporation''), has submitted the following public information collection requests (ICRs) to the Office of Management and Budget for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13. (44 U.S.C. chapter 35)). Copies of these individual ICRs, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Office of the National Senior Service Corps, Attn: Mr. Peter L. Boynton, (202) 606–5000, extension 499. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 565–2799 between the hours of 9 a.m. and 4:30 p.m. Eastern time, Monday through Friday.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: Mr. Daniel Werfel, OMB Desk Officer for the Corporation for National and Community Service, Office of Management and Budget, Room 10235, Washington, DC 20503, (202) 395–7326, within 30 days of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the Corporation, 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;

• Propose ways to enhance the quality, utility and clarity of the information to be collected; and

• Propose ways to minimize the burden of the collection of information to those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Type of Review: New information collection.

Agency: Corporation for National and Community Service.

Title: National Senior Service Corps GPRA Project Data Report.

OMB Number: None.

Agency Number: None.

Affected Public: Sponsors of National Senior Service Corps grants.

Total Respondents: Approximately 1,304.

Frequency: Annual.

Average Time Per Response: .75 hour.

Estimated Total Burden Hours: 1,978 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): $496.00.

Description: The Corporation is seeking approval for a new form for all grantees of the NSSC to report GPRA data annually as of a single date. The data to be reported on this form is currently reported by most grantees semi-annually on CNCS Form 1020, Project Progress Report (OMB Control Number 3045–0033). A small percentage are required to submit the PPR quarterly. Pending OMB approval, the GPRA reporting data will be deleted from the Project Progress Report as of July 31, 2000. The new NSSC GPRA Reporting Form, if approved, will be filed by all grantees by December 1 each year, containing data with a time period of Oct 1 through September 30.

Having all grantees, regardless of their grant budget cycle, report annually as of September 30 will reduce the reporting burden for GPRA data for grantees who currently report this data semi-annually or quarterly. It will also enable the Corporation to submit current, consistent, and reliable aggregate GPRA reporting data to Congress by the date established by law, February 28th of each year.

Dated: April 24, 2000.

Thomas E. Endres,

Director, National Senior Service Corps, Corporation for National and Community Service.

[FR Doc. 00–10612 Filed 4–27–00; 8:45 am]

BILLING CODE 6050–28–U

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Revision of a Currently Approved Information Collection; Submission for OMB Review; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

The Corporation for National and Community Service (hereinafter the ''Corporation''), has submitted the following public information collection requests (ICRs) to the Office of Management and Budget for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13. (44 U.S.C. Chapter 35)). Copies of these individual ICRs, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Office of the National Senior Service Corps, Attn: Mr. Peter L. Boynton, (202) 606–5000, extension 499. Individuals who use a telecommunications device for the deaf (TDD) may call (202) 565–2799 between the hours of 9:00 a.m. and 4:30 p.m. Eastern time, Monday through Friday.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: Mr. Daniel Werfel, OMB Desk Officer for the Corporation for National and Community Service, Office of Management and Budget, Room 10235, Washington, DC 20503, (202) 395–7326, within 30 days of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the Corporation, 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;

• Propose ways to enhance the quality, utility and clarity of the information to be collected; and

• Propose ways to minimize the burden of the collection of information to those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Type of Review: Revision of Currently Approved Information Collection.

Agency: Corporation for National and Community Service.

Title: National Senior Service Corps Project Progress Report.

OMB Number: OMB 3045–0033.

Agency Number: A–1020.

Affected Public: Sponsors of National Senior Service Corps grants.

Total Respondents: Approximately 1304.

Frequency: Annual, with exceptions. It is estimated that 700 will respond annually, 500 semi-annually, and 100 quarterly.

Average Time Per Response: 9.6 hours.

Estimated Total Burden Hours: 12,576 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): $2,605.

Description: The Corporation seeks to revise the current Project Progress Report.

• In order to reflect and mirror the revised regulations for the Senior Companion, Foster Grandparent, and Retired and Senior Volunteer Programs, contained in 45 CFR Parts 2551, 2552, and 2553, published in the **Federal Register** on March 24, 1999; and

• To eliminate current use of the PPR for collection of Government Performance and Results Act (GPRA) performance data.

The revised PPR will be used by NSSC grantees to report progress toward accomplishing work plan goals and objectives, meeting challenges encountered, describing significant activities, and requesting technical assistance.

Dated: April 24, 2000.

Thomas E. Endres,

Director, National Senior Service Corps, Corporation for National and Community Service.

[FR Doc. 00–10613 Filed 4–27–00; 8:45 am]

BILLING CODE 6050–28–U

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Notice of Availability of Funds to Support Americorps*State Competitive and National Programs, and Learn and Serve America K–12 School-Based Programs, in Efforts to Help Overcome the Digital Divide and Provide Digital Opportunities

AGENCY: Corporation for National and Community Service.

ACTION: Notice of availability of funds.

SUMMARY: The Corporation for National and Community Service (the Corporation) will use approximately $12,500,000 to award grants under the AmeriCorps*State Competitive and AmeriCorps*National programs, and Learn and Serve America K–12 School-based programs, to eligible organizations to support efforts to help overcome the digital divide and provide digital opportunities.

DATES: All proposals must arrive at the Corporation for National Service no later than 5:00 p.m., Eastern Daylight Time, June 23, 2000. The Corporation anticipates announcing its selections under this announcement no later than August 8, 2000.

ADDRESSES: Proposals must be submitted to the Corporation at the following address: Corporation for National and Community Service, Attn: Nancy Talbot, 1201 New York Avenue NW, Washington, DC 20525. This notice may be requested in an alternative format for the visually impaired.

FOR FURTHER INFORMATION CONTACT: For further information, or to obtain an application, contact Maria Diaz at (202) 606–5000, ext. 372.

SUPPLEMENTARY INFORMATION:

Background

The Corporation is a federal government corporation that encourages Americans of all ages and backgrounds to engage in community-based service to meet the nation's educational, public safety, environmental and other human needs. 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. This year, the Corporation will support over 40,000 AmeriCorps members who perform substantial service in communities across the country and over one million students in service-learning programs.

Announcements concerning the availability of Corporation funding for AmeriCorps and Learn and Serve America programs in fiscal year 2000 were previously made known to eligible applicants and publicized (see the **Federal Register** notice dated February 16, 2000 (65 FR 7857) and information at the Corporation's website at *www.nationalservice.org*). The Corporation is now making available approximately $12.5 million for the purpose of supporting AmeriCorps members and students in grades K–12 in efforts to overcome the digital divide. Of the $12.5 million: approximately $5 million is being made available under AmeriCorps*State competitive grants; approximately $5 million is being made available under AmeriCorps*National grants; approximately $2 million is being made available under Learn and Serve America: School-based programs; and approximately $500,000 is being made available to Indian tribes under Learn and Serve America: School-based programs. The Corporation anticipates making grants in each of these categories; proposals within each of the specified categories will be judged against each other. The Corporation anticipates making approximately 30 grants in AmeriCorps*State Competitive, approximately 20 grants in AmeriCorps*National, and approximately 10 grants in Learn and Serve America: School-based programs.

Purpose of Grants

Americans increasingly have access to computers and the Internet. It is estimated that more than 42 percent have access to computers at home and 26 percent have access to the Internet at home. At the same time, however, studies find that there is a significant ''digital divide'' separating Americans into information ''haves'' and ''have nots.'' In some instances, the gap is widening. By some estimates, the gaps between White and Hispanic households, and between White and African American households, are now approximately five percentage points larger than they were in 1997. The disparity based on education and income levels also has increased in the last year. (To learn more about the digital divide, go to *www.digitaldivide.gov* to view the Department of Commerce's study, Falling Through the Net: Defining the Digital Divide.) At the same time, schools are gaining more access to computers and the Internet. A Department of Education report states that about 95 percent of schools are now connected to the web. However, many schools do not have the trained personnel to effectively use technology in the curriculum. Nearly 50 percent of today's teachers have little or no computer experience, much less the training and confidence they need to fully integrate networked computers into their classroom teaching.

People power will be a critical resource in successfully overcoming the digital divide and creating digital opportunities. They are needed to ensure that technology is reaching all communities and that it is being used effectively. Without people who can provide training and technical support, children and families in low-income communities will not develop the skills needed to keep up in the digital age.

AmeriCorps members and Learn and Serve America students can help bridge the digital divide by serving in programs that (1) Assist in delivering technology access to low-income individuals and families, (2) help train school teachers and staff in community organizations so that they will become adept at using technology in their work with young people; (3) build the technology skills of those Americans, especially children, who have not yet been exposed to computers; and (4) use technology to meet the needs of communities.

Eligible Applicants

There are different eligible applicants for each category of funds.

*For AmeriCorps*State competitive funds*, most states and Puerto Rico are eligible to submit an application to the Corporation, through a Corporation-approved state commission or alternative administrative entity. Generally, any entity, including an Indian tribe, proposing to operate a program within a single state should apply to its state commission for funds. However, because North Dakota, South Dakota, the District of Columbia, and U.S. territories do not have state commissions, entities proposing to operate a program within these states or territories are not eligible for AmeriCorps*State competitive funds. However, such entities may be included in a program funded under AmeriCorps*National.

*Under the AmeriCorps*National category*, national nonprofits, professional corps programs, and multi-state programs are eligible to apply for national service funds directly to the Corporation. We define a national nonprofit organization as one whose mission, membership and activities, or constituencies are national in scope. National nonprofit organizations may operate programs directly, replicate successful models, or provide subgrants to local chapters or affiliates.

Eligible applicants proposing programs that operate in more than one state must seek funding under this

category. Eligible applicants also include partnerships or consortia formed across two or more states, consisting of institutions of higher education, Indian tribes, or other nonprofits including labor and religious organizations.

For Learn and Serve America School-based programs, eligible applicants include: State Education Agencies, Grantmaking Entities, Indian tribes, and U.S. territories. A Grantmaking Entity is a public or private nonprofit organization that must (1) Have experience with service-learning; (2) have existed for at least one year; and (3) make subgrants in two or more states. A state commission or community-based organization that does not qualify as a Grantmaking Entity may participate in carrying out a School-based program, provided that the application is submitted by an eligible applicant.

An organization described in Section 501(c)(4) of the Internal Revenue Code of 1986, 26 U.S.C. 501(c)(4) that engages in lobbying activities is not eligible to apply or receive any assistance under this Notice.

Purpose of assistance

The following are examples of the types of programs that a grant may support:

- Programs that train teachers and/or staff and volunteers in youth-serving organizations in the use of technology so that they, in turn, will become adept at using technology in their ongoing work.
- Community-based programs that provide in-school and after-school tutoring to younger children in the use of the internet and other computer technology.
- College-based programs in which AmeriCorps members and/or service-learning students, including Federal Work-Study students, serve at schools, community centers, and computer learning centers in low-income, multi-family housing projects.
- Programs in which AmeriCorps members recruit community volunteers and individuals in organizations with technology expertise to provide computer installation, wiring, classroom instruction, e-mail mentors, and staff for computer labs and after-school and weekend programs.
- Programs designed to assure that community centers are wired and connected to the Internet.
- Programs that expand the technology capacity of nonprofit organizations.
- Projects that use technology as a tool in welfare-to-work or job-training programming. AmeriCorps members could serve in nonprofit agencies to develop and provide technology training programs geared to the needs of local businesses.
- Programs that involve AmeriCorps members, Learn and Serve America participants, and seniors.

The above are examples only; local programs will determine the best strategies for overcoming the digital divide and providing digital opportunities.

The Corporation strongly encourages applications that involve all streams of service in efforts to overcome the digital divide. We encourage programs to make use of volunteers, including senior volunteers and intergenerational programs, in their design. We also recommend considering ways in which AmeriCorps and Learn and Serve America programs can work effectively together. Because of statutory requirements, an entity seeking to sponsor both AmeriCorps and Learn and Serve America activities must submit separate applications, noting its proposed relationship between the two programs.

The Corporation also encourages efforts that will have a lasting impact in the communities being served. It may be advantageous, for example, for a program to train teachers, who in turn will use their new skills to educate children for coming decades. Applicants should consider these and other ways to assure the sustainability and long-lasting effects of activities supported with these grants.

For more information on the programs supported by the Corporation, see the Corporation's website or contact the Corporation representative listed above.

Contents of the Proposal

All eligible applicants must submit an application that meets all of the criteria and requirements contained in the application package and accompanying guidelines previously published for the year 2000 and available on the Corporation's website.

Eligible applicants under AmeriCorps*State competitive funds, other than state commissions themselves, should contact the state commission for an application. A listing and contact information is available on the Corporation's website.

Eligible applicants under AmeriCorps*National can obtain a copy of the requirements, including the application package itself and accompanying guidelines from the Corporation website.

Eligible applicants under Learn and Serve America School-based programs can obtain a copy of the requirements, including the application package itself and accompanying guidelines, ''2000 School- and Community-Based Grant Application and Guidelines,'' from the Corporation website.

For a printed copy of any of these materials, please contact Maria Diaz at (202) 606–5000, ext. 372.

Applicants are urged to pay close attention to these materials. They govern a wide variety of relevant requirements, including matching funds, the amounts AmeriCorps members may be paid, the activities AmeriCorps members may engage in, the requirement that Learn and Serve participants cannot be paid, and the requirements for organizations proposing to operate a program.

In addition, applicants must propose activities for AmeriCorps members and students that seek to overcome the digital divide. Proposals that do not address the digital divide will be judged nonresponsive under this Notice of Funding Availability.

Applicants currently operating or applying for AmeriCorps and Learn and Serve America funding may apply for funding under this notice. In doing so, the applicant must also differentiate between the proposed objectives and activities and those of its currently-funded national service program or pending application.

All applicants must submit an estimated budget to carry out the program, consistent with the requirements contained in the applicable application package.

Budget and Finances

The grant may support reasonable and necessary costs typically associated with a program of this type. The otherwise applicable limit on the percentage of grant funds that may be used to purchase equipment (10 percent of the total grant amount) may be increased by the Corporation for grants under this Notice.

Applicants for AmeriCorps funds are required to meet previously published limitations on per-member costs to be paid by the Corporation (see the guidelines referenced earlier). State commissions are advised that this grant is to be included in calculating averages to meet the statewide per member ceiling in funding for AmeriCorps.

Under AmeriCorps, the Corporation will make awards covering a period not to exceed three years. Applications must include a proposed budget and proposed activities for the entire award period. If the Corporation approves an application and enters into a multi-year award agreement, at the outset it may provide funding only based on the first year's budget. The Corporation has no obligation to provide additional funding. Additional funding is contingent upon satisfactory performance, the availability of funds,

and other criteria established in the award agreement.

For Learn and Serve America, grants will be for up to $500,000 over a three-year period, with the entire amount awarded at one time.

Selection Criteria

In awarding these grants, the Corporation will consider: program design (60%); organizational capacity (25%); and budget/cost effectiveness (15%). The details of the selection criteria are contained in the applicable application package. The Corporation will make all final decisions concerning awards and may require revisions to the grant proposal in order to achieve the objectives under this Notice.

Notice of Intent To Submit

If you intend to submit an application, please send us a notice of intent to submit by May 30, 2000 addressed to: Maria Diaz, Corporation for National Service, 1201 New York Avenue N.W., Washington, DC 20525. or email to *mdiaz@cns.gov.* The letter of intent should state that you plan to submit an application for the digital divide competition for the June 23, 2000 deadline. If you do not send a notice of intent to submit, you may still submit an application. Conversely, if you send a notice of intent to submit, you are not obligated to submit an application. Although submission is not mandatory, we encourage you to submit as it will help the Corporation to plan more efficiently for our review.

The notice should include the name of your organization, address, contact person, phone number and the program under which you will submit an application, *i.e.,* AmeriCorps*State Competitive, AmeriCorps*National, Learn and Serve America School-based programs. State commissions should submit a letter of intent that includes all subgrantee programs they plan to submit to the Corporation.

CFDA Nos.
94.004 Learn and Serve America School-Based
94.006 AmeriCorps

Dated: April 21, 2000.

Gary Kowalczyk,

Coordinator, National Service Programs, Corporation for National and Community Service.

[FR Doc. 00–10554 Filed 4–27–00; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 00–31]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 00–31 with attached transmittal and policy justification.

Dated: April 24, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–10–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

14 April 2000

In reply refer to:
I-00/002517

Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 00-31 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Belgium for defense articles and services estimated to cost $25 million. Soon after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

MICHAEL S. DAVISON, JR.
LIEUTENANT GENERAL, USA
DIRECTOR

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Attachments

Separate Cover:
Classified Annex

Transmittal No. 00-31

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) **Prospective Purchaser: Belgium**

(ii) **Total Estimated Value:**

Major Defense Equipment*	$ 20 million
Other	$ 5 million
TOTAL	$ 25 million

(iii) **Description of Articles or Services Offered: Eight LANTIRN targeting pods, associated aircraft integration, support equipment, spare parts, technical orders, publications, training, and other related elements of logistics support.**

(iv) **Military Department: Air Force (SVI, amd 08 and YMD, amd 02)**

(v) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none**

(vi) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See annex attached.**

(vii) **Date Report Delivered to Congress: 14 April 2000**

POLICY JUSTIFICATION

Belgium - LANTIRN Targeting Pods

The Government of Belgium has requested a possible sale of LANTIRN targeting pods, associated aircraft integration, support equipment, spare parts, technical orders, publications, training, and other related elements of logistics support. The estimated total cost is $25 million.

This case will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Belgium in fulfillment of its NATO obligations; furthering NATO rationalization, standardization, and interoperability; and enhancing the defense of the Western Alliance.

Belgium will use the LANTIRN pods to provide their F-16 aircraft with low altitude navigation and targeting system for night operations. Belgium will have no difficulty absorbing the pods into its armed forces.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Lockheed-Martin Electronics and Missiles Corporation of Orlando, Florida. There are no offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government and contractor representatives to Belgium.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 00–10574 Filed 4–27–00; 8:45 am]
BILLING CODE 5001–10–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 00–32]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 00–32 with attached transmittal and policy justification.

Dated: April 24, 2000.

L.M. Bynum,

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

BILLING CODE 5001–10–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

14 April 2000

In reply refer to:
I-00/002813

Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 00-32, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to the United Kingdom for defense articles and services estimated to cost $210 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

MICHAEL S. DAVISON, JR.
LIEUTENANT GENERAL, USA
DIRECTOR

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Attachments

Transmittal No. 00-32

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) **Prospective Purchaser**: United Kingdom

(ii) **Total Estimated Value**:

Major Defense Equipment*	$ 0 million
Other	$ 210 million
TOTAL	$ 210 million

(iii) **Description of Articles or Services Offered**: Training and logistics support in support of a potential direct commercial lease of up to four USAF standard Lot XII Boeing C-17A Globemaster III cargo aircraft. This proposed sale includes one spare engine, spare and repair parts, support equipment, modification kits, publications and technical data, U.S. Government and contractor technical and logistics personnel services and other related elements of program support.

(iv) **Military Department**: Air Force (SAN and TGI)

(v) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid**: none

(vi) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold**: none

(vii) **Date Report Delivered to Congress**: 14 April 2000

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

United Kingdom - Contractor Logistics Support Services

The Government of United Kingdom (UK) has requested a possible sale for training and logistics support in support of a potential direct commercial lease of up to four USAF standard Lot XII Boeing C-17A Globemaster III cargo aircraft. This proposed sale includes one spare engine, spare and repair parts, support equipment, modification kits, publications and technical data, U.S. Government and contractor technical and logistics personnel services and other related elements of program support. The estimated total cost is $210 million.

This proposed case will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of United Kingdom in fulfillment of its NATO obligations; furthering NATO rationalization, standardization, and interoperability; and enhancing the defense of the Western Alliance.

The inability to rapidly deploy European forces during the Bosnia and Kosovo campaigns to forward area unprepared runways highlighted the need for additional NATO strategic airlift. In addition, the United Kingdom's 1998 Strategic Defence Review expressly stated the requirement for "four C-17 or equivalent" strategic airlift aircraft by 2001 for movement of "outsize and oversize" cargo. The C-17 will greatly enhance interoperability and commonality with the U.S. and provide UK and NATO forces with rapid global strategic mobility into austere locations. The UK will have no difficulty absorbing these services into its armed forces.

The proposed sale of these support services will not affect the basic military balance in the region.

The prime contractor will be the Boeing Company of Long Beach, California. There are no offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require the assignment of a Mobile Training Team to the United Kingdom for up to six months to assist in the delivery of the aircraft. There will be 14 contractor representatives in country to conduct contractor-provided training, logistics support, and engineering technical services for up to nine years after initial aircraft delivery.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 00–10575 Filed 4–27–00; 8:45 am]
BILLING CODE 5001–10–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 00–34]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 00–34 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: April 24, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–10–C

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

14 April 2000

In reply refer to:
I-00/003164

Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 00-34, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to Norway for defense articles and services estimated to cost $55 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

MICHAEL S. DAVISON, JR.
LIEUTENANT GENERAL, USA
DIRECTOR

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Attachments

Transmittal No. 00-34

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) **Prospective Purchaser:** Norway

(ii) **Total Estimated Value:**

Major Defense Equipment*	$ 0 million
Other	$ 55 million
TOTAL	$ 55 million

(iii) **Description of Articles or Services Offered:** Software and services in support of a potential direct commercial sale of five AEGIS SPY-1 integrated weapon systems for new frigates. This proposed sale includes AEGIS SPY-1F software support, MK-41 Vertical Launch System MK 689 Interfaced test set, Quadpack Missile Echo Units, test equipment, publications and technical documentation, engineering assistance, and other related elements of program support.

(iv) **Military Department:** Navy (GCW and LAY)

(v) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** None

(vi) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** See attached Annex.

(vii) **Date Report Delivered to Congress:** 14 April 2000

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Norway - AEGIS SPY-IF Software Support

The Government of Norway (GOG) has requested a possible sale of software and services in support of a potential direct commercial sale of five AEGIS SPY-1 integrated weapon systems for new frigates. This proposed sale includes AEGIS SPY-1F software support, MK-41 Vertical Launch System MK 689 Interfaced test set, Quadpack Missile Echo Units, test equipment, publications and technical documentation, engineering assistance, and other related elements of program support. The estimated total cost is $55 million.

This proposed sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Norway to fulfill its NATO obligations; furthering NATO rationalization, standardization, and interoperability; and enhancing the defense of the Western Alliance.

The proposed sale will be used on the new commercial frigates that will replace their old OSLO class ships. Norway will have no difficulty absorbing this software support into their armed forces. The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Lockheed-Martin Company of Moorestown, New Jersey and Baltimore, Maryland. There are no offset agreements proposed in connection with this potential FMS sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government and contractor representatives to Norway.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 00-34

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vi

(vi) Sensitivity of Technology:

1. The AEGIS SPY-1F software proposed for this sale is considered "Secret". The SPY-1F is a three-dimensional phased array radar based on the U.S. Navy SPY-1D. The radar is similar in functionality to other export versions of the SPY-1D but differs in component redundancy and size of the radar array. The system will be capable of engaging small, fast targets in a hostile environment and be able to conduct area Anti-Air Warfare defense to a degree that is not greater than the capability of AEGIS SPY-1 systems already exported to other countries.

2. The vulnerability of software to reverse engineering and countermeasures development is considered minimal, as the actual sensitivity of the system is only exploitable through non-releasable software source codes.

3. The MK 689 Interfaced Test Set and Quadpack Missile Echo Units are considered unclassified and will be used to test the Vertical Launch System (VLS) installed on the ship. The MK-41 VLS documentation is considered unclassified.

4. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

5. A determination has been made that Norway can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 00–10576 Filed 4–27–00; 8:45 am]
BILLING CODE 5001–10–C

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the United States Commission on National Security/21st Century

AGENCY: Office of the Undersecretary of Defense (Policy), Department of Defense.

ACTION: Notice of closed meeting.

SUMMARY: The United States Commission on National Security/21st Century will meet in closed session on May 18, 2000. The Commission was originally chartered by the Secretary of Defense on 1 July 1998 (charter revised on 18 August 1999) to conduct a comprehensive review of the early twenty-first century global security environment; develop appropriate national security objectives and a strategy to attain these objectives; and recommend concomitant changes to the national security apparatus as necessary.

The Commission will meet in closed session on May 18, 2000, to give guidance on the methodology and approach to follow for the development of its Phase Three report. By Charter, the Phase Three report is to be delivered to the Secretary of Defense no later than February 16, 2001.

In accordance with Section 19(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended [5 U.S.C., Appendix II], it is anticipated that matters affecting national security, as covered by 5 U.S.C. 552b(c)(1) (1988), will be presented throughout the meeting, and that, accordingly, the meeting will be closed to the public.

DATES: Thursday, May 18, 2000, 8:30 a.m.–5:00 p.m.

ADDRESSES: The CNA Corporation, 4401 Ford Avenue, Alexandria, VA 22302.

FOR FURTHER INFORMATION CONTACT: Dr. Keith A. Dunn, National Security Study Group, Suite 532, Crystal Mall 3, 1931 Jefferson Davis Highway, Arlington, VA 22202–3805. Telephone 703–602–4175.

Dated: April 24, 2000.

L.M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–10571 Filed 4–27–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Defense Finance and Accounting Service

Privacy Act of 1974; System of Records

AGENCY: Defense Finance and Accounting Service, DoD.

ACTION: Notice of an addition of a System of Records.

SUMMARY: The Defense Finance and Accounting Service proposes to add a system of records notice to its inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This action will be effective without further notice on May 30, 2000 unless comments are received that would result in a contrary determination.

ADDRESSES: Privacy Act Officer, Defense Finance and Accounting Service, 1931 Jefferson Davis Highway, ATTN: DFAS/PE, Arlington, VA 22240–5291.

FOR FURTHER INFORMATION CONTACT: Mrs. Pauline E. Korpanty at (703) 607–3743.

SUPPLEMENTARY INFORMATION: The complete inventory of Defense Finance and Accounting Service record system notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act was submitted on April 14, 2000, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996, (61 FR 6427, February 20, 1996).

Dated: April 24, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

T1205

SYSTEM NAME:

Junior Reserve Officer Training Corps Payment Reimbursement System.

SYSTEM LOCATION:

Defense Finance and Accounting Service-Denver Center, 6760 East Irvington Place, Denver, CO 80279–3000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All military retirees who participate in the Junior Reserve Officer Training Corps (JROTC) Instructor Program at selected high schools within the continental United States and various overseas locations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal information regarding name, Social Security Number, school/school district name and address, applicable active duty entitlement amounts, and current gross retired pay amounts.

Military Services' applicable contribution percentage, gross and net contribution percentage, gross and net contribution amounts, and current employment period beginning and closing dates.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 2031, Junior Reserve Officers' Training Corps, Reserve Officers' Training Corps Program for Secondary Educational Institutions; Title 32 CFR, Ch I, Part 111, Reserve Officers' Training Corps Program for Secondary Educations Institutions; DoD Instruction 1205.13, Junior Reserve Officers Training Corps Program; DoDFMR Volume 10, Chapter 21; Headquarters, Defense Finance and Accounting Service, Memorandum of April 10, 1996 (Department of the Navy, Headquarters, U.S. Marine Corps, Memorandum of April 26, 1996; Department of the Navy, Office of the Assistant Secretary, Memorandum of June 21, 1996; U.S. Army Cadet Command, Memorandum of June 13, 1996)

PURPOSE(S):

To accomplish payroll computations and the reimbursement portion of the Junior Reserve Officer Training Corps Instructor Program.

To provide statements and/or reports to each instructor and school/school district.

To answer inquiries from applicable Services and/or financial institution where funds were distributed.

To provide information required by an auditor during an audit of the program.

To assist the Services with audit of individual instructor, school, and/or school district.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the

DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the school/school district to provide information regarding the instructor's computed minimum instructor pay, and the amount being reimbursed by the applicable Military Service.

To the Treasury Department to provide information on check issues and electronic funds transfers.

To the Federal Reserve Banks to distribute payments made through the direct deposit system to financial organizations or their processing agents authorized by individuals to receive and deposit payments in their accounts.

The 'Blanket Routine Uses' published at the beginning of the DFAS compilation of systems of records notices also apply to this system.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act, 15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966, 31 U.S.C. 3701(a)(3). The purpose of the disclosure is to aid in the collection of outstanding debts owed to the Federal Government; typically, to provide an incentive for debtors to repay delinquent Federal Government debts by making these debts part of their credit records.

The disclosure is limited to information necessary to establish the identity of the individual, including name, address, and taxpayer identification number (Social Security Number); the amount, status, and history of the claim; and the agency or program under which the claim arose.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSITION OF RECORDS IN THE SYSTEM:

STORAGE:

Data is recorded on magnetic disks by payroll month, computer printouts, computer output products, file folders, card files, and other documents.

RETRIEVABILITY:

Information is retrieved by Instructor Name, Instructor Social Security Number, School Identification Code, School Name, District Identification Code, District Name, Retired Pay Grade, or by any combination of data elements within the database.

SAFEGUARDS:

As a minimum, records are accessed by person(s) responsible for servicing, and authorized to use, the record system in performance of their official duties and properly screened and cleared for the need to know. Additionally, at some Centers, records are stored in office buildings protected by guards and controlled through screening of personnel and registering of visitors.

RETENTION AND DISPOSAL:

Magnetic and paper records are maintained for a period of up to 6 years and 3 months from current fiscal year. Disposition is to the Regional Records Service Facilities. Destruction is by tearing, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director of Military Pay, Defense Finance and Accounting Service-Denver Center, 6760 East Irvington Place, Denver, CO 89279–3000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the appropriate Military Service office listed above, or Deputy Director of Military Pay, Defense Finance and Accounting Service-Denver Center, 6760 East Irvington Place, Denver, CO 80279–3000.

Individuals should furnish full name, Social Security Number, current address, and telephone number.

RECORD ACCESS PROCEDURES:

Instructors seeking access to information about themselves contained in this system of records should address written inquiries to the Record Manager or Privacy Act Office at Defense Finance and Accounting Service-Denver Center, 6760 East Irvington Place, Denver, CO 80279–3000 or the applicable Military Service office listed above.

Individuals should furnish full name, Social Security Number, current address, and telephone number.

CONTESTING RECORD PROCEDURES:

The DFAS rules for accessing records, for contesting contents and appealing initial agency determinations are published in DFAS Regulation 5400.11–R; 32 CFR part 324; or may be obtained from the Privacy Act Officer at any DFAS Center.

RECORD SOURCE CATEGORIES:

Individual instructors; school/school district offices; applicable Military Services; and the Defense Retiree and Annuitant System.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 00–10572 Filed 4–27–00; 8:45 am]

BILLING CODE 5001–10–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Closed Meeting of the Board of Visitors for the Department of Defense Centers for Regional Security Studies

AGENCY: Office of the Secretary, Department of Defense.

ACTION: Notice of closed meeting.

SUMMARY: Under the provisions of Public Law 92–463, the ''Federal Advisory Committee Act,'' notice of a meeting of the Board of Visitors for Department of Defense Centers for Regional Security must be published.

The Board will meet in closed session at the Pentagon on April 26 from 0900 to 1330.

The purpose of the meeting is to allow the Board of Visitors to provide advice on the role the Centers for Regional Security play in the broader U.S. national security context. The Board will hold classified discussions on various national security policies to be handled by the regional centers as outlined in the Defense Planning Guidance and related to the Theater Engagement Plans of the Commanders-in-Chief of the Unified Commands. This notice is being published less than fifteen days prior to the meeting because of a scheduling oversight.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended [5 U.S.C. App. II (1982)], it has been determined that this meeting concerns matters listed in 5 U.S.C. § 552b(c)(1)(1982), and that accordingly this meeting will be closed to the public.

FOR FURTHER INFORMATION CONTACT: John Berry, (703) 695–6386.

Dated: April 18, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–10573 Filed 4–27–00; 8:45 am]

BILLING CODE 5000–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Revised Non-Foreign Overseas Per Diem Rates

AGENCY: Per Diem, Travel and Transportation Allowance Committee, DoD.

ACTION: Notice of Revised Non-Foreign Overseas Per Diem Rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 216. This bulletin lists revisions in the per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. AEA changes announced in Bulletin Number 194 remain in effect. Bulletin Number 216 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: May 1, 2000.

SUPPLEMENTARY INFORMATION: This document gives notice of revisions in per diem rates prescribed by the Per Diem Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. It supersedes Civilian Personnel Per Diem Bulletin Number 215. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of revisions in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel office. The text of the Bulletin follows:

BILLING CODE 5001–10–M

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
THE ONLY CHANGES IN CIVILIAN BULLETIN 216 UPDATES RATES FOR ALASKA AND HAWAII.				
ALASKA				
ANCHORAGE [INCL NAV RES]				
05/01 - 09/15	161	68	229	01/01/2000
09/16 - 04/30	80	60	140	01/01/2000
BARROW	140	75	215	05/01/2000
BETHEL	92	65	157	01/01/2000
CLEAR AB	80	54	134	01/01/2000
COLD BAY	140	73	213	01/01/2000
COLDFOOT	135	71	206	10/01/1999
CORDOVA	80	72	152	03/01/2000
CRAIG				
05/01 - 08/31	95	66	161	10/01/1998
09/01 - 04/30	79	64	143	10/01/1998
DEADHORSE	80	67	147	03/01/1999
DENALI NATIONAL PARK				
06/01 - 08/31	125	56	181	01/01/2000
09/01 - 05/31	90	53	143	01/01/2000
DILLINGHAM	100	58	158	01/01/2000
DUTCH HARBOR-UNALASKA	110	71	181	03/01/1999
EARECKSON AIR STATION	80	54	134	01/01/2000
EIELSON AFB				
05/01 - 09/15	149	62	211	01/01/2000
09/16 - 04/30	75	55	130	01/01/2000
ELMENDORF AFB				
05/01 - 09/15	161	68	229	01/01/2000
09/16 - 04/30	80	60	140	01/01/2000
FAIRBANKS				
05/01 - 09/15	149	62	211	01/01/2000
09/16 - 04/30	75	55	130	01/01/2000
FT. RICHARDSON				
05/01 - 09/15	161	68	229	01/01/2000
09/16 - 04/30	80	60	140	01/01/2000
FT. WAINWRIGHT				
05/01 - 09/15	149	62	211	01/01/2000
09/16 - 04/30	75	55	130	01/01/2000
GLENNALLEN	94	54	148	01/01/2000
HEALY				
06/01 - 08/31	125	56	181	01/01/2000
09/01 - 05/31	90	53	143	01/01/2000
HOMER				
04/30 - 10/03	119	65	184	03/01/2000
10/04 - 04/29	69	60	129	03/01/2000
JUNEAU	95	66	161	01/01/2000
KAKTOVIK	165	75	240	01/01/2000
KAVIK CAMP	125	69	194	03/01/1999
KENAI-SOLDOTNA				
04/01 - 10/31	104	65	169	01/01/2000
11/01 - 03/31	67	61	128	01/01/2000

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
KENNICOTT	149	68	217	10/01/1998
KETCHIKAN				
04/01 - 10/15	104	71	175	01/01/2000
10/16 - 03/31	80	69	149	01/01/2000
KING SALMON				
05/01 - 10/01	160	88	248	01/01/2000
10/02 - 04/30	100	82	182	01/01/2000
KLAWOCK				
05/01 - 08/31	95	66	161	10/01/1998
09/01 - 04/30	79	64	143	10/01/1998
KODIAK	90	68	158	01/01/2000
KOTZEBUE				
05/01 - 08/31	137	63	200	01/01/2000
09/01 - 04/30	95	54	149	01/01/2000
KULIS AGS				
05/01 - 09/15	161	68	229	01/01/2000
09/16 - 04/30	80	60	140	01/01/2000
MCCARTHY	149	68	217	10/01/1998
METLAKATLA				
05/30 - 10/01	85	52	137	03/01/1999
10/02 - 05/29	78	51	129	03/01/1999
MURPHY DOME				
05/01 - 09/15	149	62	211	01/01/2000
09/16 - 04/30	75	55	130	01/01/2000
NOME	85	58	143	01/01/2000
NUIQSUT	120	47	167	01/01/2000
PETERSBURG	87	57	144	03/01/1999
POINT HOPE	130	70	200	03/01/1999
POINT LAY	105	67	172	03/01/1999
PRUDHOE BAY	80	67	147	03/01/1999
SEWARD				
05/01 - 09/15	119	75	194	03/01/2000
09/16 - 04/30	75	71	146	03/01/2000
SITKA-MT. EDGECOMBE				
05/16 - 09/16	139	73	212	01/01/2000
09/17 - 05/15	129	72	201	01/01/2000
SKAGWAY				
04/01 - 10/15	104	71	175	01/01/2000
10/16 - 03/31	80	69	149	01/01/2000
SPRUCE CAPE	90	68	158	01/01/2000
TANANA	85	58	143	01/01/2000
UMIAT	107	33	140	03/01/1999
VALDEZ				
05/01 - 10/01	117	68	185	01/01/2000
10/02 - 04/30	99	66	165	01/01/2000
WAINWRIGHT	111	81	192	01/01/2000
WASILLA	95	60	155	01/01/2000
WRANGELL				
04/01 - 10/15	104	71	175	01/01/2000
10/16 - 03/31	80	69	149	01/01/2000

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
YAKUTAT	110	68	178	03/01/1999
[OTHER]	80	54	134	01/01/2000
AMERICAN SAMOA				
AMERICAN SAMOA	85	67	152	03/01/2000
GUAM				
GUAM (INCL ALL MIL INSTAL)	150	71	221	04/01/2000
HAWAII				
CAMP H M SMITH	143	69	212	05/01/2000
EASTPAC NAVAL COMP TELE AREA	143	69	212	05/01/2000
FT. DERUSSEY	143	69	212	05/01/2000
FT. SHAFTER	143	69	212	05/01/2000
HICKAM AFB	143	69	212	05/01/2000
HONOLULU (INCL NAV & MC RES CTR)	143	69	212	05/01/2000
ISLE OF HAWAII: HILO	84	58	142	05/01/2000
ISLE OF HAWAII: OTHER	89	54	143	05/01/2000
ISLE OF KAUAI				
05/01 - 11/30	220	77	297	05/01/2000
12/01 - 04/30	269	82	351	05/01/2000
ISLE OF KURE	65	41	106	05/01/1999
ISLE OF MAUI	143	72	215	05/01/2000
ISLE OF OAHU	143	69	212	05/01/2000
KANEOHE BAY MC BASE	143	69	212	05/01/2000
KEKAHA PACIFIC MISSILE RANGE FAC				
05/01 - 11/30	220	77	297	05/01/2000
12/01 - 04/30	269	82	351	05/01/2000
KILAUEA MILITARY CAMP	84	58	142	05/01/2000
LUALUALEI NAVAL MAGAZINE	143	69	212	05/01/2000
NAS BARBERS POINT	143	69	212	05/01/2000
PEARL HARBOR [INCL ALL MILITARY]	143	69	212	05/01/2000
SCHOFIELD BARRACKS	143	69	212	05/01/2000
WHEELER ARMY AIRFIELD	143	69	212	05/01/2000
[OTHER]	72	61	133	01/01/2000
JOHNSTON ATOLL				
JOHNSTON ATOLL	13	9	22	10/01/1998
MIDWAY ISLANDS				
MIDWAY ISLANDS [INCL ALL MILITAR	150	47	197	02/01/2000
NORTHERN MARIANA ISLANDS				
ROTA	149	72	221	04/01/2000
SAIPAN	154	87	241	04/01/2000
[OTHER]	55	72	127	04/01/2000
PUERTO RICO				
BAYAMON				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
CAROLINA				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
FAJARDO [INCL CEIBA & LUQUILLO]	82	54	136	01/01/2000
FT. BUCHANAN [INCL GSA SVC CTR,				
04/11 - 12/23	155	71	226	01/01/2000

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
12/24 - 04/10	195	75	270	01/01/2000
HUMACAO	82	54	136	01/01/2000
LUIS MUNOZ MARIN IAP AGS				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
MAYAGUEZ	85	59	144	01/01/2000
PONCE	96	69	165	01/01/2000
ROOSEVELT RDS & NAV STA	82	54	136	01/01/2000
SABANA SECA [INCL ALL MILITARY]				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
SAN JUAN & NAV RES STA				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
[OTHER]	62	57	119	01/01/2000
VIRGIN ISLANDS (U.S.)				
ST. CROIX				
04/15 - 12/14	93	72	165	01/01/2000
12/15 - 04/14	129	76	205	01/01/2000
ST. JOHN				
04/15 - 12/14	219	84	303	01/01/2000
12/15 - 04/14	382	100	482	01/01/2000
ST. THOMAS				
04/15 - 12/14	163	73	236	01/01/2000
12/15 - 04/14	288	86	374	01/01/2000
WAKE ISLAND				
WAKE ISLAND	60	32	92	09/01/1998

Civilian Bulletin No. 216 **Page 5**

Dated: April 24, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–10578 Filed 4–27–00; 8:45 am]

BILLING CODE 5001–10–C

DEPARTMENT OF DEFENSE

Department of the Army

Proposed Collection; Comment Request

AGENCY: Deputy Chief of Staff for Personnel (DAPE–ZXI–RM), U.S. Army, DoD.

ACTION: Notice.

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of the Army announces a proposed public information collection and seeks public comment on the provisions thereof. 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 information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 27, 2000.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the United States Army Corps of Engineers, Directorate of Civil Works Operations Division, Regulatory Branch, 20 Massachusetts Avenue, NW., Pulaski Building, Washington, DC 20314–1000, ATTN: CECW–OR (Frank R. Torbett). Consideration will be given to all comments received within 60 days of the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call Department of the Army Reports clearance officer at (703) 614–0454.

Title, Associated Form, and OMB Number: Application for a Department of the Army Permit; ENG Form 4345, OMB Control Number 0710–0003.

Needs and Uses: Information collected is used to evaluate proposed construction or filling in U.S. waters of impacts on the environment and nearby properties as required by federal law to determine if issuance of a permit is in the public interest. Respondents are private landowners, businesses, non-profit organizations, and government agencies.

Affected Public: Individual or households; Business or other for-profit; Not-for-profit institutions; Farms; Federal Government; State, Local or Tribal Government.

Annual Burden Hours: 155,000.

Number of Respondents: 15,500.

Responses per Respondent: 1.

Average Burden per Response: 10 hours.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION: The Corps of Engineers is required by three federal laws, passed by Congress, to regulate construction related projects in U.S. waters. This is accomplished through the review of applications for permits to do this work.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 00–10639 Filed 4–27–00; 8:45 am]

BILLING CODE 3710–08–U

DEPARTMENT OF DEFENSE

Department of the Army

Availability of U.S. Provisional Patent Application 60/184,376 for Non-Exclusive, Exclusive, or Partially Exclusive Licensing

AGENCY: U.S. Army Soldier and Biological Chemical Command, Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: In accordance with 37 CFR 404.6 and 35 U.S.C. 207, announcement is made of the availability of the following Government-Owned U.S. Provisional Patent Application 60/184,376 for non-exclusive, partially exclusive or exclusive licensing.

FOR FURTHER INFORMATION CONTACT: Mr. Bob Gross, Technology Transfer Office, U.S. Army SBCCOM, ATTN: AMSSB–RAS–C, 5183 Blackhawk Road (Bldg E3330/245), APG, MD 21010–5423, Phone: (410) 436–5387 or E-mail: rlgross@sbccom.apgea.army.mil

SUPPLEMENTARY INFORMATION:

Title: Automated Decision-Aid System for Hazardous Incidents (ADASHI).

Inventor: James A. Genovese.

The Automated Decision-Aid System for Hazardous Incidents (ADASHI) is a unique, computer-based integrated decision-aid support system for improving tactical response to a hazardous incident. ADASI effectively integrates the specific technical functions required to control a hazardous event involving chemical, biological or radiological (CBR) materials. ADASHI will automatically monitor most aspects of the CBR event, whether it be a ''What if?'' simulated event for training purposes or a real event. ADASHI can also be utilized as an ''over the shoulder'' decision-support system to aid incident commanders in making better, more timely decisions by rapidly processing the multi-variant input data and providing critical information to that commander in a high-stress environment.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 00–10637 Filed 4–27–00; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of U.S. Patents for Non-Exclusive, Exclusive, or Partially-Exclusive Licensing

AGENCY: U.S. Army Research Laboratory, DOD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability of the following U.S. patent for non-exclusive, partially exclusive or exclusive licensing. The listed patent has been assigned to the United States of America as represented by the Secretary of the Army, Washington, DC.

This patent covers a wide variety of technical arts including: a device to launch disk projectiles in a variety of orientations, A spin stabilized non-lethal projectile and An apparatus to allow pilots increased visibility through fog and other aerosols.

Under the authority of Section 11(a)(2) of the Federal Technology Transfer Act of 1986 (Public Law 99–502) and Section 207 of Title 35, United States Code, the Department of the Army as represented by the U.S. Army Research Laboratory wish to license the U.S. patent listed below in a non-exclusive, exclusive or partially exclusive manner to any party interested in manufacturing, using, and/or selling devices or processes covered by this patent.

Title: Launcher and Method for Launching Disk-Shaped Projectile in Edge-On and Face-On Orientations.

Inventors: Michael Hollis and John Condon.

Patent Number: 6,024,078.

Issued Date: February 15, 2000.

Title: Method and Apparatus for Increased Visibility through Fog and Ohter Aerosols.

Inventor: Wendell Watkins.
Patent Number: 6,028,624.
Issued Date: February 22, 2000.

Title: Non-Lethal Cartridge with Spin-Stabilized Projectile.
Inventor: David H. Lyon.
Patent Number: 6,041,712.
Issued Date: March 28, 2000.

FOR FURTHER INFORMATION CONTACT: Michael Rausa, Technology Transfer Office, AMSRL–CS–TT, U.S. Army Research Laboratory, Aberdeen Proving Ground, MD 21005–5055 tel: (410) 278–5028; fax: (410) 278–5820

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,
Army Federal Register Liaison Officer.
[FR Doc. 00–10636 Filed 4–27–00; 8:45 am]
BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of U.S. Patents for Non-Exclusive, Exclusive, or Partially-Exclusive Licensing

AGENCY: U.S. Army Research Laboratory, DOD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability of the following U.S. patent for non-exclusive, partially exclusive or exclusive licensing. The listed patent has been assigned to the United States of America as represented by the Secretary of the Army, Washington, DC.

This patent covers a wide variety of technical arts including: A bimetallic actuator for heat-transfer applications where the source of energy is provided by a temperature difference between two reservoirs.

Under the authority of section 11(a)(2) of the Federal Technology Transfer Act of 1986 (Pub. L. 99–502) and Section 207 of Title 35, United States Code, the Department of the Army as represented by the U.S. Army Research Laboratory wish to license the U.S. patent listed below in a non-exclusive, exclusive or partially exclusive manner to any party interested in manufacturing, using, and/or selling devices or processes covered by this patent.

Title: Passive Bimetallic Actuator for heat Transfer.
Inventor: Russell DeAnna.
Patent Number: 6,039,262.
Issued Date: November 9, 1999.

FOR FURTHER INFORMATION CONTACT: Norma Cammaratta, Technology Transfer Office, AMSRL–CS–TT, U.S. Army Research Laboratory, Adelphi, MD 20783–1197 tel: (301) 394–2952; fax: (301) 394–5818.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,
Army Federal Register, Liaison Officer.
[FR Doc. 00–10635 Filed 4–27–00; 8:45 am]
BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning Prolonged Storage of Red Blood Cells

AGENCY: U.S. Army Medical Research and Materiel Command, Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability for licensing of U.S. Patent Application Serial No. 09/154,102 entitled ''Prolonged Storage of Red Blood Cells'', filed 16 September 1998. This patent has been assigned to the United States Government as represented by the Secretary of the Army.

ADDRESSES: Commander, U.S. Army Medical Research and Material Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, Maryland 21702–5012.

FOR FURTHER INFORMATION CONTACT: Mr. Jay P. Winchester, Attorney-Advisor, (301) 619–2065 or telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: The invention discloses novel additive solutions useful for the storage of human red blood cells (RBCs) under refrigerated conditions. Also disclosed is a method of using the additive solutions in an appropriate volume to preserve RBCs at about 1° to 6° for up to 10 weeks. Additive solutions and processes in accordance with this invention allow the viable storage of human RBCs for an extended period of time in a solution which is directly infusible into humans.

Gregory D. Showalter,
Army Federal Register Liaison Officer.
[FR Doc. 00–10638 Filed 4–27–00; 8:45 am]
BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army: Corps of Engineers

Announcement of Public Hearing Date on a Draft Supplemental Environmental Impact Statement/Supplemental Environmental Impact Report (SEIS/SEIR) for the Port of Los Angeles Main Channel Deepening Project, Los Angeles County, CA

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice.

SUMMARY: The Draft SEIS/SEIR was released for public review on April 7, 2000. The Environmental Protection Agency has published a Notice of Availability of the Draft SEIS/SEIR in the **Federal Register** on April 7, 2000. The public review of the Draft SEIS/SEIR ends on May 22, 2000.

ADDRESSES: Commander, U.S. Army Corps of Engineers, Los Angeles District, Ecosystem Planning Section, PO Box 532711, Los Angeles, CA 90053–2325.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Smith, Technical Manager, phone (213) 452–3846.

SUPPLEMENTARY INFORMATION:

1. Background

The primary purpose of the proposed project is to deepen the inner harbor of the Port of Los Angeles to improve deep-draft navigation safety, to maximize the efficiency of the Port of Los Angeles by providing deep-draft commercials with reductions in tide delays and increasing economies if scale, and to maximize the beneficial use of dredged material.

2. Proposed Action

Deepening of the Inner Harbor channels at the Port of Los Angeles to a depth of −53 ft Mean Lower Low Water (MLLW).

3. Alternatives

The SEIS/SEIR evaluates the alternatives carried forward for detailed environmental analysis. In general, the major differences among alternatives are the project depth and selection of disposal sites.

Dredge Alternatives

Three dredge depth alternatives were assessed in the SEIS/SEIR. The dredge depths were −50 ft MLLW, −53 ft MLLW, and −55 ft MLLW. A dredge depth of −53 ft MLLW was determined to be the optimum depth.

Disposal Alternatives

Seven dredge disposal sites were assessed in the SEIS/SEIR. Various combinations of disposal sites were assembled as alternative project designs. A total of twenty-one alternatives was assembled; six for the −50 ft MLLW project depth, eight for the −53 ft MLLW project depth, and seven for the −55 ft MLLW project depth.

Alternative 7 for the −53 ft MLLW project depth was selected as the National Economic Development (NED) Plan. Alternative 2 for the −53 ft MLLW project depth was selected as the Locally Preferred Plan (LPP). The Corps has accepted the LPP as the modified NED Plan and it is the recommended plan.

Authorize Plan

- Deepening of the Inner Harbor channels at the Port of Los Angeles to a depth of −53 ft MLLW.
- Disposal of 1.5 million cubic yards of sediment to create the 40-acre Pier 300 Expansion Site.
- Disposal of 1.7 million cubic yards of sediment to create the 35-acre Southwest Slip Fill Site.
- Disposal of 1.0 million cubic yards to sediment to create the 54-acre Cabrillo Shallow Water Habitat Expansion Site.
- Disposal of 2.4 million cubic yards of sediment at the LA–2 and/or LA–3 Ocean Disposal Site.

No Action

No deepening of the channels and no construction of disposal sites.

4. The USACOE and the Los Angeles Harbor Department, the local sponsor, will consider public concerns on the Draft SEIS/SEIR. Summary of the Public Hearing and written comment letters and responses will be incorporated in the Final SEIS/SEIR as appropriate.

5. Time and Location

The Public Hearing is scheduled for May 11, 2000, at 6:30 pm, Los Angeles Harbor Department, Board Hearing Room, 425 South Palos Verdes Street, San Pedro, California.

Dated: April 18, 2000.

John P. Carroll,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 00–10634 Filed 4–27–00; 8:45 am]

BILLING CODE 3710–KF–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Barrier Shoreline Restoration in Lafourche, Jefferson, and Plaquemines Parishes, Louisiana, a Component of the Louisiana Coastal Area, Louisiana—Ecosystem Restoration, Barrier Island Restoration, Marsh Creation, and River Diversion, Barataria Basin Feasibility Study

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, the Army Corps of Engineers (COE), in cooperation with the U.S. Department of the Interior, Minerals Management Service, will prepare a draft environmental impact statement (EIS) to analyze the direct and indirect beneficial and adverse impacts of implementing barrier shoreline restoration in Lafourche, Jefferson, and Plaquemines Parishes, Louisiana.

The purpose of the proposed action is as follows: (1) In general, the purpose of the Coast 2050 Plan is to sustain a coastal ecosystem that supports and protects the environment, economy, and culture of southern Louisiana, and that contributes greatly to the economy and well-being of the nation; (2) the purpose of the Coast 2050 strategies for the Barataria Basin is to restore and/or protect the natural and human environment to create a sustainable ecosystem in the Barataria Basin within the context of the Gulf of Mexico ecosystem, including coastal Louisiana; and (3) the purpose of the Coast 2050 Plan's barrier island restoration strategy for the Barataria Basin (R2–22 strategy) is to provide and sustain the unique ecological integrity of barrier islands, headlands, and shoreline. Habitats of concern include shoreface, beach, dune, maritime forest, back-barrier marsh, bays, and passes.

The proposed action would consist of the reformation of the barrier shoreline from the Caminada-Moreau Headland at the mouth of Bayou Lafourche to Sandy Point, Louisiana.

FOR FURTHER INFORMATION CONTACT: Questions regarding the EIS may be directed to Mr. Robert Martinson, CEMVN–PM–RS, U.S. Army Corps of Engineers, P.O. Box 60267, New Orleans, Louisiana 70160–0267, telephone: (504) 862–2582.

Questions regarding the proposed action may be directed to Mr. Edmond Russo, CEMVN–PM–C, U.S. Army Corps of Engineers, P.O. Box 60267, New Orleans, Louisiana 70160–0267, telephone: (504) 862–1496.

SUPPLEMENTARY INFORMATION: The Louisiana Department of Natural Resources produced a document entitled ''Coast 2050: Toward a Sustainable Coastal Louisiana in 1998.'' That document presented strategies jointly developed by Federal, state, and local levels to address Louisiana's massive coastal land loss problem and provide for a sustainable coastal ecosystem by the year 2050. The Louisiana Department of Natural Resources (LDNR) conducted a feasibility study of barrier shorelines that was completed in March 1999 that focused on barrier shoreline loss and developed several alternatives to address the problem. These two efforts culminated in a joint agreement between the Corps of Engineers and the LDNR to evaluate selected features of the Coast 2050 Plan in a Federal feasibility study.

Proposed Action

The proposed action would consist of the reformation of the barrier shoreline from the Caminada-Moreau Headland at the mouth of Bayou Lafourche on the west to Sandy Point on the east. The shoreline would have the ecological attributes of shoreface, beach, dune, maritime forest if possible, back-barrier marsh, bays, and passes. The reformation work could extend Gulfward to approximately the −5.0 foot contour and up to about 1,000 feet in the bayside direction from the edge of the back-barrier marsh.

On the eastern fringe where a large distance has opened between remnant barrier islands and interior marsh, work could extend into the bays up to about 2,500 feet. Larger passes such as Barataria Pass would be left open. Smaller passes may be closed. Sand for reformation would be obtained from nearby coastal bays, the Mississippi River, or from Federal and state waters of the Gulf of Mexico. A combination of sand sources may be used for restoration of these features. If sand is obtained from Federal waters, a non-competitive lease would need to be obtained by the LDNR from the Minerals Management Service. The Minerals Management Service will ensure that information needed by them to make a decision about a lease will be included in the EIS. Also, the benefits of providing geomorphic features at the barrier

shoreline to inland areas will be considered in the EIS.

Alternatives

The no-action alternative must be evaluated and retained throughout the study. Additionally, the Barataria Basin portion of the recommended plan from the LDNR Barrier Shoreline Feasibility Study will be investigated. The recommended plan from that study would rebuild dunes at the Caminada-Moreau Headland. The recommendation from that study for the Plaquemines shoreline from Grand Terre to east of Sandy Point is to recreate a dune and marsh platform stabilized with a rock revetment along the gulf shoreline. In addition, another alternative to be evaluated in detail is expected to be developed during the scoping process.

Need for Action

The focus for initial action is in the Barataria Basin (in Lafourche, Jefferson, and Plaquemines parishes), Louisiana, one of nine basins delineated in the Coast 2050 Plan. The Barataria Basin has a very high rate of wetland loss, estimated at about 11 square miles per year from 1978–1990 (Fuller *et al.* 1995). The area also has tremendous potential for restoration because of nearby sediment in coastal bays, the Mississippi River, and in Federal and state waters of the Gulf of Mexico. While the ultimate goal for coastal restoration under the Coast 2050 plan is to implement strategies throughout coastal Louisiana, the Barataria Basin is in dire need of immediate attention. While most Barataria Basin strategies are dependent on the overall input, movement, and circulation of water, sediment, and nutrients in the basin, there are several strategies that can be implemented largely independent of these considerations. The barrier shoreline restoration strategy is one of those strategies. Restoration of barrier islands, headlands, and shoreline can be applied as a separable activity, independent of other strategies in the Barataria Basin and coastal Louisiana.

The barrier shoreline system in Barataria Basin begins about 45 miles northwest of the mouth of the Mississippi River and forms a concave arch of about 53 miles along the Gulf of Mexico at the southern end of the Barataria Basin. Barrier islands, headlands, and shoreline can offer unique ecological characteristics with an assemblage of intertidal bottoms, beaches, dunes, shrub thickets, and salt marshes not found in interior wetlands. The assemblage of plants and animals is different than in any other area of the basin. Some of the species are endemic to barrier areas. A variety of seabirds, wading birds, and shore birds such as black skimmer, reddish egret, the threatened piping plover, and least tern can utilize barrier islands. The islands can serve as a protection zone for many species of fish, resting areas for migrating birds, nesting locations for birds such as the endangered brown pelican, and nesting beaches for threatened and endangered sea turtles.

The barrier areas in Barataria Basin from Bayou Lafourche to Sandy Point have undergone significant movement and reduction in size during the past 100 years. While some lateral movement of barrier areas is expected as sand is reworked in the nearshore environment, the Barataria Basin barrier areas have retreated and narrowed rapidly, symptoms of a sediment-poor system. Tidal passes that have opened in the islands during the passage of storms do not reseal in fair weather (Levin 1993). Islands have diminished in size (narrowed) to the point that they are likely to vanish in the near future. For example, it is predicted that Grand Terre Island may be gone by 2008 (McBride *et al.* 1992). Overall, the Barataria barrier islands decreased in area by 47 percent from the 1890s to 1988 (Fuller *et al.* 1995).

The Caminada-Moreau Headland, forming the western portion of the Barataria barrier system, has experienced some of the highest rates of shoreline movement on the Louisiana or Gulf coast. Between 1978 and 1988, the shoreline on the Barataria coast retreated at a rate of 45 feet/year. The shoreline has retreated over one mile in some locations from 1887–1988 (McBride *et al.* 1992). The Plaquemines Barrier System in the eastern portion of the system retreated at an average rate of 33 feet/year from 1973–1988. In 1884, Grand Terre Island was 4,198 acres with an average width of 2,982 feet, but by 1988, it was only 1,268 acres with an average width of 1,740 feet. Shell Island was 314 acres with a width of 446 feet. In 1988, it was 171 acres and 345 feet in width (McBride *et al.* 1992). The shoreline has retreated 0.5–0.75 miles over a large part of the Plaquemines Barrier System.

Many of the barrier areas in Barataria Basin have become nothing more than fragmented, low mounds of sand, easily overwashed by minor storm events, maintaining little ecological value. As the barrier areas become narrower and disintegrate, bays and wetlands behind the barriers become more directly connected with the Gulf of Mexico and its associated wave action and higher salinity water. The implications of these changes for coastal industries and communities are severe even without the threat of hurricane surge and waves. Action to restore barrier areas has become critical.

Fuller, D.A., J.G. Gosselink, J. Barras, and C.E. Sasser. 1995. Physical Setting. pp. 9–23. In: D.J. Reed (ed.) Current Status and Historical Trends of Hydrological Modification, Reduction in Sediment Availability, and Habitat Loss/Modification in the Barataria-Terrebonne Estuarine System. BTNEP No. 20. Barataria Terrebonne National Estuary Program, Thibodaux, LA.

Levin, D.R. 1993. Tidal inlet evolution in the Mississippi River delta plain. Journal of Coastal Research 9.2:462–480.

McBride, R.A., S. Penland, M.W. Hiland, S.J. Williams, K.A. Westphal, B.E. Jaffe, and A.H. Sallenger, Jr. 1992. Analysis of barrier shoreline change in Louisiana from 1853 to 1989. pp. 36–97 In: S.J. Williams, S. Penland, and A.H. Sallenger (eds.) Louisiana Barrier Island Erosion Study, Atlas of Shoreline Changes in Louisiana from 1853 to 1989. U.S. Geological Survey Miscellaneous Investigations Series I–2150–A.

Scoping

The Corps of Engineers and LDNR invite NEPA input in writing or in person concerning the scope of the EIS, resources to be evaluated, and alternatives to be considered. Individuals, groups, and agencies can write comments to the Corps of Engineers using Mr. Martinson's address shown above. The Corps of Engineers and LDNR plan to hold a scoping meeting in Thibodaux, Louisiana on June 8, 2000 from 7–10 pm in the Century Room of the John L. Guidry Stadium located on Audubon Drive of Nicholls State University Campus, Thibodaux, LA 70301. The entrance to the Century Room is a red door under the stadium. Additional meetings with local interests will be held after the scoping meeting as necessary.

A draft EIS is scheduled to be available for public review during March of 2001. A public meeting on the draft EIS will be scheduled at that time.

Dale A. Knieriemen,

Lieutenant Colonel, U.S. Army, Acting District Engineer.

[FR Doc. 00–10640 Filed 4–27–00; 8:45 am]

BILLING CODE 3710–84–U

DEPARTMENT OF DEFENSE

Department of the Army: Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement to Evaluate a Permit Application by the New Jersey Turnpike Authority

AGENCY: U.S. Army Corps of Engineers—New York District, DoD.

ACTION: Notice of intent.

SUMMARY: The New Jersey Turnpike Authority of New Brunswick, New Jersey has submitted an application for a Department of the Army permit to discharge fill material permanently impacting approximately 12 acres of waters of the United States including wetlands, and to temporarily fill other waters, to facilitate the construction of a limited-access toll roadway known as New Jersey Route 92. The discharge of fill material into waters of the United States requires a Department of the Army Permit pursuant to section 404 of the Clean Water Act (33 U.S.C. 1344). The Environmental Impact Statement (EIS) process will assist the U.S. Army Corps of Engineers (USACE) in determining whether to issue or deny a permit for the project under that authority. This action is taking place in accordance with the USACE procedures for implementing the National Environmental Policy Act (NEPA), 33 CFR Parts 230 and 325.

FOR FURTHER INFORMATION CONTACT: Mr. James W. Haggerty, Chief, Eastern Permits Section, New York District, U.S. Army Corps of Engineers, 26 Federal Plaza, Room 1937, New York, New York 10278–0090, e-mail James.W.Haggerty@usace.army.mil Telephone (212) 264–3912

SUPPLEMENTARY INFORMATION:

1. Project Description

The New Jersey Turnpike Authority has submitted an application for a Department of the Army permit to discharge fill material permanently impacting approximately 12 acres of waters of the United States including wetlands, and to temporarily fill other waters, to facilitate the construction of a limited-access toll roadway known as New Jersey Route 92. The proposed roadway corridor is within the Devils Brook and Shallow Brook watersheds in the Townships of South Brunswick, Monroe and Plainsboro, Middlesex County, New Jersey. The applicant has submitted a wetlands mitigation plan with the application, proposing creation of approximately 57 acres of wetlands from existing uplands and proposing preservation activities. In total, approximately 260 acres of mostly forested wetlands, owned by the applicant adjacent to the proposed roadway corridor, would be created and/or preserved.

On February 7, 2000, USACE completed an analysis of the Need to Prepare an EIS. This analysis was prepared under the Corps of Engineers and Council on Environmental Quality regulations for implementing NEPA. The analysis was prepared utilizing information made available through the public interest process until that date, including the issuance of a public notice and the conduct of a public hearing in Plainsboro, New Jersey on March 29, 1999. The analysis concluded that USACE will require the preparation of an EIS to process the application.

2. Reasonable Alernatives

In addition to the no action alternative, reasonable alternatives to be considered include the following:

a. Preferred Alternative of New Jersey Turnpike Authority

b. Alternatives to construction as proposed

c. Alternate construction techniques

3. EIS Scoping

As part of the EIS scoping process, comments on the proposed scope of the EIS will be accepted until 45 days after the publication of this Notice of Intent in the **Federal Register**. All comments should be addressed to the contact person indicated above. In addition to receiving written comments, the USACE will receive oral comments during a public scoping meeting to be scheduled for the latter part of the scoping period. Notice of the public scoping meeting will be made through mailings and/or the New York District's website. (http://www.nan.usace.army.mil)

4. Public Participation in the EIS Process

The EIS process will provide opportunities for full participation by interested federal, state, and local agencies, as well as other interested organizations and the general public. All interested parties are encouraged to submit their names and addresses to the contact person indicated above for inclusion on the list for distribution of the draft and final EIS and any related public notices.

5. Federal Agency Participation in the EIS Process

Federal agencies with an interest in this EIS effort are requested to participate as cooperating agencies pursuant to 40 CFR part 1501.6. All interested federal agencies are requested to submit a letter of intent to Joseph J. Seebode, Chief, Regulatory Branch, New York District, U.S. Army Corps of Engineers.

Joseph J. Seebode,

Chief, Regulatory Branch.

[FR Doc. 00–10633 Filed 4–27–00; 8:45 am]

BILLING CODE 3710–06–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–1975–000]

American Energy Savings, Inc.; Notice of Issuance of Order

April 24, 2000.

American Energy Savings, Inc. (American Energy) submitted for filing a rate schedule under which American Energy will engage in wholesale electric power and energy transactions as a marketer. American Energy also requested waiver of various Commission regulations. In particular, American Energy requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by American Energy.

On April 21, 2000, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by American Energy should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, American Energy is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of American Energy's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is May 22, 2000.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE.,

Washington, DC 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–10560 Filed 4–27–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–1874–001]

New England Power Pool; Notice of Filing

April 24, 2000.

Take notice that on April 6, 2000, the New England Power Pool Participants Committee filed an amendment to its filing dated March 13, 2000 in the above-referenced docket.

The NEPOOL Participants Committee states that copies of this filing have been sent to the New England state governors and regulatory commissions and the Participants in the New England Power Pool.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before May 4, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–10562 Filed 4–27–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP97–369–000 and RP98–39–000]

Northern Natural Gas Company; Notice of Informal Settlement Conference

April 24, 2000.

On March 13 and 28, 2000, the Kansas Corporation Commission (KCC) sponsored two informal settlement conferences for the purpose of initiating settlement discussions potentially leading to a resolution of all the Kansas *ad valorem* proceedings. During the March 28 conference, the participants agreed that settlement negotiations among all interested parties should be pursued separately for each pipeline involved with the Kansas *ad valorem* tax refund issues.

The participants interested in the Northern Natural Gas Company docket also reached a consensus that the informal settlement conference agreed upon should be noticed by the Secretary of the Federal Energy Regulatory Commission (Commission) and that the Commission's settlement regulations apply to the informal settlement process. The participants also agreed that, as with the previous two settlement conferences, the Director of the Commission's Dispute Resolution Service and the KCC attend the conference and facilitate the settlement negotiations.

The informal settlement conference will be held on May 9, 2000, at the Wyndham Garden Hotel located at 7000 West 108th, Overland Park, Kansas. The conference will begin at 9:00 a.m. To insure that the facilities are adequately sized all parties that plan to attend the settlement conference are requested to contact Sharon Solon by phone at (402) 398–7015 or via e-mail at *sharon.solon@enron.com* or *mary.kay.miller@enron.com* no later than May 3, 2000.

All interested parties in the above dockets are requested to attend the informal settlement conference. If a party has any questions respecting the conference, please call Richard Miles, the Director of the Dispute Resolution Service. His telephone number is 1 877 FERC ADR (337–2237) or 202–208–0702 and his e-mail address is *richard.miles@ferc.fed.us.*

David P. Boergers,

Secretary.

[FR Doc. 00–10561 Filed 4–27–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC00–79–000, et al.]

PG&E Energy Services Corporation, et al.; Electric Rate and Corporate Regulation Filings

April 20, 2000.

Take notice that the following filings have been made with the Commission:

1. PG&E Energy Services Corporation/Enron Energy Services Operations, Inc.

[Docket No. EC00–79–000]

Take notice that on April 17, 2000, PG&E Energy Services Corporation (PG&E ES) and Enron Energy Services Operations, Inc. (EESO) tendered for filing pursuant to Section 203 of the Federal Power Act, 16 U.S.C. 824b (1994), and part 33 of the Commission's regulations, 18 CFR part 33, an Application requesting that the Commission approve the transaction by which EESO will acquire PG&E ES and its jurisdictional facilities.

Comment date: May 17, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. PPL Brunner Island, LLC

[Docket No. EG00–39–000]

Take notice that on April 18, 2000, PPL Brunner Island, LLC (PPL Brunner Island) filed with the Federal Energy Regulatory Commission a copy of the Pennsylvania Public Utility Commission's April 13, 2000 Order finding that the granting of exempt wholesale generator status to PPL Brunner Island: (1) Will benefit consumers; (2) is in the public interest; and (3) does not violate state law.

Comment date: May 11, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. PPL Holtwood, LLC

[Docket No. EG00–40–000]

Take notice that on April 18, 2000, PPL Holtwood, LLC (PPL Holtwood) filed with the Federal Energy Regulatory Commission a copy of the Pennsylvania Public Utility Commission's April 13, 2000 Order finding that the granting of exempt wholesale generator status to PPL Holtwood: (1) Will benefit consumers; (2) is in the public interest; and (3) does not violate state law.

Comment date: May 11, 2000, in accordance with Standard Paragraph E

at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. PPL Martins Creek, LLC

[Docket No. EG00–41–000]

Take notice that on April 18, 2000, PPL Martins Creek, LLC (PPL Martins Creek) filed with the Federal Energy Regulatory Commission a copy of the Pennsylvania Public Utility Commission's April 13, 2000 Order finding that the granting of exempt wholesale generator status to PPL Martins Creek: (1) Will benefit consumers; (2) is in the public interest; and (3) does not violate state law.

Comment date: May 11, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

5. PPL Susquehanna, LLC

[Docket No. EG00–43–000]

Take notice that on April 18, 2000, PPL Susquehanna, LLC (PPL Susquehanna) filed with the Federal Energy Regulatory Commission a copy of the Pennsylvania Public Utility Commission's April 13, 2000 Order finding that the granting of exempt wholesale generator status to PPL Susquehanna: (1) Will benefit consumers; (2) is in the public interest; and (3) does not violate state law.

Comment date: May 11, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

6. PPL Montour, LLC

[Docket No. EG00–44–000]

Take notice that on April 18, 2000, PPL Montour, LLC (PPL Montour) filed with the Federal Energy Regulatory Commission a copy of the Pennsylvania Public Utility Commission's April 13, 2000 Order finding that the granting of exempt wholesale generator status to PPL Montour: (1) Will benefit consumers; (2) is in the public interest; and (3) does not violate state law.

Comment date: May 11, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

7. Ouachita Power, LLC

[Docket No. EG00–133–000]

Take notice that on April 18, 2000, Ouachita Power, LLC filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to section 32(a)(1) of the Public Utility Holding Company Act of 1935. The applicant is a limited liability company organized under the laws of the State of Delaware that is engaged directly and exclusively in developing, owning, and operating a gas-fired 816 MW (summer rated) combined-cycle power plant near the city of Sterlington, Louisiana, which will be an eligible facility.

Comment date: May 11, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. MidAmerican Energy Company

[Docket No. ES98–48–001]

Take notice that on April 13, 2000, MidAmerican Energy Company (MidAmerican) filed a request for waiver of the Commission's competitive bid or negotiated placement requirements of 18 CFR 34.2 with regards to the issuance and sale of up to $500 million principal amount of bonds, notes, debentures or other evidences of indebtedness. The Commission has previously granted MidAmerican authority to issue and sell such securities in this docket.

Comment date: May 11, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Kansas City Power & Light Company

[Docket No. ES00–24–000]

Take notice that on April 14, 2000, Kansas City Power & Light Company filed an application with the Federal Energy Regulatory Commission (Commission) seeking authority pursuant to Section 204 of the Federal Power Act, to issue, from time to time, not more than $750 million of short-term debt instruments, with maturity dates of not later than September 30, 2003.

Comment date: May 11, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. Indianapolis Power & Light Company

[Docket No. OA00–4–001]

Take notice that on March 27, 2000, Indianapolis Power & Light Company submitted revised standards of conduct in response to the Commission's February 24, 2000 Order on Standards of Conduct. 90 FERC ¶ 61,174 (2000).

Indianapolis Power & Light Company states that it served copies of the filing on the service list in this proceeding.

Comment date: May 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. DPL Energy

[Docket No. ER00–2214–000]

Take notice that on April 14, 2000, DPL Energy (DPLE), tendered for filing Long Term Transaction Agreement with The Dayton Power and Light Company.

Comment date: May 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. UtiliCorp United Inc.

[Docket No. ER00–2215–000]

Take notice that on April 17, 2000, UtiliCorp United Inc. (UtiliCorp), tendered for filing a service agreement with El Paso Merchant Energy, L.P., for service under its Non-Firm Point-to-Point open access service tariff for its operating division, Missouri Public Service.

Comment date: May 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. UtiliCorp United Inc.

[Docket No. ER00–2216–000]

Take notice that on April 17, 2000, UtiliCorp United Inc. (UtiliCorp), tendered for filing a service agreement with El Paso Merchant Energy, L.P., for service under its Short-Term Firm Point-to-Point open access service tariff for its operating division, Missouri Public Service.

Comment date: May 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

14. Ameren Services Company

[Docket No. ER00–2217–000]

Take notice that on April 17, 2000, Ameren Services Company (ASC), tendered for filing Service Agreements for Firm Point-to-Point Transmission Services between ASC and Edison Mission Marketing and Trading, Inc., and Missouri Joint Municipal Electric Utility Commission (the parties). ASC asserts that the purpose of the Agreements is to permit ASC to provide transmission service to the parties pursuant to Ameren's Open Access Transmission Tariff.

Comment date: May 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

15. Ameren Services Company

[Docket No. ER00–2218–000]

Take notice that on April 17, 2000, Ameren Services Company (ASC), tendered for filing Service Agreements for Non-Firm Point-to-Point Transmission Services between ASC and Edison Mission Marketing and Trading, Inc. and Missouri Joint Municipal Electric Utility Commission (the parties). ASC asserts that the purpose of the Agreements is to permit ASC to provide transmission service to the parties pursuant to Ameren's Open Access Transmission Tariff.

Comment date: May 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

16. Duquesne Light Company

[Docket No. ER00–2219–000]

Take notice that on April 17, 2000, Duquesne Light Company (DLC), tendered for filing a Service Agreement dated April 14, 2000 with Orion Power MidWest under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement adds Orion Power MidWest as a customer under the Tariff.

DLC requests an effective date of April 14, 2000, for the Service Agreement.

Comment date: May 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

17. Duquesne Light Company

[Docket No. ER00–2220–000]

Take notice that on April 17, 2000, Duquesne Light Company (DLC), tendered for filing a Service Agreement dated April 14, 2000 with Orion Power MidWest under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement adds Orion Power MidWest as a customer under the Tariff.

DLC requests an effective date of April 14, 2000, for the Service Agreement.

Comment date: May 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

18. Duquesne Light Company

[Docket No. ER00–2221–000]

Take notice that on April 17, 2000, Duquesne Light Company (DLC), tendered for filing a Service Agreement for Retail Network Integration Transmission Service and a Network Operating Agreement for Retail Network Integration Transmission Service dated April 14, 2000, ECONnergy under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement and Network Operating Agreement adds ECONnergy as a customer under the Tariff.

DLC requests an effective date of April 14, 2000, for the Service Agreement.

Comment date: May 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

19. Kansas City Power & Light Company

[Docket No. ER00–2222–000]

Take notice that on April 17, 2000, Kansas City Power & Light Company (KCPL), tendered for filing a Service Agreement dated March 21, 2000, between KCPL and The Energy Authority, Inc. This Agreement provides for the rates and charges for Non-Firm Transmission Service.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are KCPL's rates and charges in the compliance filing to FERC Order 888–A in Docket No. OA97–636.

KCPL proposes an effective date of March 21, 2000 and requests waiver of the Commission's notice requirement.

Comment date: May 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

20. Kansas City Power & Light Company

[Docket No. ER00–2223–000]

Take notice that on April 17, 2000, Kansas City Power & Light Company (KCPL), tendered for filing a Service Agreement dated March 21, 2000, between KCPL and The Energy Authority, Inc. This Agreement provides for the rates and charges for Short-term Firm Transmission Service.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are KCPL's rates and charges in the compliance filing to FERC Order No. 888–A in Docket No. OA97–636–000.

KCPL proposes an effective date of March 21, 2000 and requests a waiver of the Commission's notice requirement to allow the requested effective date.

Comment date: May 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

21. Consumers Energy Company

[Docket No. ER00–2224–000]

Take notice that on April 17, 2000, Consumers Energy Company (Consumers), tendered for filing an addendum to various coordination rate schedules that would permit the incremental cost of sulfur dioxide (SO2) emission allowances to be included in the calculation of rates under those rate schedules. The rate schedules affected are: Consumers Energy Company Rate Schedules FERC No. 50, 55 and 67.

The change is designed to conform the rate schedules to the Commission's rules regarding the ratemaking treatment of SO2 emissions allowances for Phase II units issued under the Clean Air Act Amendments of 1990. Copies of the filing were served upon those who receive service under the above-listed rate schedules as well as upon the Michigan Public Service Commission.

Comment date: May 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

22. Duke Energy St. Lucie, LLC

[Docket No. ER00–2225–000]

Take notice that on April 17, 2000, Duke Energy St. Lucie, LLC (Duke St. Lucie), tendered for filing pursuant to Section 205 of the Federal Power Act an application for an order accepting its rates of filing, determining of rates to be just and reasonable, and granting certain waivers and preapprovals.

Duke St. Lucie is developing an approximately 608 MW generation facility located in St. Lucie County, Florida. Under its proposed FERC Electric Tariff No. 1, Duke St. Lucie seeks to sell energy and capacity, as well as ancillary services, at market-based rates. Duke St. Lucie also seeks authority to sell, assign, or transfer transmission rights that it may acquire in the course of its marketing activities.

Comment date: May 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

23. Entergy Services, Inc.

[Docket Nos. ER99–3084–002; ER99–3960–001; ER99–3093–002; ER99–3133–002; ER99–3175–002; ER99–3176–002; ER99–3188–002; ER99–3252–002; ER99–3302–002; ER99–3315–002]

Take notice that on April 14, 2000, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., tendered for filing compliance generator imbalance agreements, in accordance with the Commission's order in Entergy Services, Inc., 90 FERC ¶ 61,272 (2000).

Comment date: May 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

24. Rio de Este Barge Power LLC

[Docket No. ER00–2070–000]

Take notice that on April 19, 2000, Rio de Este Barge Power, LLC, tendered for filing notice of withdrawal of its

Petition for Order Accepting Market Based Rates filed with the Commission on March 31, 2000 in the above-referenced docket.

Comment date: May 10, 2000, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–10565 Filed 4–27–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG00–134–000, *et al.*]

Worthington Generation L.L.C., *et al.*; Electric Rate and Corporate Regulation Filings

April 21, 2000.

Take notice that the following filings have been made with the Commission:

1. Worthington Generation L.L.C.

[Docket No. EG00–134–000]

Take notice that on April 18, 2000, Worthington Generation L.L.C. (WG) tendered for filing pursuant to Part 365 of the Commission's Regulations, 18 CFR 365, its application for determination of exempt wholesale generator status.

WG is a wholly owned subsidiary of Williams Energy Marketing & Trading Company and initially will own a combustion turbine generating plant with a capacity of approximately 173 MW net in summer ambient conditions and 180 MW net in winter conditions, located three miles south of Worthington, Indiana on State Highway 57.

Comment date: May 12, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Charles A. McMonagle

[Docket No. ID–3478–000]

Take notice that on April 19, 2000, Charles A. McMonagle tendered for filing with the Federal Energy Regulatory Commission (Commission) an application pursuant to Section 305(b) of the Federal Power Act, 16 U.S.C. 825d(b), and orders of the Commission in *El Dorado Energy, LLC,* 85 FERC ¶ 61,006 (1998), and *Enova Energy, Inc.,* 76 FERC ¶ 61,242 (1996), for authority to hold interlocking positions.

Comment date: May 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

3. Salt River Project Agricultural Improvement And Power District

[Docket No. NJ99–3–001]

Take notice that on April 19, 2000, Salt River Project Agricultural Improvement and Power District (SRP) tendered for filing a revised Open Access Transmission Tariff to comply with the Commission's March 20, 2000 Order.

Comment date: May 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

4. Entergy Services, Inc.

[Docket No. ER00–2212–000]

Take notice that on April 14, 2000, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., and Entergy Gulf States, Inc., tendered for filing generator imbalance agreements with Air Liquide America Corporation, RS Cogen, L.L.C., SRW Cogeneration Limited Partnership, Pine Bluff Energy LLC (Pine Bluff), and Carville Energy LLC (Carville), and an amendment to the Interconnection and Operating Agreements with Pine Bluff and Carville.

Comment date: May 5, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. Arizona Public Service Company

[Docket No. ER00–2226–000]

Take notice that on April 18, 2000, Arizona Public Service Company tendered for filing notice that effective June 1, 2000, Service Schedule A–3 (Emergency Assistance) and the Economy Energy Agreement in APS F.P.C. Rate Schedule No. 26, effective date October 20, 1964 and filed with the Federal Energy Regulatory Commission by Arizona Public Service Company are to be canceled.

Copies of the proposed cancellation has been served upon PacifiCorp (formerly doing business as Utah Power & Light), The Arizona Corporation Commission and the Public Service Commission of Utah.

Comment date: May 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. Allegheny Energy Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER00–2227–000]

Take notice that on April 18, 2000, Allegheny Energy Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), tendered for filing Supplement No. 77 to add Amerada Hess Corporation to Allegheny Power's Open Access Transmission Service Tariff which has been accepted for filing by the Federal Energy Regulatory Commission in Docket No. ER96–58–000.

The proposed effective date under the Service Agreements is April 17, 2000 or a date ordered by the Commission.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, and the West Virginia Public Service Commission.

Comment date: May 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. Peco Energy Company

[Docket No. ER00–2228–000]

Take notice that on April 18, 2000, PECO Energy Company (PECO), tendered for filing under Section 205 of the Federal Power Act, 16 U.S.C. 792 *et seq.*, an Agreement dated April 10, 2000 with DTE Energy Trading, Inc. (DTE) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff).

PECO requests an effective date of April 10, 2000 for the Agreement.

PECO states that copies of this filing have been supplied to DTE Energy Trading, Inc. and to the Pennsylvania Public Utility Commission.

Comment date: May 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. Northeast Utilities Service Company

[Docket No. ER00–2229–000]

Take notice that on April 18, 2000, Northeast Utilities Service Company (NUSCO) on behalf of its affiliates, The Connecticut Light and Power Company, Western Massachusetts Electric Company, Holyoke Water Power Company, Holyoke Power and Electric Company, and Public Service Company of New Hampshire, tendered for filing two agreements that amend certain schedules to an Amended and Restated Power Sales Agreement between NUSCO and Citizens Power Sales LLC, under the NU System Companies' Sale for Resale Tariff No. 6.

NUSCO requests an effective date of April 27, 2000, or such other earliest date as permitted by the Commission.

NUSCO states that a copy of this filing was mailed to Citizens Power Sales LLC and the Connecticut Department of Public Utility Control.

Comment date: May 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Commonwealth Edison Company

[Docket No. ER00–2230–000]

Take notice that on April 18, 2000, Commonwealth Edison Company (ComEd) submitted for filing three Non-Firm Transmission Service Agreements with SkyGen Energy Marketing, LLC (SkyGen), Conectiv Energy Supply, Inc. (Conectiv), and MIECO Inc. (MIECO), and three Short-Term Firm Transmission Service Agreements with SkyGen, Conectiv, and MIECO under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd is also updating its Index of Customers to reflect names changes for Dynegy Midwest Generation, Inc. (Dynegy), Alliant Energy Corporate Services, Inc., (Alliant) and Northern States Power Company (NSP).

ComEd requests an effective date of April 18, 2000 for the service agreements, and accordingly, seeks waiver of the Commission's notice requirements. Copies of this filing were served on Skygen, Conectiv, MIECO, Dynegy, Alliant and NSP.

Comment date: May 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. Louisville Gas and Electric Company/Kentucky Utilities Company

[Docket No. ER00–2231–000]

Take notice that on April 18, 2000, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities Company (KU) (hereinafter Companies), tendered for filing an unexecuted unilateral Service Agreement between the Companies and Conectiv Energy Supply Inc., under the Companies Rate Schedule MBSS.

Comment date: May 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. American Electric Power Service Corporation

[Docket No. ER00–2232–000]

Take notice that on April 18, 2000, the American Electric Power Service Corporation (AEPSC), on behalf of Ohio Power Company (OPC), tendered for filing with the Commission a Facilities, Operations and Maintenance Agreement dated March 10, 2000, between OPC and the Village of Deshler, Ohio.

AEPSC requests an effective date of May 1, 2000 for the tendered agreement.

A copy of the filing was served upon the Village of Deshler, Ohio, American Municipal Power—Ohio, Inc. and the Public Utilities Commission of Ohio.

Comment date: May 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. West Texas Utilities Company

[Docket No. ER00–2233–000]

Take notice that on April 18, 2000, West Texas Utilities Company (WTU), tendered for filing an Interconnection Agreement between WTU and National Wind Power Limited (National). WTU requests an effective date for the Interconnection Agreement of sixty (60) days after the date of the filing.

WTU states that a copy of the filing was served on National and the Public Utility Commission of Texas.

Comment date: May 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. Entergy Services, Inc.

[Docket No. ER00–2212–000]

Take notice that the Notice of Filing issued on April 19, 2000, in Docket No. ER00–2212–000, should be rescinded.

14. Ouachita Power, LLC

[Docket No. ER00–2235–000]

Take notice that on April 18, 2000, Ouachita Power, LLC, an electric power developer organized under the laws of Delaware, petitioned the Commission for acceptance of its market-based rate schedule, waiver of certain requirements under subparts B and C of Part 35 of the Commission's Regulations, and preapproval of transactions under Part 34 of the regulations. Ouachita is developing an 816 MW (summer rated) gas-fired generating facility near the city of Sterlington, Louisiana.

Comment date: May 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

15. Worthington Generation L.L.C.

[Docket No. ER00–2236–000]

Take notice that on April 18, 2000, Worthington Generation L.L.C. (WG), tendered for filing pursuant to sSection 205 of the Commission's Rules of Practice and Procedure, 18 CFR 385.205, its application for waivers and blanket approvals under various regulations of the Commission and for an order accepting its Electric Rate Schedule FERC No. 1.

Comment date: May 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–10564 Filed 4–27–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

April 24, 2000.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* New Major License.

b. *Project No.:* P–2142–031.

c. *Date Filed:* December 28, 1999.

d. *Applicant:* FPL Energy Maine Hydro, LLC.

e. *Name of Project:* Indian Pond Hydroelectric Project.

f. *Location:* On the Kennebec River, near the town of the Forks, Somerset and Piscataquis counties, Maine. The project would not utilize federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Kenneth P. Hoffman, Vice President, FPL Energy Maine Hydro, LLC, 700 Universe Boulevard, Juno Beach, FL 33408, (561) 694–4000. Robert C. Richter III, Senior Environmental Coordinator, FPL Energy Maine Hydro, LLC, 100 Middle Street, Portland, ME 04101, (207) 771–3536.

i. *FERC Contact:* Kevin Whalen (202) 219–2790.

j. *Deadline for Filing Interventions and Protests:* June 27, 2000.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Status of Environmental Analysis:* This application is not ready for environmental analysis at this time.

l. *Description of the Project:* The proposed peaking project consists of the following existing facilities: (1) A 2,000-foot-long dam, consisting of (a) a 270-foot-long, 175-foot-high concrete section, (b) a 200-foot-long attached powerhouse section, and (c) an earthen section in excess of 1,500 feet in length; (2) four steel penstocks ranging from 6 feet to 24 feet in diameter; (3) a concrete powerhouse containing four generating units, having a total rated hydraulic capacity of 7,140 cubic feet per second and installed generation capacity of 76.4 megawatts (4) a 3,746-acre impoundment varying in width from 0.9 to 1.5 miles, extending about 9 miles upstream, that has a usable storage capacity of 850 million cubic feet; and (5) appurtenant facilities. The applicant estimates the total average annual generation would be approximately 202 million kilowatt hours.

m. *Location of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20246, or by calling (202) 208–1371. The application may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the Portland, Maine, address in item h. above.

Protests or Motions To Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations terms and conditions, or prescriptions.

All filings must: (1) Bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. an additional copy must be sent to Director, Division of Environmental and Engineering Review, Office of Energy Projects, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

David P. Boergers,

Secretary.

[FR Doc. 00–10563 Filed 4–27–00; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6353–6]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or www.epa.gov/oeca/ofa

Weekly receipt of Environmental Impact Statements

Filed April 17, 2000 through April 21, 2000

Pursuant to 40 CFR 1506.9.

EIS No. 000122, Final EIS, FHW, WA, U.S. 101 Highway Aberdeen-Hoquiam Corridor Project, Improvements, U.S. Coast Guard and COE Section 404 Permit, Grays Harbor County, WA, Due: May 30, 2000, Contact: Jim Leonard (360) 753–9408.

EIS No. 000123, Final EIS, FHW, WV, US–35 Improvements from Interstate 64 to Henderson, Funding and COE Section 404 Permit, Mason and Putnam Counties, WV, Due: May 30, 2000, Contact: Thomas J. Smith (304) 347–5928.

EIS No. 000124, Draft EIS, FHW, TN, TN–374 (North Parkway) Project, Construction from TN13 to TN 76 in Clarksville, Funding, U.S. Coast Guard and COE Section 404 Permits, Montgomery County, TN, Due: June 12, 2000, Contact: Charles S. Boyd (615) 781–5770.

EIS No. 000125, Final EIS, SFW, WA, Little Pend Oreille National Wildlife Refuge, Implementation, Comprehensive Conservation Plan, Stevens and Pend Oreille Counties, WA, Due: May 30, 2000, Contact: Mike Marxen (503) 590–6596.

EIS No. 000126, Final EIS, AFS, AK, Kuakan Timber Sale, Timber Harvesting in the Kuakan Project Area, Implementation, Deer Island within the Wrangell Ranger District, Stikine Area of the Tongass National Forest, AK, Due: May 30, 2000, Contact: Randy Hojam (907) 874–2323.

EIS No. 000127, Final Supplement, FHW, VA, DC, MD, Woodrow Wilson Bridge Improvements, Updated Information concerning the Changes and Discusses in differences between Alternative 4A of the September 1997

FEIS and Current Design Alternative 4A, I–95/I–495 (Capital Beltway), Telegraph Road to MD–210, Funding, COE Section 10 and 404 Permits and CGD Bridge Permit Issuance, City of Alexandria, Fairfax County, VA; Prince George's County, MD and DC, Due: May 30, 2000. Contact: John Gerner (703) 519–9800.

EIS No. 000128, Final EIS, AFS, MT, Bull Lake Estates Road Access Project, Implementation, Easement Grant Permit, Kootenai National Forest, Three Rivers Rangers District, Lincoln County, MT, Due: May 30, 2000, Contact: Mark Natale (406) 295–4693.

Amended Notices

EIS No. 000074, Draft EIS, AFS, CO, Upper Blue Stewardship Project, Implementation of Vegetation Management, Travel Management, Designation of Dispersed Camping Sites, White River National Forest, Dillon Ranger District, Summit County, CO, Due: May 16, 2000, Contact: Kathleen Phelps (970) 468–5400. Published FR on 03/17/00 CEQ Comment Date has been extended from 5/1/2000 to 5/16/2000.

EIS No. 000091, Draft Supplement, AFS, WA, ID, OR, MT, Interior Columbia Basin Ecosystem Management Projects, Updated and New Information on three Management Alternatives, Implementation, WA, OR, ID and MT, Due: July 06, 2000, Contact: Cathy Humphrey (208) 334–1770. Published FR–4–07–00 Correction to Comment Period from 6–30–2000 to 7–06–2000.

Dated: April 24, 2000.

B. Katherine Biggs,

Associate Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 00–10676 Filed 4–27–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6353–7]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA Comments Prepared April 10, 2000 Through April 14, 2000 Pursuant to the Environmental Review Process (ERP), Under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as Amended

Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 09, 1999 (63 FR 17856).

Draft EISs

ERP No. D–AFS–J65322–MT Rating EC2, Spar and Lake Subunits Forest Health Project, Improvements, Kootenai National Forest, Three Rivers Ranger District, Lincoln County, MT.

Summary: EPA supports project purpose and need, proposed helicopter logging, minimal new road construction, and proposed road decommissioning. EPA expressed concerns about inadequate information on weed control chemicals for the project area, and on the proposed monitoring program to identify impacts from implementation activities. EPA notes that the proposed action could impact drainages classified as water quality limited by the State of Montana and the proposed action should be consistent with the State's Total Maximum Daily Load (TMDL) development.

ERP No. D–AFS–K65345–CA Rating EC2, Pendola Fire Restoration Project, Implementation, Tahoe National Forest, Downieville Ranger District, Yuba County, CA.

Summary: EPA expressed concern that purpose and need is too narrowly drawn, and recommended that the Forest Service take additional steps to address cumulative watershed effects in the program area.

ERP No. D–NPS–E61074–00 Rating EC2, Big South Fork National River and Recreation Area, General Management Plan, Implementation, McCreary, KY and Fentress, Morgan, Pickett, and Scott Counties, TN.

Summary: EPA expressed environmental concern due to lack of information concerning specifics on management plan implementation and enforcement, and mitigation for impacts to water quality.

Final EISs

ERP No. F–AFS–J65311–MT Good Creek Resource Management Project, Implementation, Vegetation Treatments and Other Activities to Restore Watershed, Flathead National Forest, Tally Lake Ranger District, Flathead County, MT.

Summary: EPA expressed environmental concerns regarding the potential water quality impacts of timber harvest, and the adequacy of proposed monitoring to measure aquatic impacts from proposed management actions.

ERP No. F–AFS–L65325–ID Sloan-Kennally Timber Sale, Proposal to Harvest and Regenerate Timber Strands, Implementation, ayette National Forest, McCall Ranger District, Valley County, ID.

Summary: EPA remains concerned about the loss of roadless character with this project.

Dated: April 25, 2000.

B. Katherine Biggs,

Associate Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 00–10675 Filed 4–27–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00659; FRL–6557–4]

National Assessment of the Worker Protection Program—Workshop #1

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: The National Assessment of the Worker Protection Program - Workshop #1 will be held in Austin, Texas. The purpose of this meeting is to initiate a nationwide assessment of the agricultural worker protection program. The regulation (40 CFR 170) that implements this program was fully implemented in 1995. The Office of Pesticide Programs, in this national assessment, will examine the regulation, the implementation and effectiveness of its provisions, the enforcement at the state level, and the possible future directions for the program. This initial workshop is an opportunity for EPA, states, agricultural employers and worker representatives to engage in problem solving discussions on major aspects of the regulation. This workshop will be the first in a series of workshops that will offer participants an opportunity to work with the Agency to define the components and framework for the comprehensive national program assessment of the agricultural worker protection program.

DATES: June 6–7, 2000. The workshop will begin at 8 a.m. and end at 6 p.m.

ADDRESSES: The meeting will be held at the Austin Marriott at the Capitol, 701 East 11th St., Austin, TX 78701.

FOR FURTHER INFORMATION CONTACT: Michael Walsh, U.S. EPA Office of Pesticide Programs (7506C), 1200 Pennsylvania Avenue NW, Washington, DC 20460. Telephone: (703) 308–2972. Fax: (703) 308–2962.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

This action is directed to the public in general, however, the size of the

meeting facilities could limit the number of participants. This action may be of interest to farm worker groups, agricultural employers, state governments, county extension services, and pesticide product manufacturers. If you have any questions regarding the applicability of this action to a particular entity, consult the party listed under **FOR FURTHER INFORMATION CONTACT**.

II. How Can I Get Copies of this Document?

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/. You may also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

III. How Can I Participate in this Meeting and is there a Deadline?

Yes. You may request to participate in this meeting and register by phone, by fax, through the mail, or electronically by no later than May 20, 2000. Please contact Meetings Management, Inc., P.O. Box 30045, Alexandria, Virginia 22310, Tel: (703) 922–7944, Fax: (703) 922–7780, E-mail: Mmagnini@BellAtlantic.net.

List of Subjects

Environmental protection.

Dated: April 24, 2000.

Anne E. Lindsay,

Director, Field and External Affairs Division, Office of Pesticide Programs.

[FR Doc. 00–10591 Filed 4–27–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34222; FRL–6557–2]

Organophosphate Pesticides; Availability of Revised Risk Assessments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notices announces the availability of the revised risk assessments and related documents for two organophosphate pesticides, chlorpyrifos-methyl and trichlorfon. In addition, this notice starts a 60-day public participation period during which the public is encouraged to submit risk management ideas or proposals. These actions are in response to a joint initiative between EPA and the Department of Agriculture (USDA) to increase transparency in the tolerance reassessment process for organophosphate pesticides.

DATES: Comments, identified by docket control numbers OPP–34202B for chlorpyrifos-methyl and OPP–34207A for trichlorfon, must be received by EPA on or before June 27, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control numbers OPP–34202B for chlorpyrifos-methyl and OPP–34207A for trichlorfon in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Karen Angulo, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8004; e-mail address: angulo.karen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

This action is directed to the public in general, nevertheless, a wide range of stakeholders will be interested in obtaining the revised risk assessments and submitting risk management comments on chlorpyrifos-methyl and trichlorfon, including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the use of pesticides on food. As such, the Agency has not attempted to specifically describe all the entities potentially affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under ''FOR FURTHER INFORMATION CONTACT.''

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

A. *Electronically*. You may obtain electronic copies of this document and other related documents 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/.

To access information about organophosphate pesticides and obtain electronic copies of the revised risk assessments and related documents mentioned in this notice, you can also go directly to the Home Page for the Office of Pesticide Programs (OPP) at http://www.epa.gov/pesticides/op/.

B. *In person*. The Agency has established an official record for this action under docket control numbers OPP–34202B for chlorpyrifos-methyl and OPP–34207A for trichlorfon. 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 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 Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

III. How Can I Respond to this Action?

A. 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 numbers OPP–34202B for chlorpyrifos-methyl and OPP–34207A for trichlorfon in the subject line on the first page of your response.

1. *By mail*. Submit comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver comments to: Public Information and Records Integrity Branch, Information Resources and Services Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., 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*. Submit electronic comments by e-mail to: ''opp-docket@epa.gov,'' or you can submit a computer disk as described in this unit. 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 and data will also be accepted on standard computer disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by the docket control numbers OPP–34202B for chlorpyrifos-methyl and OPP–34207A for trichlorfon. Electronic comments may also be filed online at many Federal Depository Libraries.

B. 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 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 listed under **FOR FURTHER INFORMATION CONTACT.**

IV. What Action is EPA Taking in this Notice?

EPA is making available for public viewing the revised risk assessments and related documents for two organophosphate pesticides, chlorpyrifos-methyl and trichlorfon. These documents have been developed as part of the pilot public participation process that EPA and USDA are now using for involving the public in the reassessment of pesticide tolerances under the Food Quality Protection Act (FQPA), and the reregistration of individual organophosphate pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The pilot public participation process was developed as part of the EPA-USDA Tolerance Reassessment Advisory Committee (TRAC), which was established in April 1998, as a subcommittee under the auspices of EPA's National Advisory Council for Environmental Policy and Technology. A goal of the pilot public participation process is to find a more effective way for the public to participate at critical junctures in the Agency's development of organophosphate pesticide risk assessments and risk management decisions. EPA and USDA began implementing this pilot process in August 1998, to increase transparency and opportunities for stakeholder consultation. The documents being released to the public through this notice provide information on the revisions that were made to the chlorpyrifos-methyl and trichlorfon preliminary risk assessments, which where released to the public October 6, 1999 (64 FR 193) (FRL–6387–9) for chlorpyrifos-methyl and November 10, 1999 (64 FR 217) (FRL–6393–9) for trichlorfon through notices in the **Federal Register**.

In addition, this notice starts a 60-day public participation period during which the public is encouraged to submit risk management proposals or otherwise comment on risk managements for chlorpyrifos-methyl and trichlorfon. The Agency is providing an opportunity, through this notice, for interested parties to provide written risk management proposals or ideas to the Agency on the chemical specified in this notice. Such comments and proposals could address ideas about how chlorpyrifos-methyl and trichlorfon use sites or crops across the United States or in a particular geographic region of the country. To address dietary risk, for example, commenters may choose to discuss the feasibility of lower application rates, increasing the time interval between application and harvest (''pre-harvest intervals''), modifications in use, or suggest alternative measures to reduce residues contributing to dietary exposure. For occupational risks, commenters may suggest personal protective equipment or technologies to reduce exposure to workers and pesticide handlers. For ecological risks, commenters may suggest ways to reduce environmental exposure, e.g., exposure to birds, fish, mammals, and other non-target organisms. EPA will provide other opportunities for public participation and comment on issues associated with the organophosphate pesticide tolerance reassessment program. Failure to participate or comment as part of this opportunity will in no way prejudice or limit a commenter's opportunity to participate fully in later notice and comment processes. All comments and proposals must be received by EPA on or before June 27, 2000 at the addresses given under the ''ADDRESSES'' section. Comments and proposals will become part of the Agency record for the organophosphate pesticides specified in this notice.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: April 21, 2000.

Jack E. Housenger,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 00–10589 Filed 4–27–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00645A; FRL–6557–7]

Pesticide Tolerance Reassessment and Reregistration; Proposed Public Participation Process; Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; reopening of comment period.

SUMMARY: This notice announces EPA's extension of the comment period for the proposal for a public participation process for pesticide tolerance reassessment and reregistration. This proposal is in response to a joint initiative between EPA and the Department of Agriculture (USDA) to increase transparency and stakeholder involvement in the development of pesticide risk assessments and risk management documents and decisions. EPA and USDA have been actively employing a pilot public participation process for tolerance reassessment and reregistration of organophosphate pesticides for over 1 year (since August 1998), which was developed in consultation with the Tolerance Reassessment Advisory Committee (TRAC). Consideration must now be given as to whether this public participation process or some modification of it should be adopted as the final process, and whether it should be used for tolerance reassessment and reregistration of all pesticides.

DATES: Comments, identified by the docket control number OPP–00645A, must be received on or before May 15, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in

person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00645A in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Karen Angulo, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8004; fax number: (703) 308–8005; e-mail address: angulo.karen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general; however, a wide range of stakeholders will be interested in submitting comments on the public participation process that EPA is proposing for tolerance reassessment and reregistration, including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the use of pesticides on food. As such, the Agency has not attempted to specifically describe all the entities potentially affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document 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/. 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/.

To access information about the pilot public participation process that is now being used for the organophosphate pesticides, you can also go directly to the Office of Pesticide Programs' (OPP) organophosphate pesticide web page at http://www.epa.gov/pesticides/op/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–00645A. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

As described in Unit III. A. of the notice published in the **Federal Register** of March 15, 2000 (65 FR 14199) (FRL–6496–2), you may submit your comments through the mail, in person, or electronically. Please follow the instructions that are provided in the proposed rule. Do not submit any information electronically that you consider to be CBI. To ensure proper receipt by EPA, be sure to identify docket control number OPP–00645A in the subject line on the first page of your response.

1. *By mail*. Submit comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvannia Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver comments to: Public Information and Records Integrity Branch, Information Resources and Services Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., 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*. Submit electronic comments by e-mail to: ''opp-docket@epa.gov,'' or you can submit a computer disk as described in this unit. 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 and data will also be accepted on standard computer disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by the docket control number OPP–00645A. 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 listed under **FOR FURTHER INFORMATION CONTACT.**

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

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

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the proposed rule or collection activity.

7. Make sure to submit your comments by the deadline in this reopening of the proposed rule comment period.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is EPA Taking?

EPA is extending the public comment period on the proposal for a public participation process for pesticide tolerance reassessment and reregistration. This proposed public participation process was developed with USDA.

Public comment received as a result of this notice will be considered by EPA and USDA and a final public participation process will be developed and released to the public in a notice published in the **Federal Register**. Implementation of the final public participation process will begin according to a schedule established and published in the final notice.

III. Do Any Regulatory Assessment Requirements Apply to this Action?

No. This action is not a rulemaking, it merely extends the date by which public comments must be submitted to EPA on a proposed pesticide public participation process that previously published in the **Federal Register** of March 15, 2000 (65 FR 14199) (FRL–6496–2).

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: April 21, 2000.

Joseph J. Merenda Jr.,

Acting Director, Office of Pesticide Programs.

[FR Doc. 00–10590 Filed 4–27–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6586–6]

Draft General NPDES Permit for Seafood Processors in Alaska in Waters of the United States; General NPDES Permit No. AK–G52–0000

AGENCY: Environmental Protection Agency, Region 10.

ACTION: Notice; correction.

SUMMARY: The Environmental Protection Agency, Region 10, published a document in the **Federal Register** of April 21, 2000, concerning a notice of a draft general NPDES permit. The document contained an incorrect number for the total allowable residues of offal to be discharged.

FOR FURTHER INFORMATION CONTACT: Florence Carroll, 206–553–1760.

Correction

In the **Federal Register** issue of April 21, 2000, in FR Doc. 00–10037, on page 21432, in the third column, correct the last sentence in the third paragraph of the **SUMMARY** section to read:

The total allowable residues of offal for permittees covered under the proposed permit must not exceed ten million pounds per year (based on deposition modeling using EPA's Water Quality Analysis Simulation Program).

Dated: April 21, 2000.

Randall F. Smith,

Director, Office of Water.

[FR Doc. 00–10646 Filed 4–27–00; 8:45 am]

BILLING CODE 6213–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6586–9]

Notice of Availability of Letter From EPA to the State of New York Pursuant to Section 118 of the Clean Water Act and the Water Quality Guidance for the Great Lakes System

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: Notice is hereby given of a letter written from Region 2 of the Environmental Protection Agency (EPA) to the State of New York finding that for the most part the State has adopted water quality standards and National Pollutant Discharge Elimination System (NPDES) permits program revisions which are consistent with section 118(c) of the Clean Water Act and 40 CFR part 132. However, there are certain provisions adopted as part of the State's water quality standards and NPDES permits programs that are inconsistent with section 118(c) of the Clean Water Act and 40 CFR part 132. EPA's findings are described in a letter dated April 11, 2000 to New York State. EPA invites public comment on all aspects of this letter, particularly on the findings in the letter and on the course of action that EPA proposes to take if the State fails to adequately address EPA's findings.

DATES: Comments must be received in writing by June 12, 2000.

ADDRESSES: Written comments may be submitted to Wayne F. Jackson, Community and Ecosystems Protection Branch, Division of Environmental Planning and Protection, U.S. Environmental Protection Agency, Region 2, 290 Broadway, New York, New York, 10007. In the alternative, EPA will accept comments electronically. Comments should be sent to the following Internet E-mail address: jackson.wayne@epa.gov. Electronic comments must be submitted in an ASCII file avoiding the use of special characters and any form of encryption. EPA will print electronic comments in hard-copy paper form for the official administrative record. EPA will attempt to clarify electronic comments if there is an apparent error in transmission. Comments provided electronically will be considered timely if they are submitted electronically by 11:59 p.m. (Eastern time) June 12, 2000.

FOR FURTHER INFORMATION CONTACT: Wayne F. Jackson, Community and Ecosystems Protection Branch, Division of Environmental Planning and Protection, U.S. Environmental Protection Agency, Region 2, 290 Broadway, New York, New York, 10007, or telephone him at (212) 637–3807.

Copies of the April 11, 2000 letter described above are available upon request by contacting Mr. Jackson. The April 11, 2000 letter and materials submitted by New York in support of its submission that EPA relied upon in preparing the letter (*i.e.,* the docket) are available for review by appointment at: EPA, Region 2, 290 Broadway, New York, New York (telephone 212–637–3807); and the New York State Department of Environmental Conservation, 50 Wolf Road, Room 310 C, Albany, New York. To access the docket material in New York, call Mr. Jackson at (212) 637–3807 between 8 a.m. and 4:30 p.m. (Eastern time) (Monday–Friday); in Albany, New York, call Teresa Deihsner at 518–457–7937 between 8 a.m. and 4:30 p.m. (Eastern time) (Monday–Friday).

SUPPLEMENTARY INFORMATION: On March 23, 1995, EPA published the Final Water Quality Guidance for the Great Lakes System (Guidance) pursuant to section 118(c)(2) of the Clean Water Act, 33 U.S.C. 1268(c)(2). (March 23, 1995, 60 FR 15366). The Guidance, which was codified at 40 CFR part 132, requires the Great Lakes States to adopt and submit to EPA for approval water quality criteria, methodologies, policies and procedures that are consistent with the Guidance. 40 CFR 132.4 & 132.5. EPA is required to approve of the State's submission within 90 days or notify the State that EPA has determined that all or part of the submission is inconsistent with the Clean Water Act or the Guidance and identify any necessary changes to obtain EPA approval. If the State fails to make the necessary changes within 90 days, EPA must publish a notice in the **Federal Register** identifying the approved and disapproved elements of the submission and a final rule identifying the provisions of Part 132 that shall apply for discharges within the State.

EPA reviewed the submission from New York State for consistency with the Guidance in accordance with 40 CFR 131 and 132.5. EPA determined that for the most part the State of New York has adopted water quality standards and NPDES permits program revisions which are consistent with section 118(c) of the Clean Water Act and 40 CFR part 132. However, there are certain parts of the State's submission that are inconsistent with the requirements of the Clean Water Act or 40 CFR part 132 and will be subject to EPA disapproval if not corrected. On April 11, 2000, in a letter from EPA Region 2 to the New York State Department of Environmental Conservation, EPA described in detail those provisions determined to be inconsistent with the Guidance and subject to disapproval if not remedied by the State. The inconsistencies relate to the following components of the State's submission in conformance with section 118(c) of the CWA and 40 CFR part 132: (1) Application of the State's chronic aquatic life water quality criteria in certain waters of the Great Lakes Basin; (2) water quality criteria for mercury for the protection of wildlife; (3) Procedure 3 of Appendix F of the Guidance for developing total maximum daily loads and so-called ''phased'' total maximum daily loads; (4) Procedure 5 for determining reasonable potential to exceed water quality standards for both industrial and municipal dischargers, including the use of fish tissue data, and the consideration of intake credits; (5) Procedure 6 for determining reasonable potential for whole effluent toxicity, and including limits in the permit when a determination of reasonable potential for whole effluent toxicity has been made; (6) Procedure 7 for expressing water quality-based effluent limits (WQBELs) in terms of both mass and concentration; (7) Procedure 8 for including calculated WQBELs in the permit when the WQBEL is below the quantification level, the need to require a pollution minimization plan in all such cases; and, (8) Procedure 9 for limiting the availability of compliance schedules to existing discharges to the Great Lakes Basin. Based on our review to date, EPA believes that, with the above exceptions, the submission by New York is consistent with the Guidance. Today, EPA is soliciting public comment regarding all aspects of the April 11, 2000 letter. In particular, EPA solicits comments on the provisions identified in the April 11, 2000 letter as being inconsistent with the CWA and the Guidance, on EPA's proposed course of action if New York State fails to remedy those inconsistencies, and on EPA's belief that the remainder of the State's submission is consistent with the Guidance. EPA's letter also describes the provisions of the Guidance that EPA would identify in a final rule as applying to discharges in the New York portion of the Basin if the identified inconsistencies are not addressed by the State. EPA may decide to identify in such a rule the provisions described in our letter, or other relevant provisions of the Guidance that the Agency determines upon completion of this process to be appropriate, and the Agency broadly solicits comment regarding what provisions would be appropriate to identify in such a rule.

During the next 90 days, EPA intends to continue working with New York State to address the inconsistencies identified in the April 11, 2000 letter. If the State fails to remedy any of the inconsistencies identified in the letter, EPA will publish a notice in the **Federal Register** identifying the disapproved elements and the corresponding portions of Part 132 that will apply to waters within the Great Lakes Basin in New York State.

William J. Muszynski,

Acting Regional Administrator, Region 2.

[FR Doc. 00–10657 Filed 4–27–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Technological Advisory Council Meeting

AGENCY: Federal Communications Commission.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 2, Pub. L. 92–463, as amended, this notice advises interested persons of the fifth meeting of the Technological Advisory Council (''Council''), which will be held at the Federal Communications Commission in Washington, DC.

DATES: Wednesday, June 28, 2000 at 10 a.m.

ADDRESSES: Federal Communications Commission, 445 12th St., SW, Room TW–C305, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Kent Nilsson at knilsson@fcc.gov or 202–418–0845.

SUPPLEMENTARY INFORMATION: The Council was established by the Federal Communications Commission to provide a means by which a diverse array of recognized technical experts from a variety of interests such as industry, academia, government, citizens groups, etc., can provide advice to the FCC on innovation in the communications industry.

The purpose of this fifth meeting will be to hear and discuss the progress of the three focus groups established by the Council to consider the issues the FCC presented to it at its April 30, 1999 meeting.

These issues include: (1) The current state of the art for software defined radios, cognitive radios, and similar devices, future developments for these technologies, and ways that the availability of such technologies might affect the FCC's traditional approaches to spectrum management; and the current state of knowledge of electromagnetic noise levels and the effects of such noise on the reliability of existing and future communications systems; (2) the current technical trends in telecommunications services, changes that might decrease, rather than increase, the accessibility of telecommunications services by persons with disabilities and ways the FCC might best communicate to designers of emerging telecommunications network architectures, the requirements for accessibility; and (3) the telecommunications common carrier network interconnection scenarios that are likely to develop, including the technical aspects of cross network (*i.e.,* end-to-end) interconnection, quality of service, network management, reliability, and operations issues, as well as the deployment of new technologies such as dense wave division multiplexing and high speed packet/cell switching. The Council may also consider such other issues as come before the Council at the meeting.

Members of the general public may attend the meeting. The Federal Communications Commission will attempt to accommodate as many persons as possible. However, admittance will be limited to the seating available. Depending on the Council's progress at this meeting, public participation may be permitted at the discretion of the Council's Chairman. Interested persons may submit written comments to David Farber, the Council's Designated Federal Officer, before the meeting either by e-mail (dfarber@fcc.gov) or by U.S. mail to David Farber, Chief Technologist, Room 7–C155, Office of Engineering & Technology, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 00–10614 Filed 4–27–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for OMB review and approval of the information collection system described below.

Type of Review: New collection.

Title: Applicant Background Questionnaire.

OMB Number: New collection.

Form Number : 2100/14.

Annual Burden: Estimated annual number of respondents: 16,000; Estimated time per response: 3 minutes; Average annual burden hours: 800 hours.

Expiration Date of OMB Clearance: New collection.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503.

FDIC Contact: Tamara R. Manly, (202) 898–7453, Office of the Executive Secretary, Room F–4058, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before May 30, 2000, to both the OMB reviewer and the FDIC contact listed above.

ADDRESSES: Information about this submission, including copies of the proposed collection of information, may be obtained by calling or writing the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: The Applicant Background Questionnaire will be completed voluntarily by FDIC job applicants who are not currently FDIC employees. Responses to questions on the survey will provide information on gender, age, disability, race/national origin, and the applicant's source of vacancy announcement information. Data will be used by the Office of Diversity and Economic Opportunity and the Personnel Services Branch to evaluate the effectiveness of various recruitment methods used by the FDIC to ensure that the agency meets workforce diversity objectives.

Dated: April 24, 2000.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 00–10611 Filed 4–27–00; 8:45 am]

BILLING CODE 6714–01–U

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 23, 2000.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. *National Commerce Bancorporation,* Memphis, Tennessee; to merge with CCB Financial Corporation, Durham, North Carolina, and thereby indirectly acquire Central Carolina Bank and Trust Co., Durham, North Carolina, and Central Carolina Bank—Georgia, Columbus, Georgia.

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. *FNB Financial Sevices, Inc.,* Durant, Oklahoma; to acquire 100 percent of the voting shares of FNB Lockney, Lockney, Texas.

Board of Governors of the Federal Reserve System, April 24, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–10569 Filed 4–27–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Sunshine Meeting Notice

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:00 a.m., Wednesday, May 3, 2000.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: April 26, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–10731 Filed 4–26–00; 11:03 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Children's Online Privacy Protection Safe Harbor Proposed Self-Regulatory Guidelines; Children's Advertising Review Unit of the Council of Better Business Bureaus, Inc.

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed ''safe harbor'' guidelines and request for public comment.

SUMMARY: The Federal Trade Commission publishes this notice and request for public comment concerning proposed self-regulatory guidelines submitted by the Children's Advertising Review Unit (''CARU'') of the Council of Better Business Bureaus, Inc. under the safe harbor provision of the Children's Online Privacy Protection Rule, 16 CFR. § 312.10.

DATES: Written comments must be submitted on or before May 30, 2000. Comments will be posted on the Commission's website: *http://www.ftc.gov*.

ADDRESSES: Written comments should be submitted to: Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Avenue, N.W., Washington, DC 20580. The Commission requests that commenters submit the original plus five copies, if feasible. To enable prompt review and public access, comments also should be submitted, if possible, in electronic form, on either a 5¼ or a 3½ inch computer disk, with a disk label stating the name of the commenter and the name and version of the word processing program used to create the document. (Programs based on DOS or Windows are preferred. Files from other operating systems should be submitted in ASCII text format.) Alternatively, the Commission will accept comments submitted to the following e-mail address, *safeharbor@ftc.gov*. Individual members of the public filing comments need not submit multiple copies or comments in electronic form. All submissions should be captioned: ''CARU Safe Harbor Proposal—Comment, P004504.''

FOR FURTHER INFORMATION CONTACT: Loren G. Thompson, (202) 326–2049, Abbe Goldstein, (202) 326–3423, or Karen J. Mandel, (202) 326–2491, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, 601 Pennsylvania Ave., NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

Section A. Background

On October 20, 1999, the Commission issued its final Rule [1] pursuant to the Children's Online Privacy Protection Act, 15 U.S.C. 6501, *et seq.* The Rule requires certain web site operators to post privacy policies, provide notice, and obtain parental consent prior to collecting, using, or disseminating personal information from children. The Rule contains a ''safe harbor'' provision enabling industry groups or others to submit self-regulatory guidelines that would implement the protections of the Rule to the Commission for approval.[2]

Pursuant to Section 312.10 of the Rule, CARU has submitted proposed self-regulatory guidelines to the Commission for approval. The full text of the proposed guidelines is available on the Commission's website, *www.ftc.gov.*

Section B. Questions on the Proposed Guidelines

The Commission is seeking comment on various aspects of the proposed guidelines, and is particularly interested in receiving comment on the questions that follow. These questions are designed to assist the public and should not be construed as a limitation on the issues on which public comment may be submitted. Responses to these questions should cite the number and subsection of the questions being answered. For all comments submitted, please provide any relevant data, statistics, or any other evidence, upon which those comments are based.

1. Please provide comment on any or all of the provisions in the proposed guidelines. For each provision commented on please describe (a) The impact of the provision(s) (including any benefits and costs), if any, and (b) what alternatives, if any, CARU should consider, as well as the costs and benefits of those alternatives.

2. Do the provisions of the proposed guidelines governing operators' information practices provide ''the same or greater protections for children'' as those contained in Sections 312.2–312.8 of the Rule? [3] Where possible, please cite the relevant sections of both the Rule and the proposed guidelines.

3. Are the mechanisms used to assess operators' compliance with the guidelines effective? [4] If not, please describe (a) How the proposed guidelines could be modified to satisfy the Rule's requirements, and (b) the costs and benefits of those modifications.

4. Are the incentives for operators' compliance with the guidelines effective? [5] If not, please describe (a) How the proposed guidelines could be modified to satisfy the Rule's requirements, and (b) the costs and benefits of those modifications.

5. Do the guidelines provide adequate means for resolving consumer complaints? If not, please describe (a) How the proposed guidelines could be modified to resolve consumer complaints adequately, and (b) the costs and benefits of those modifications.

or

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 00–10549 Filed 4–27–00; 8:45 am]

BILLING CODE 6750–01–M

[1] 64 Fed. Reg. 59888 (1999).

[2] See 16 CFR § 312.10; 64 Fed. Reg. at 59906–59908, 59915.

[3] See 16 CFR § 312.10(b)(1); 64 Fed. Reg. at 59915.

[4] See 16 CFR § 312.10(b)(2); 64 Fed. Reg. at 59915.

[5] See 16 CFR § 312.10(b)(3); 64 Fed. Reg. at 59915.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities: Submission for OMB Review; Comment Request

The Department of Health and Human Services, Office of the Secretary publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and 5 CFR 1320.5. The following are those information collections recently submitted to OMB.

1. HHS Acquisition Regulations—HHSAR Subpart 315 Solicitation and Receipt of Proposals and Quotations—0990–0139—Extension with no change—Subpart 315.4 is needed to ensure consistency in all Departmental solicitations and to ensure that all solicitations describe all of the information which an offeror would need to submit an acceptable proposal. Respondents: State or local governments, Businesses or other for profit organizations, non-profit institutions, small businesses; Total Number of Respondents: 6,645: Frequency of Response: one time; Average Burden per Response: 2 hours; Estimated Annual Burden: 13,290 hours.

OMB Desk Officer. Allison Eydt.

Copies of the information collection packages listed above can be obtained by calling the OS Reports Clearance Officer on (202) 690–6207. Written

comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address: Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street N.W., Washington, D.C. 20503.

Comments may also be sent to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue S.W., Washington, DC 20201. Written comments should be received within 30 days of this notice.

Dated: April 20, 2000.

Dennis P. Williams,

Deputy Assistant Secretary, Budget.

[FR Doc. 00–10558 Filed 4–27–00; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 00048]

Patient Follow-Up Study of Prevention of the Joint Complications of Hemophilia; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2000 funds for a cooperative agreement program for the Mountain State Regional Hemophilia Treatment Center (MSRHTC), University of Colorado Health Sciences Center to conduct a follow-up study of patients enrolled in a trial of primary prophylactic therapy for the prevention of joint disease in children with hemophilia. CDC is committed to achieving the health promotion and disease prevention objectives of ''Healthy People 2010,'' a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the focus areas of Diabetes. For the conference copy of ''Healthy People 2010'', visit the internet site http://www.health.gov/healthypeople.

The purpose of the program is to provide continued assistance MSRHC in the follow-up of patients enrolled in the current randomized, controlled trial of primary prophylaxis in previously untreated patients with severe hemophilia A and no demonstrable factor VIII inhibitors. Cost and efficacy of early intervention to prevent joint complications should be determined in the treatment groups and should be compared to similar data from appropriately treated, control subjects. The cumulative risk of factor VIII inhibitor development should be determined for each treatment group and total costs and complication rates ascertained as well. Molecular characterization of factor VIII defects in an effort to predict which subjects will develop inhibitors should be carried out.

Further, follow-up of patients will continue to improve understanding of specific public health issues and enhance preparedness to meet changes.

B. Eligible Applicants

Assistance will be provided only to the MSRHTC. No other applications are solicited. The MSRHTC was the only applicant that applied under the original Program Announcement 95019 and was subsequently awarded. It is the only Hemophilia Treatment Center (HTC) capable of carrying out the follow-up of the hemophilia patients enrolled in this clinical trial because they began and continue the enrollment of patients under the original clinical trial. The enrollment of Hemophilia patients for this program will be completed on September 29, 2000, and it is the intention of CDC to allow for a smooth transition into this follow-up study.

MSRHTC already possesses the necessary data required for the follow-up study for the prevention of the joint complications of hemophilia. MSRHTC's patient data is proprietary, and no other HTC would have ready access.

C. Availability of Funds

Approximately $250,000 is available in FY 2000 to fund this award. It is expected that the award will begin on or about September 30, 2000 and will be made for a 12-month budget period within a project period of up to 4 years. The funding estimate may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC Activities).

1. Recipient Activities

a. Develop standardized study protocols, data collection instruments, interview questionnaires, progress report forms.

b. Train study coordinators and medical personnel in methods of data collection and patient assessment in the use of standard data abstraction instruments, in techniques of reviewing medical records, in interviewing patients, and in other methods of data collection as appropriate and provided for in the study protocols. It is the responsibility of the recipient to ensure uniform training of study personnel at all data collection sites. The recipient must ensure that the data is collected in a uniform manner at all data collection sites.

c. Develop appropriate management and evaluation systems to ensure that study personnel use data collection and interview instruments according to standard study protocols.

d. Collect and edit all data from all sites, including cost effectiveness data.

e. Obtain sufficient clinical specimens for specialized laboratory analysis and genetic testing, including plasma and cell pellets, to meet the requirements of the study.

f. Develop papers and publish the results.

2. CDC Activities

a. Provide consultation, scientific and technical assistance in planning and implementing the study protocol, as requested. This assistance may include the development of study protocols, data abstraction instruments, interview questionnaires, consent forms, support in statistical and epidemiologic methods to conduct data analysis, and development of the clinical laboratory specimen testing.

b. Assist in the development of a research protocol for Institutional Review Board (IRB) review by all institutions participating in the research project. The CDC IRB will review and approve the protocol initially and on at least an annual basis until the research project is completed.

c. Collaborate in the planning, coordination, and facilitation of initial and periodic meetings.

d. Perform sufficient clinical specimens for specialized laboratory analysis and genetic testing, including plasma and cell pellets, as requested.

E. Application Content

Use the information in the Purpose, Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. The application should describe MSRHTC's ability to address the purpose and required activities of this announcement. The application

will be evaluated on the criteria listed, so it is important to follow them specifically in laying out the program plan. The narrative should be no more than 20 double-spaced pages, printed on one side, with one inch margins, and unreduced font.

F. Submission and Deadline

Application

Submit the original and two copies of the PHS–5161–1 (OMB Number 0920–0428). Forms are available at the following Internet address: www.cdc.gov/Forms, or in the application kit.

On or before June 1, 2000, submit the application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Background and Need: (10 Points)

Extent to which applicant summarizes new information (literature) on the prevention of joint disease among persons with hemophilia; describes how this information enhances the need for the clinical trial; describes in as much detail as possible, how the study will enhance future management of children less than six years old with hemophilia.

2. Goals and Objectives: (15 Points)

Extent to which the proposed goals and objectives meet the purpose of the collaborative agreement and the required activities specified in the ''Recipient Activities'' section of this announcement and that are measurable, specific, time-phased, and realistic.

3. Capacity: (35 Points)

a. Extent to which knowledge, ability, and experience with primary prophylaxis studies initiated early in life as a form of ''low-dose'' immune tolerance are described in a plan to ensure a high level of follow-up among patients enrolled on the current study. Extent to which applicant describes, in detail, how a high loss to follow-up will affect the results and conclusions that can be drawn from the final analysis of the study. (30 points)

b. Extent to which applicant details the qualifications of the current staff to meet the stated objectives and goals, and the availability of facilities to be used during the project follow-up period. The person (or persons) who will be directly responsible for the follow-up should be identified and their duties specified in detail. (5 points)

4. Methods and Activities: (25 Points)

a. The quality of the applicant's plan for conducting program activities and the extent to which the study design proposed is (1) appropriate to accomplish the stated goals and objectives; (2) acceptable to the needs of the patient population (*e.g.,* likely to produce compliance); and (3) feasible within the programmatic and fiscal restrictions. (10 points)

b. Extent to which applicant demonstrates knowledge of implementing patient follow-up procedures and describes methods for patient follow-up among all currently collaborating sites.

Note: Description of patient follow-up protocol is critical for ascertaining that long-term follow-up of enrolled patients will occur over the project period. The applicant should indicate in the application how they plan to monitor sites to identify problems with maintaining an acceptable loss to follow-up rate as described in section 3.a. above. (15 points)

5. Program Management and Evaluation: (15 Points)

a. Extent to which applicant should describes the information management systems currently available for this study, detailing any system modifications required to accomplish collecting follow-up data versus enrollment data. Extent to which applicant describes, in detail, specific plans to evaluate data on a quarterly basis, quality assurance measures to be used and how operations will be changed based on the above information. Extent to which applicant describes study close-out procedures once all patients have completed follow-up data collection. Extent to which applicant demonstrates adequate biostatistical support for study completion, data management and data analysis. (10 points)

b. The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes: (1) The proposed plan for the inclusion of both sexes, racial and ethnic minority populations for appropriate representation, (2) the proposed justification when representation is limited or absent, (3) a statement as to whether the design of the study is adequate to measure differences when warranted, and (4) a statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits. (5 points)

6. Budget

The extent to which the budget is reasonable and consistent with the intended use of the cooperative agreement funds. (Not scored)

7. Human Subjects Requirements

Does the application adequately address the requirements of Title 45 CFR part 46 for the protection of human subjects? (not scored)

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Progress reports quarterly;
2. Financial Status Report (FSR), no more than 90 days after the end of the budget period; and
3. Final FSR and performance reports, no more than 90 days after the end of the project period. Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–7 Executive Order 12372
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–15 Proof of Non-profit Status

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 301(a) [42 U.S.C. 241(a)] and 317(k)(2) [42 U.S.C. 247b(k)], as amended. The Catalog of Federal Domestic Assistance number is 93.283.

J. Where To Obtain Additional Information

To obtain additional information, contact: Merlin Williams, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone: (770) 488–2765, E-mail address: mqw6@cdc.gov.

For program technical assistance, contact: Lisa Richardson, MD, MPH, Hematologic Diseases, Branch, Division of AIDS, STD, and TB Laboratory

Research, National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE, Mail-stop E–64. Atlanta, GA 30333, Telephone: (404) 371–5264, E-mail address: lfr8@cdc.gov.

The CDC Homepage address on the Internet is: http://www.cdc.gov

Dated: April 24, 2000.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–10680 Filed 4–27–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 00053]

Cooperative Agreement for Collaborating Centers for Public Health Law; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2000 funds for a cooperative agreement program for the development and operation of a collaborating center (or centers) for public health law. This program addresses all the Healthy People 2010 focus areas, but especially focus area 23, the public health infrastructure objectives. For the conference copy of ''Healthy People 2010'' visit the Internet site: http://www.health.gov/healthypeople.

Laws serve as a framework for public health and can be used as a public health intervention. A large and diverse array of laws and legally enforceable policies of federal, state, and local jurisdictions affect public health. These laws include statutes, ordinances, and bylaws that authorize public health programs and specific authorities of public health agencies and officials; case law; taxes and fees; rules, regulations, and contracts; and laws enacted for other purposes that indirectly or directly affect public health.

Healthy People 2010 recognizes that laws are an essential part of the public health infrastructure, and calls on local, State, Tribal, and federal jurisdictions to ''review and evaluate the extent to which their statutes, ordinances, and bylaws assure the delivery of essential public health services.'' In support of this goal, CDC proposes to fund one or more organizations that will work toward establishing a strong legal foundation for effective public health practice through training and education, collaboration, communication, and analysis. Specific goals of the collaborating center(s) will be to: (a) improve the effectiveness of laws as a type of public health intervention; (b) improve the quality, accessibility, and scientific basis of information about laws related to public health; (c) improve the knowledge of laws related to public health among public health practitioners, the legal community, and public policy makers; and (d) stimulate contributions by organizations and individuals to improvement of the legal foundation for public health. (See Addendum 1 for the definition of the term ''public health law'' used in this announcement.)

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, other public and private nonprofit organizations, and State and local governments or their bona fide agents, and federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations. CDC specifically encourages applications from consortia composed of accredited schools of public health or medicine, accredited schools of law, and accredited schools of public policy and/or public administration.

Note: Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $300,000 is available in FY 2000 to fund one to three awards. It is expected that the awards will begin on or about September 30, 2000, and will be made for a 12-month budget period within a project period of up to 3 years. Funding estimates may change, and awards could be supplemented by additional funding.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC Activities).

1. Recipient Activities

a. Identify and evaluate existing training and continuing education in the area of public health law for public health practitioners, professionals in the legal community, and public policy makers; develop training and continuing education to address identified gaps; conduct training using both existing and newly developed training and continuing education materials, with priority on training for public health practitioners. Newly developed training and continuing education materials should support core competencies as outlined in Essential Service 6 of ''The Public Health Workforce: An Agenda for the 21st Century''. Addendum 2, full text available at the following Internet site: http://www.health.gov/phfunctions/pubhlth.pdf

b. Research laws that affect public health, addressing the following general objectives: (1) Identify and analyze existing and proposed laws relevant to public health; (2) assess the distribution, provisions, and trends in laws that affect public health; (3) develop and implement a research agenda for public health law with broad stakeholder involvement; (4) synthesize and translate research on laws affecting public health; and (5) disseminate results and findings from analyses.

c. Stimulate collaboration and communication among organizations active in public health, law, public policy, and related fields by developing, linking, and disseminating information regarding laws and public health through an Internet website and/or other means; convening conferences and other meetings; and producing, sponsoring, and disseminating reports, analyses, and other publications.

2. CDC Activities

a. Provide technical assistance to the grantee(s) on an as-needed basis.

b. Collaborate with the grantee(s) to identify appropriate audiences, content, and media for training and continuing education, for information dissemination, for conferences and other meetings, and for publications.

c. Collaborate with the grantee(s) in developing a research agenda for public health law.

d. Provide appropriate scientific information and data relating to prevention, health promotion, public health practice, and related topics.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and

Evaluation Criteria sections to develop the application content. Applications must address each of the ''Recipient Activities.'' Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The application narrative should be no more than 25 double-spaced pages, printed on one side, with 1-inch margins, and unreduced font.

F. Submission and Deadline

Letter of Intent (LOI)

Prospective applicants are asked to submit, by June 23, 2000, an LOI that includes the program announcement number and title, the name, address, and telephone number of the Principal Investigator, and the identities of other key personnel and participating institutions. Although a LOI is not required, is not binding, and is not used in the review of an application, the information it contains is used to estimate the potential reviewer workload and avoid conflict of interest in the review.

Send the letter of intent to the Grants Management Specialist listed in ''Where to Obtain Additional Information'' section of this announcement.

Application

Submit the original and two copies of PHS–398 (OMB Number 0925–0001) (adhere to the instructions on the Errata Instruction Sheet for PHS 398). Forms are available at the following Internet address: www.cdc.gov/od/pgo/forminfo.htm. On or before July 14, 2000, submit the application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Deadline

Applications shall be considered as meeting the deadline if they are either: (a) Received on or before the deadline date; or (b) Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or a legibly dated receipt from a commercial carrier. Private metered postmarks shall not be acceptable as proof of time and date of mailing.)

Late Applications

Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria:

1. Background and Need (10 Points)

a. The extent to which the applicant clearly describes the need for, and benefits of, a collaborating center in public health law, including delineation of target audiences and proposed benefits they would realize from the collaborating center program.

b. The applicant's experience in working with public health agencies, academia, and other organizations active in public health law.

2. Goals and Objectives (15 Points)

a. The extent to which the application addresses the goals listed under ''Purpose'' in this announcement.

b. The extent to which the application specifies objectives, activities, work products, and timelines which are supportive of the goals, measurable, and feasible.

3. Project Management and Staffing (20 Points)

a. The extent to which the project staff is clearly identified, possesses appropriate skills and knowledge, and has clearly described roles.

b. The extent to which the application provides details regarding the level of effort and allocation of time for each staff position.

c. The extent to which the applicant possesses management and other systems to assure successful and responsible program implementation.

d. The applicant's experience in the management of resources and production of successful outcomes.

4. Methods and Plan of Operation (20 Points)

a. The soundness of the methods the applicant proposes to use to develop and conduct each of the ''Recipient Activities.''

b. The specificity, relevance, and feasibility of the plan of action the applicant proposes to take to develop and conduct each of the ''Recipient Activities.''

5. Collaboration (25 Points)

a. The extent to which the applicant documents evidence of past or current collaboration with partners active in public health practice and public health law.

b. The extent to which the applicant proposes relevant and feasible collaboration with other organizations in conducting the ''Recipient Activities'' and methods for stimulating collaboration among other organizations.

c. The extent to which the application includes signed agreements specifying the roles and responsibilities of each organization that will be collaborating with the applicant.

6. Evaluation Plan (10 Points)

The extent to which the applicant provides a detailed description of the methods to be used to evaluate program effectiveness, including identification of the variables to be evaluated, identification of the person(s) or organization(s) that will conduct evaluations, and specification of the time line for evaluations.

7. Budget (Not Scored)

The extent to which the budget is clearly explained, adequately justified, reasonable, sufficient for the proposed project activities, and consistent with the intended use of the cooperative agreement funds.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Detailed, semi-annual progress reports;

2. A financial status report, no more than 90 days after the end of the budget period; and

3. Final financial status and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research

AR–7 Executive Order 12372 Review

AR–8 Public Health System Reporting Requirements

AR–9 Paperwork Reduction Act Requirements

AR–10 Smoke-Free Workplace Requirements

AR–11 Healthy People 2010

AR–12 Lobbying Restrictions

AR–13 Prohibition on Use of CDC Funds for Certain Gun Control Activities

AR–15 Proof of Non-Profit Status

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301, 310, and 311 of the Public Health Service Act [42 U.S.C. sections 241, 242o, and 243], as amended. The Catalog of Federal Domestic Assistance number is 93.283.

J. Where To Obtain Additional Information

To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888 472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Van Malone, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone number 770–488–2764, Email address vxm7@cdc.gov.

For additional information on obtaining a copy of the application package, see also the CDC home page on the Internet: www.cdc.gov/od/pgo/funding/grantmain.htm.

For program technical assistance, contact: Anthony D. Moulton, Ph.D., Associate Director for Policy, Program Analysis and Academic Programs, Public Health Practice Program Office, Centers for Disease Control and Prevention, 4770 Buford Hwy. (K–36), Atlanta, GA 30341–3724, Phone 770–488–2404/Fax 770–488–2420, E-mail: ADM6@CDC.GOV.

Dated: April 24, 2000.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–10677 Filed 4–27–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 00090]

Notice of Availability of Funds; Cooperative Agreement for State Unintentional Injury Intervention Programs

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year 2000 funds for a cooperative agreement for unintentional injury intervention programs, focused in five topic areas: Program to Increase Booster Seat Use Among Children Riding in Motor Vehicles (Part I); Demonstration Program to Reduce Falls Among Older Adults (Part II); Program to Prevent Fire and Fall-Related Injuries in Older Adults (Part III); Multifaceted Teen and Young Adult Bicycle Safety Program (Part IV); and, Multifaceted Program for the Prevention of Dog Bite Related Injuries (Part V). CDC is committed to achieving the health promotion and disease prevention objectives of ''Healthy People 2010,'' a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the focus area of Injury and Violence Prevention. For the conference copy of ''Healthy People 2010'', visit the internet site: <http://www.health.gov/healthypeople>.

The purpose of these cooperative agreements are to develop, implement and evaluate unintentional injury prevention programs in the five priority areas.

B. Eligible Applicants

Assistance will be provided only to the official public health departments of States or their bona fide agents, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, federally recognized Indian tribal governments, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

Note: Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $1,300,000 is available in FY 2000 to fund up to 11 awards.

Part I—Approximately $450,000 is available to fund three awards to promote the use of Booster Seats Among Children, with an average award of approximately $150,000.

Part II—Approximately $250,000 is available to fund one award to demonstrate the effectiveness of multifaceted strategies to Reduce Falls Among Older Adults who reside in independent living situations.

Part III—Approximately $300,000 is available to fund five awards to augment existing Fire and/or Fall Prevention Programs that target Older Adults, with an average award of $60,000.

Part IV—Approximately $150,000 is available to fund one award to implement and evaluate a multi-faceted Bicycle Safety Program that targets Teens and Young Adults.

Part V—Approximately $150,000 is available to fund one award to implement and evaluate a multifaceted educational program for Dog Bite Prevention.

Applicants may submit separate applications for each part.

It is expected that the award will begin on or about September 30, 2000, and will be made for a 12-month budget period within a project period of up to 3 years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Funding Preferences

In order to ensure funding distribution across the United States no more than one award will be given per State under this announcement

D. Program Requirements

In conducting the activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1 (Recipient Activities), and CDC will be responsible for the activities under 2 (CDC Activities).

1. Recipient Activities

Part I—Program To Increase Booster Seat Use Among Children Riding in Motor Vehicles

(a) Identify a target community(ies) with populations of at least 50,000 that demonstrates a significant need for the proposed intervention program, and a comparable control community for each intervention community.

(b) Determine baseline use rates for booster seats among children aged 4–8

years in each of the intervention and control communities.

(c) Assess barriers to use and reasons for lack of routine use of booster seats at baseline for children 4–8 years of age in the intervention community, using community diagnosis methodology and needs assessment.

(d) Develop and implement a community-based booster seat intervention program with a sound basis in health behavior change theory to increase appropriate use of booster seats among child passengers aged 4–8 years.

(e) Collaborate with other community agencies whose program activities include children in the target age range.

(f) Evaluate the process, impact and outcome of the intervention, using at a minimum, a comparison of observed booster seat usage rates in the intervention and control communities before and after implementation of the intervention.

(g) Development of a research protocol for IRB review by all cooperating institutions participating in the research project.

(h) Compile and disseminate the results of the project.

Part II—Demonstration Program To Reduce Falls Among Older Adults

(a) Identify between one and three local communities to target community-dwelling, independent-living persons aged 65 years and older, especially women.

(b) Establish collaborative relationships with organizations that have resources, community programs, and/or expertise in fall prevention activities and elderly issues.

(c) Design and implement a fall prevention program for persons 65 and older that includes education about risk factors, environmental and behavioral prevention strategies, and identification and remediation of hazards.

(d) Develop data collection procedures for identifying new and recurrent falls and fall injuries among the program participants.

(e) Develop a tracking system to identify Emergency Department visits and hospital admissions from fall-related injuries among program participants.

(f) Develop an evaluation plan that includes both process and outcome evaluation. Evaluate program effectiveness by quantifying outcomes among program participants.

(g) Development of a research protocol for IRB review by all cooperating institutions participating in the research project.

(h) Compile and disseminate results of the prevention program.

Part III—Program To Prevent Fire and Fall-Related Injuries Among Older Adults

(a) Identify a minimum of 3 separate localities in the State with a significant independent-living older adult population.

(b) Determine the baseline and follow-up fire and fall rates in these communities, and specific rates for adults 65 years and older, as well as separately for adults 75 years and older.

(c) Develop collaborate relationships with organizations with resources, programs, or expertise, and/or access to an older adult population.

(d) Identify and implement a pre-developed program curricula for preventing fire and fall-related injuries among older adults utilizing home visits, group presentations, and other innovate outreach strategies.

(e) Collaborate with and provide training to participating fire and fall safety personnel, community workers and other volunteers to provide fire and fall safety education, and the proper installation and placement of interventions.

(f) Develop an evaluation plan that includes process, outcome and curricula evaluation.

(g) Development of a research protocol for IRB review by all cooperating institutions participating in the research project.

(h) Compile and disseminate results of intervention program.

Part IV—Multifaceted Teen and Young Adult Bicycle Safety Program

(a) Identify and coordinate program activities for three school-based programs in at least one high school, one junior high school and one college or university;

(b) Develop and plan a behavioral theory-based intervention to be implemented in the school setting and specific community activities that will be used to complement school-based efforts;

(c) Develop collaborative relationships with community based organizations, private organizations and public agencies already involved in injury prevention efforts targeting motorists and bicyclists;

(d) Implement the multifaceted program in all three school settings;

(e) Develop an evaluation plan that includes process, impact, and outcome data.

(f) Seek opportunities to expand the program to additional schools incorporating lessons learned;

(g) Development of a research protocol for IRB review by all cooperating institutions participating in the research project.

(h) Perform data analysis, compile results, and disseminate findings.

Part V—Multifaceted Program for the Prevention of Dog Bite Related Injuries

(a) Identify the target community whose population exceeds 300,000 with a documented stable crime rate.

(b) Establish a dog bite prevention coalition comprised of diverse disciplines.

(c) Conduct a community assessment to identify stakeholders, obtain baseline data on the magnitude of the problem; identify dog bite issues in the community, as well as previous dog bite prevention educational efforts.

(d) Identify existing dog bite prevention policies and regulations, and the extent to which they are enforced.

(e) Develop data collection procedures for identifying medically AND non-medically attended dog bites among the population.

(f) Develop an evaluation plan which includes both process and outcome evaluation.

(g) Adapt and implement school-based curriculum for target age groups to address bite prevention and responsible ownership.

(h) Develop and implement a multi-faceted community education program to reach adults, parents, and current and soon to be dog owners to address behavioral bite prevention measures and responsible dog ownership.

(i) Develop and implement educational plan or educational forum for health care and canine-related professionals.

(j) Develop and implement plan and materials for a media awareness campaign.

(k) Development of a research protocol for IRB review by all cooperating institutions participating in the research project.

(l) Compile and disseminate the results from the project.

2. CDC Activities for Five Priority Areas

(a) Provide technical consultation and advice on all aspects of recipient activities.

(b) Provide up-to-date scientific information about related injuries and prevention methods.

(c) Establish communication mechanisms by facilitating the transfer of technical and programmatic information.

(d) The CDC IRB will review and approve the protocol initially and on at least an annual basis until the research project is completed.

(e) Facilitate collaborate efforts to compile and disseminate program

results through presentations and publications.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 25 double-spaced pages, printed on one side, with one inch margins, and no smaller than 12 point font. Number each page consecutively and provide a complete table of contents. The entire application with appendices should be no longer than 70 pages total. The application must include a one-page abstract and summary of the proposed effort.

F. Submission and Deadline

Application

Submit the original and two copies of PHS 5161–1 (OMB Number 0937–0189) Forms are in the application kit. On or before July 10, 2000, submit the application to the Grants Management Specialist identified in the ''Where To Obtain Additional Information'' Section of this announcement.

Deadline

Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the independent objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications

Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated indidually against the following criteria by an independent review group appointed by CDC.

1. Background and Need (15 Percent)

The extent to which the applicant provides background information about the target communities (and control communities where applicable) and presents data justifying the need for the program in terms of magnitude of the injury problem using epidemiologic and local data.

The extent to which the applicant describes the benefits of developing, implementing, and evaluating the proposed intervention program.

The extent to which the applicant has the ability to accomplish the program, as demonstrated by relevant past or current injury prevention programs.

2. Goals, Objectives, and Methods (30 Percent)

The extent to which the applicant describes the overall goals and indicates the outcomes expected at the end of the project period.

The extent to which the applicant describes the specific program objectives needed to accomplish each goal. The extent to which the objectives are time-framed, measurable, and achievable.

The extent to which the applicant provides detailed descriptions (*i.e.*, who, what, how, and when) of the specific activities that will be undertaken to achieve each of the program objectives.

The extent to which the applicant includes a detailed time-line for year one indicating when each activity will occur and the responsible person; and a projected time-line for the second and third years of program activities. Include an organizational chart that shows placement of the program within the agency's organizational system.

The extent to which the applicant provides detailed descriptions of the intervention design, implementation plans, and all methods that will be used in each phase of the intervention.

The extent to which the applicant clearly describes the methodology for establishing the magnitude of the problem in the target population to derive baseline measures.

The extent to which the applicant has the knowledge and documented skills needed to carry out data collection, entry, and management; analyze data and report findings; perform surveillance activities including record reviews; and conduct program evaluation.

Where applicable, the extent to which the applicant conforms to the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes:

1. The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

2. The proposed justification when representation is limited or absent.

3. A statement as to whether the design of the study is adequate to measure differences when warranted.

4. A statement as to whether the plans for recruitment and outreach for study participants includes the process of establishing partnerships with community(ies) and recognition of mutual benefits.

3. Evaluation (25 Percent)

The extent to which the applicant provides detailed descriptions for evaluation of each program component and for the program overall, including process, impact, and outcome evaluations. Descriptions should include what data will be used, how it will be evaluated, how it will be collected, who will perform the evaluation including epidemiological analysis, and the time-frame for the evaluation. This should include progress in meeting the objectives and conducting activities during the project period.

The extent to which the applicant provides sample data collection and evaluation instruments.

The extent to which the applicant demonstrates that there will be available staff with the expertise and capacity to perform the proposed evaluation.

4. Collaboration (15 Percent)

The extent to which the applicant describes any proposed collaboration with other entities, especially, municipal departments, injury control research centers, professional organizations, local businesses, school systems, parent/teacher organizations, health care providers, fire departments, police, civic organizations, local public officials, and the media.

The extent to which the applicant provides the documented evidence of partnerships and access to local injury data.

The extent to which the applicant provides letters of commitment from each outside entity documenting their willingness, skills, and capacities to fulfill their specific roles and responsibilities.

The extent to which the applicant provides a clear description of the working relationships between the program and its partners.

5. Facilities, Staff, and Resources (15 Percent)

The extent to which the applicant demonstrates prior experience in the intervention area and has demonstrated the capacity for conducting and evaluating the proposed injury prevention program.

The extent to which the applicant describes the facilities and resources that are available for this program.

The extent to which applicant describes proposed staffing, and includes job descriptions and curriculum vitae indicating the applicant's ability to carry out the objectives of the program. Descriptions should include the position titles, education and experience, capabilities, and the percentage of time each person will devote to the program. Where applicable, identify a state and/or community program level coordinator(s) who has/have the authority, responsibility, and expertise to conduct and manage the program.

6. Budget and Justification (Not Scored)

The extent to which the applicant provides a detailed budget and narrative justification consistent with the stated objectives and planned program activities.

7. Human Subjects (Not Scored)

The extent to which the application adequately addresses the requirements of Title 45 CFR part 46 for the protection of human subjects.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of

1. Semiannual progress reports;
2. Financial status report, 90 days after the end of the budget period; and
3. Final financial status and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where To Obtain Additional Information'' Section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–7 Execute Order 12372 Review
AR–8 Public Health System Reporting Requirements
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–13 Prohibition on Use of CDC Funds for Certain Gun Control Activities

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 301(a), 317(k)(2), 391, 392, 394, and 394A [42 U.S.C. 241(a), 247b(k)(2), 280b, 280b–1, 280b–2, 280b–3] of the Public Health Service Act, as amended. The Catalog of Federal Domestic Assistance number is 93.136.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page on the Internet: http://www.cdc.gov. To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888 472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest. Please refer to Program Announcement 00090 when making your request. If you have questions after reviewing the content of all documents, business management and assistance may be obtained from: Sheryl L. Heard, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 00090, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Suite 3000, Atlanta, GA 30341–4146, Telephone (404) 488–2723, Email address slh3@cdc.gov.

For program technical assistance, contact:

Part I, Program to Increase Booster Seat Use Among Children Riding in Motor Vehicles. Tim W. Groza, MPA, Centers for Disease Control and Prevention, National Center for Injury Prevention and Control, 4770 Buford Highway N.E., Mailstop K63, Atlanta, GA 30341–3724, Telephone(770) 488–4676, Email: tgroza@cdc.gov.

Part II, Demonstration Program to Reduce Falls Among Older Adults. Mark Jackson, R.S., National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, 4770 Buford Highway, NE, Mailstop K63, Atlanta, GA 30341–3724, Telephone (770) 488–4754, E-mail address: mcj4@cdc.gov.

Part III, Program to Prevent Fire and Fall-Related Injuries to Older Adults. Pauline Harvey, MSPH, National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, 4770 Buford Highway, N.E., (K63), Atlanta, GA 30341–3724, Telephone: (770) 488–4592, E-mail: pdh7@cdc.gov.

Part IV, Multifaceted Teen and Young Adult Bicycle Safety Program. Mark Jackson, R.S., National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, 4770 Buford Highway, NE, Mailstop K63, Atlanta, GA 30341–3724, Telephone (770) 488–4754, Email address: mcj4@cdc.gov.

Part V, Multifaceted Program for the Prevention of Dog Bite Related Injuries. Mark Jackson, R.S., National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, 4770 Buford Highway, NE, Mailstop K63, Atlanta, GA 30341–3724, Telephone (770) 488–4754, E-mail address: mcj4@cdc.gov.

To order a copy of CDC's ''Demonstrating Your Program's Worth: A Primer on Evaluation for Programs to Prevent Unintentional Injury''; ''Remembering When: A Fire and Fall Prevention Program for Older Adults''; ''Injury Control Recommendations: Bicycle Helmets''; and, ''A Tool Kit to Prevent Senior Falls,'' go to: http://www.cdc.gov/ncipc/pub-res.

Dated: April 24, 2000.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–10684 Filed 4–27–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Center for Infectious Diseases: Addendum

Addendum

CDC is publishing this notice as a means of further explanation of the agenda item entitled, ''Transfer of Interstate Quarantine Authority.'' Published in the **Federal Register**, April 6, 2000, Volume 65, Number 67, page 18108–18109. This item engenders a discussion of the list of diseases for which individuals may be apprehended, detained, or conditionally released pursuant to the quarantine authorities provided in the Public Health Service Act.

In accordance with section 361(b) of the Public Health Service Act (42 U.S.C. 264(b)), the Board will consider and make recommendations regarding a list of diseases for which individuals may be apprehended, detained, or conditionally released in order to prevent the introduction, transmission or spread of such communicable disease from foreign countries into the United States or possession or from one state or possesion into another.

Name: Board of Scientific Counselors, National Center for Infectious Diseases (NCID).

Times and Dates: 9 a.m.–5:30 p.m., May 4, 2000. 8:30 a.m.–2:30 p.m., May 5, 2000.

Place: CDC, Conference Room Building 17, 1600 Clifton Road, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: The Board of Scientific Counselors, NCID, provides advice and guidance to the Director, CDC, and Director, NCID, in the following areas: Program goals and objectives; strategies; program organization and resources for infectious disease prevention and control; and program priorities.

Matters To Be Discussed: Agenda items will include:

1. NCID Update.
2. CDC Facilities Master Plan.
3. Laboratory Response Capacity.
4. Integrating Surveillance Systems—NEDSS.
5. Current Issues in Vaccine Development.
6. Tour of New Facility: Building 17.
7. Discussions.
8. Improving Communications.
9. Program Update: Mycotic Diseases.
10. Transfer of Interstate Quarantine Authority.
11. Late Breaker: Current Scientific Issues/Events.
12. Discussions and Recommendations.

Other agenda items include announcements/introductions; follow-up on actions recommended by the Board December 1999; consideration of future directions, goals, and recommendations.

Agenda items are subject to change as priorities dictate.

Written comments are welcome and should be received by the contact person listed below prior to the opening of the meeting.

Contact Person for More Information: Diane S. Holley, Office of the Director, NCID, CDC, M/S C–20, 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone 404/639–0078.

The Director, Management Analysis and Services office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: April 24, 2000.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 00–10681 Filed 4–27–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1257]

International Drug Scheduling; Convention on Psychotropic Substances; 4-Bromo-2,5-dimethoxyphenethylamine (2C-B); Gamma-hydroxybutyric acid (GHB); 4-Methylthioamphetamine (4-MTA); N-Methyl-1-(3,4-methylenedioxyphenyl)-2-butanamine (MBDB); Diazepam (INN); Zolpidem (INN)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting interested persons to submit comments concerning abuse potential, actual abuse, medical usefulness, and trafficking of six drug substances. These comments will be considered in preparing a response from the United States to the World Health Organization (WHO) regarding the abuse liability and diversion of these drugs. WHO will use this information to consider whether to recommend that certain international restrictions be placed on these drugs. This notice requesting comments is required by the Controlled Substances Act (CSA).

DATES: Submit written comments by May 15, 2000.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Corinne P. Moody, Center for Drug Evaluation and Research (HFD–009), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1999, e-mail: Moody@cder.FDA.gov.

SUPPLEMENTARY INFORMATION: The United States is a party to the 1971 Convention on Psychotropic Substances. Article 2 of the Convention on Psychotropic Substances provides that if a party to the convention or WHO has information about a substance, which in its opinion may require international control or change in such control, it shall so notify the Secretary General of the United Nations and provide the Secretary General of the United Nations with information in support of its opinion.

The CSA (21 U.S.C. 811 *et seq.*) (Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970) provides that when WHO notifies the United States under Article 2 of the Convention on Psychotropic Substances that it has information that may justify adding a drug or other substances to one of the schedules of the convention, transferring a drug or substance from one schedule to another, or deleting it from the schedules, the Secretary of State must transmit the notice to the Secretary of Health and Human Services (the Secretary of HHS). The Secretary of HHS must then publish the notice in the **Federal Register** and provide opportunity for interested persons to submit comments that will be considered by HHS in its preparation of the scientific and medical evaluations of the drug or substance. The Secretary of HHS received the following notices from WHO:

I. WHO Notification

Ref.: C.L.1.2000

WHO questionnaire for collection of information for review of dependence-producing psychoactive substances.

The Director-General of the World Health Organization presents her compliments and has the pleasure of informing Member States that the Thirty-second Expert Committee on Drug Dependence (ECDD) will meet from 11 to 14 September 2000 to review the following substances:

1. 4-Bromo-2,5-dimethoxyphenethylamine (2C-B)
2. Gamma-hydroxybutyric acid (GHB)
3. 4-Methylthioamphetamine (4-MTA)[1]
4. *N*-Methyl-l-(3,4-methylenedioxyphenyl)-2-butanamine (MBDB)
5. Diazepam (INN)
6. Zolpidem (INN)

One of the essential elements of the established review procedure is for the Secretariat to collect relevant information from Member States to prepare a Critical Review document for submission to the Expert Committee on Drug Dependence. The World Health Organization invites Member States to collaborate, as in the past, in this process by providing pertinent information mentioned in the attached questionnaire[2] concerning the substances listed above.

Further clarification on any of the above items can be obtained from Quality Assurance and Safety: Medicines (QSM), Essential Drugs and Medicines Policy (EDM), WHO, Geneva, to which replies should be sent not later than 1 May 2000.

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[1] If the reply to the questionnaire confirms a medical use of 4-MTA recognized by any Member State, the substance will be subjected to a prereview instead of a critical review.

[2] For Ministries of Health only.

GENEVA, 12 January 2000

WHO Questionnaire for review of dependence-producing psychoactive substances by the Thirty-second Expert Committee on Drug Dependence.

Substance reported on:

1. Availability of the substance (registered, marketed, dispensed, etc.);
2. Extent of the abuse or misuse[3] of the substance;
3. Degree of seriousness of the public health and social problems associated with the abuse of the substance (statistics on cases of overdose deaths, dependence, etc.); and
4. Any information on the nature and extent of illicit activities involving the substance (clandestine manufacture, smuggling, diversion, seizure, etc.).

In addition to the above, with regard to Diazepam (INN) report on:

5. The impact of transferring diazepam from Schedule IV to Schedule III of the Convention on Psychotropic Substances, 1971, and its effect on availability for medical use.

In addition to items 1 to 4 above, with regard to Zolpidem (INN) report on:

6. The impact of placing zolpidem in Schedule IV of the Convention on Psychotropic Substances, 1971, and its effect on availability for medical use.

II. Background

The substance 4-Bromo-2,5-dimethoxyphenethylamine (2C-B) is a structural analogue of the phenethylamine hallucinogens. In various preclinical and clinical studies, it has been described as a stimulant, depressant, and hallucinogen, but appears to more closely fit the profile of the latter. It is not marketed in the United States, however, it is controlled domestically in Schedule I of the CSA.

Gamma-hydroxybutyric acid (GHB) is a substance classified as a central nervous system depressant. It is not marketed in the United States. The Drug Enforcement Administration published a final rule on March 13, 2000 (65 FR 13235), placing gamma-hydroxybutyric acid and its salts, isomers, and salts of isomers into Schedule I of the CSA under Public Law 106–172. The final rule imposes Schedule III security requirements for registered manufacturers and distributors of GHB when it is manufactured, distributed, or possessed in accordance with FDA authorized investigational new drug exemptions under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)). If drug products containing GHB are approved by FDA, the final rule places FDA approved products containing GHB into Schedule III of the CSA under Public Law 106–172.

The substance 4-Methylthioamphetamine (4-MTA) is a compound structurally similar to amphetamine. 4-MTA is reported to have physiological effects similar to that of 3,4-methylenedioxyamphetamine (MDA) and 3,4-methylenedioxymethamphetamine (MDMA/ecstasy). The substance is not marketed in the United States. It is not specifically listed as a controlled substance in the United States. However, it is considered a Schedule I controlled substance as an analogue of either MDA or MDMA under the analogue provisions of the CSA.

N-Methyl-l-(3,4-methylenedioxyphenyl)-2-butanamine (MBDB) is a positional isomer of MDE (3,4-methylenedioxy-*N*-ethylamphetamine) which is controlled domestically in Schedule I. The psychoactive effects of MBDB have been described as hallucinogenic. It is not marketed in the United States. As an isomer of MDE, MBDB is a Schedule I substance in the United States.

Diazepam (INN) is a benzodiazepine derivative. It is marketed in the United States for the management of anxiety disorders or for the short-term relief of the symptoms of anxiety; in acute alcohol withdrawal, it is used in the symptomatic relief of acute agitation, tremor, impending or acute delirium tremens, and hallucinosis; as an adjunct for the relief of skeletal muscle spasm; spasticity caused by upper motor neuron disorders; athetosis; stiff-man syndrome; tetanus; as an adjunct in convulsive disorders; and as a premedication for relief of anxiety and tension in patients who are to undergo surgical procedures. Domestically, it is controlled in Schedule IV of the CSA. Diazepam is controlled internationally in Schedule IV of the Psychotropic Convention.

Zolpidem (INN) is a hypnotic agent with a chemical structure unrelated to benzodiazepines, barbiturates, or other drugs with known hypnotic properties. It interacts with a GABA–BZ receptor complex and shares some of the pharmacological properties of the benzodiazepines. It is marketed in the United States for the short-term treatment of insomnia. Domestically, it is controlled in Schedule IV of the CSA.

III. Opportunity to Submit Domestic Information

As required by section 201(d)(2)(A) of the CSA (21 U.S.C. 811 (d)(2)(A)), FDA, on behalf of the Department of Health and Human Services (DHHS), invites interested persons to submit comments regarding the six named drugs. Any comments received will be considered by DHHS when it prepares a scientific and medical evaluation of these drugs. DHHS will forward a scientific and medical evaluation of these drugs to WHO, through the Secretary of State, for WHO's consideration in deciding whether to recommend international control/decontrol of any of these drugs. Such control could limit, among other things, the manufacture and distribution (import/export) of these drugs and could impose certain recordkeeping requirements on them.

DHHS will not now make any recommendations to WHO regarding whether any of these drugs should be subjected to international controls. Instead, DHHS will defer such consideration until WHO has made official recommendations to the Commission on Narcotic Drugs, which are expected to be made in late 2000. Any DHHS position regarding international control of these drugs will be preceded by another **Federal Register** notice soliciting public comments as required by 201(d)(2)(B) of the CSA.

IV. Comments

Interested persons may submit to the Dockets Management Branch (address above) written comments regarding the drugs by May 15, 2000. This abbreviated comment period is necessary to allow sufficient time to prepare and submit the domestic information package by the deadline imposed by WHO. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 24, 2000.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 00–10631 Filed 4–27–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–1132–N]

Medicare Program; May 23, 2000, Meeting of the Competitive Pricing Advisory Committee

AGENCY: Health Care Financing Administration (HCFA), HHS.

[3] In this questionnaire, ''abuse or misuse'' refers to use of the substance other than for medical or scientific purposes.

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces a meeting of the Competitive Pricing Advisory Committee (the CPAC) on May 23, 2000. The Balanced Budget Act of 1997 (BBA) requires the Secretary of the Department of Health and Human Services (the Secretary) to establish a demonstration project under which payments to Medicare+Choice organizations in designated areas are determined in accordance with a competitive pricing methodology. The BBA requires the Secretary to create the CPAC to make recommendations on demonstration area designation and appropriate research designs for the project. The CPAC meetings are open to the public.

DATES: The meeting is scheduled for May 23, 2000, from 9 a.m. until 1 p.m., e.d.s.t.

ADDRESSES: The meeting will be held at the Double Tree Hotel Park Terrace, 1515 Rhode Island Avenue, NW., Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Sharon Arnold, Ph.D., Executive Director, Competitive Pricing Advisory Committee, Health Care Financing Administration, 7500 Security Boulevard C4–14–17, Baltimore, Maryland 21244–1850, (410) 786–6451. Please refer to the HCFA Advisory Committees Information Line (1–877–449–5659 toll free)/(410–786–9379 local) or the Internet (http://www/hcfa.gov/fac) for additional information and updates on committee activities.

SUPPLEMENTARY INFORMATION:

Section 4011 of the Balanced Budget Act of 1997 (BBA), Public Law 105–33, requires the Secretary of the Department of Health and Human Services (the Secretary) to establish a demonstration project under which payments to Medicare+Choice organizations in designated areas are determined in accordance with a competitive pricing methodology. Section 4012(a) of the BBA requires the Secretary to appoint a Competitive Pricing Advisory Committee (the CPAC) to meet periodically and make recommendations to the Secretary concerning the designation of areas for inclusion in the project and appropriate research design for implementing the project. The CPAC has previously met on May 7, 1998, June 24 and 25, 1998, September 23 and 24, 1998, October 28, 1998, January 6, 1999, May 13, 1999, July 22, 1999, September 16, 1999, October 29, 1999, and January 12, 2000.

The CPAC consists of 15 individuals who are independent actuaries; experts in competitive pricing and the administration of the Federal Employees Health Benefit Program; and representatives of health plans, insurers, employers, unions, and beneficiaries. The CPAC members are: James Cubbin, Executive Director, General Motors Health Care Initiative; Robert Berenson, M.D., Director, Center for Health Plans and Providers, HCFA; John Bertko, Actuary Principal, Humana Inc.; David Durenberger, Vice President, Public Policy Partners; Gary Goldstein, M.D., Healthcare Consultant; Samuel Havens, Healthcare Consultant; Margaret Jordan, Executive Vice President, Texas Health Resources; Chip Kahn, President, The Health Insurance Association of America; Cleve Killingsworth, President and CEO, Health Alliance Plan; Nancy Kichak, Director, Office of Actuaries, Office of Personnel Management; Len Nichols, Principal Research Associate, The Urban Institute; Robert Reischauer, President, The Urban Institute; John Rother, Director, Legislation and Public Policy, American Association of Retired Persons; Andrew Stern, President, Service Employees International Union, AFL–CIO; and Jay Wolfson, Director, The Florida Information Center, University of South Florida. The Chairperson is James Cubbin and the Co-Chairperson is Robert Berenson, M.D. In accordance with section 4012(a)(5) of the BBA, the CPAC will terminate on December 31, 2004.

The agenda for the May 23, 2000, meeting will include a discussion of the components of a Report to Congress being prepared by the CPAC. Section 533 of the Medicare, Medicaid, and State Child Health Insurance Program (SCHIP) Balanced Budget Refinement Act of 1999, Public Law 106–113, revised section 4011 of the BBA to require the CPAC to submit a report on the following topics:

- Incorporation of original Medicare fee-for-service into the demonstration.
- Requirements of quality activities under the demonstration.
- Inclusion of a rural area in the demonstration.

sbull Requirements of a benefit structure under the demonstration.

Individuals or organizations that wish to make 5-minute oral presentations on the agenda issues should contact the Executive Director, by 12 noon, May 18, 2000, to be scheduled. The number of oral presentations may be limited by the time available. A written copy of the oral remarks should be submitted to the Executive Director, no later than 12 noon, May 22, 2000. Anyone who is not scheduled to speak, may submit written comments to the Executive Director, by 12 noon, May 22, 2000.

The meeting is open to the public, but attendance is limited to the space available. Individuals requiring sign language interpretation for the hearing impaired or other special accommodation should contact the Executive Director at least 10 days before the meeting.

(Section 4012 of the Balanced Budget Act of 1997, Public Law 105–33 (42 U.S.C.1395w–23 note) and section 10(a) of Public Law 92–463 (5 U.S.C. App. 2, section 10(a))

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: April 18, 2000.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

[FR Doc. 00–10555 Filed 4–27–00; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–3053–N]

Medicare Program; Open Town Hall Meeting To Promote and Establish Partnerships Between the Medicare Peer Review Organizations (PROs) and Entities in the Health Care Community To Foster Health Care Quality Improvement—May 15, 2000

AGENCY: Health Care Financing Administration (HCFA), DHHS.

ACTION: Notice of meeting.

SUMMARY: This notice announces the second in a series of Partnership Open Town Hall Meetings for the purpose of exploring and exercising opportunities for the entire health care community to collaborate with the PROs on quality improvement projects that will raise the quality of care provided to Medicare beneficiaries and to all patients. The primary focus of the quality improvement partnerships will be six national clinical topics, including acute myocardial infarction, breast cancer, diabetes, heart failure, pneumonia, and stroke. We view this meeting as an opportunity to develop partnerships with the provider, practitioner, plan, purchaser and beneficiary communities. The meeting is open to the public, but attendance is limited to space available.

DATES *The meeting:* The meeting will be held on Monday, May 15, 2000, from 9:00 a.m. until 4:00 p.m., EDT.

Written Questions or Statements: We will accept written questions or other statements, not to exceed two (2) single-spaced, typed pages, preferably before the meeting, but until May 30, 2000.

ADDRESSES:

The Meeting: The meeting will be held at the Doubletree Hotel Pentagon City National Airport, 300 Army Navy Drive, Arlington, Virginia 22202. The hotel phone number is (703) 416–4100.

Written Questions or Statements: Send written questions or other statements to: Eugene Freund, MD, Clinical Advisor, Quality Improvement Group, Office of Clinical Standards and Quality, Health Care Financing Administration, S3–02–01, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

FOR FURTHER INFORMATION CONTACT: Monica L. Jackson, JW Associates, LLC; phone: (301) 495–9471; fax: (301) 495–5989; email: *mjackson@jwallc.com.*

SUPPLEMENTARY INFORMATION:

I. Provisions of This Notice

We are announcing the second in a series of Town Hall Meetings to provide a forum for health care entities and organizations (including practitioners, providers, health plans, other purchasers, beneficiaries and other interested parties) to partner on health care quality improvement projects relating to the activities of the PRO Sixth Round Contract, (also known as the PRO sixth Scope of Work, or 6th SOW). The meeting is open to the public, but attendance is limited to space available. Individuals must register in advance as described in section II of this notice.

The meeting will address partnering on quality improvement projects in both managed care and fee-for-service settings. The meeting will present models of existing partnerships involving the following entities:

—PROs, clinicians, and hospitals.
—PROs and business coalitions.
—Associations and communities.
—HCFA and accrediting bodies.

Additionally, we are very interested in receiving suggestions for additional approaches to collaborating with stakeholders sharing one or more of our quality improvement goals. There will be ample time allotted at the meeting for questions and suggestions.

We will also address concerns and issues regarding how partnering with the PROs can achieve quality improvements for Medicare beneficiaries as well as improved billing and payment accuracy. This second Town Hall Meeting will also provide an opportunity for further information exchange concerning the Health Care Quality Improvement Program (HCQIP) activities delineated in the PRO Sixth Round Contract under the clinical topics described as Tasks 1, 2 and 3.

Task 1 concerns National Quality Improvement Projects which focus on national health improvement clinical topics (for example, Acute Myocardial Infarction, Breast Cancer, Diabetes, Heart Failure, Pneumonia, and Stroke/Transient Ischemic Attack/Atrial Fibrillation). The PROs, in conjunction with their partners, will use standardized sets of quality indicators to identify the greatest opportunities to improve the care of Medicare beneficiaries in these clinical topic areas.

Task 2, Local Quality Improvement Projects, directs each PRO to initiate local projects within its State, in response to local interests, needs and opportunities. We are interested in increasing the PROs' experience in collaborating with providers, practitioners, plans, purchasers and beneficiaries to improve the quality of care they deliver. We are also interested in testing quality indicators and intervention strategies that reflect care in settings other than acute care hospitals and Medicare+Choice plans, as well as those that contribute to reducing the disparities in the quality of care delivered to members of disadvantaged groups.

Task 3 concerns Quality Improvement Projects in conjunction with Medicare+Choice (M+C) Plans. This task requires each PRO to offer its assistance to M+C Plans to implement quality improvement projects as part of the Quality Improvement System for Managed Care (QISMC) standards. Each M+C Plan must initiate two performance improvement projects annually.

Task 4, which is not on the agenda for this meeting, concerns the Payment Error Prevention Program (PEPP). It is a modified review activity that is intended to identify opportunities for improvement in the billing process to reduce the occurrence of incorrect payments resulting from billing errors. It is a cooperative program and includes no punitive actions. Errors may include both over billings and under billings. The error rate will be the total dollars paid, both above and below the correct amount. In the first year of the PROs 6th Round Contract, the PROs will conduct PEPP in two areas: unnecessary admissions and miscoded DRG assignments.

II. Registration and Rooms

JW Associates, LLC, is registering interested parties for the meeting. You may register by sending a fax to the For Further Information Contact. Registration forms may also be found on the Internet at *www.jwallc.com.* Please include your name, affiliation, address, telephone number, e-mail and fax number on your registration form. A number of rooms have been set aside for meeting attendees. To reserve a room, please contact the hotel directly.

III. Meeting Materials

All meeting materials will be provided at the time of the meeting. A summary of the initial July 1999 Partnership Town Hall Meeting can be found at the following website: www.hcfa.gov/quality/qlty-5b.htm.

Authority: Section 1102 of the Social Security Act (42 U.S.C. 1302).

Dated: April 25, 2000.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

[FR Doc. 00–10710 Filed 4–27–00; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301) 443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: The Ryan White CARE Act Client Demonstration Project Reporting System: NEW The Client Demonstration Project was established in 1994 to collect information from several Title I and Title II grantees and their subcontracted service providers about their individual clients. Demographic information, service utilization, and health indicators of all clients receiving services at providers funded by the Ryan White Comprehensive AIDS Resources

Emergency (CARE) Act are collected twice each year. A unique identifier is used to protect the anonymity of the clients, and as a further safeguard, this unique identifier is encrypted before it is sent to HRSA.

HRSA initiated the CDP to demonstrate (1) the feasibility of collecting client level demographic and service data on HIV/AIDS infected/affected clients across a network of service providers and (2) the usefulness of these data for planning and evaluation purposes at both the local and national levels. Through this system, HRSA sought to overcome the limitations of the Annual Administrative Report (AAR), the national reporting system for the Ryan White CARE Act. The AAR collects data aggregated at the grantee level and has duplicated counts of clients. The number of clients reported in the AAR overestimates the true number of clients. In addition, AAR data are not tied to any clinical or service outcome information at the client level. The feasibility of collecting client data has been demonstrated. The usefulness of these data for planning and evaluation purposes at both the local and national level has become increasingly evident. A number of client level analyses that were not possible with the AAR have been undertaken.

In addition to meeting the goal of accountability to Congress, clients, advocacy groups, and the general public, the CDP supports critical efforts by HRSA, state and local grantees, and providers to assess the health outcomes and the service utilization patterns of the individuals at these sites who are infected or affected by HIV/AIDS and receive care at a provider funded by the Ryan White CARE Act.

Outcome specific and treatment measures are collected in the data system. These data elements seek to document whether current standards of care as established by the Public Health Service are being adhered to at these Ryan White CARE Act facilities. The core set of data elements are largely unchanged from the AAR. Minor changes in the demographic data elements have been made as a result of meetings and input from the current grantees and their providers.

The estimated response burden is as follows:

Medical records source	Number of respondents	Responses per respondent	Total responses	Burden hour	Total burden hours
Providers with < 260 Clients	160	83	13,280	.5	6,640
Providers with >/= 260 Clients	42	929	39,018	.5	19,509
Total	202	52,298			26,149

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Wendy A. Taylor, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC, 20503.

Dated: April 24, 2000.

Jane Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 00–10632 Filed 4–27–00; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Request for Public Comment: 30 Day; Proposed Collection: Evaluation of the Indian Health Service/Bureau of Indian Affairs Training Practitioners Project

SUMMARY: In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed information collection projects, the Indian Health Service (IHS) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection project was published in the January 14, 1999, **Federal Register** (65 FR 2417) and allowed 60 days for public comment. No public comment was received in response to the notice. The purpose of this notice is to allow 30 days for public comment to be submitted to OMB.

Proposed Collection

Title: 09–17–0000, ''Evaluation of the Indian Health Service/Bureau of Indian Affairs Training Practitioners Project''.

Type of Information Collection Request: New collection. *Form Number:* None. *Need and Use of Information Collection:* The purpose of the proposed data collection is to evaluate and assess the overall effectiveness of the Indian Health Service (IHS) and Bureau of Indian Affairs (BIA) inter-agency sponsored national training project titled, ''IHS/BIA Training Practitioners in the Assessment and Treatment of Adolescent Sexual Perpetrators,'' conducted from 1993–1996 in 18 American Indian/Alaska Native (AI/AN) communities. The training project was established to provide mental health practitioners in AI/AN communities specialized training for the provision of mental health assessment and treatment services to juvenile sex offenders. The data collected is needed to assess respondent satisfaction/dissatisfaction with the training project, the clinical success/failure of the training on the juvenile sex offenders, the impact of using traditional healing treatment services with juvenile sex offenders, and to obtain recommendations for future clinical program planning. *Affected Public:* Individuals and households, State, Local or Tribal Government. *Type of Respondents:* Health care providers, juveniles, parent/caretakers, and various community members. Please see Table 1 for a listing of data collection instruments, estimated number of respondents, number of responses per respondent, annual number of responses, average burden hour per response, and total annual burden hour.

TABLE 1

Data collection instruments	Estimated No. of respondents	Responses per respondent	Annual number of responses	Average burden hour per response*	Total annual burden hours
Practitioner Trainee Questionnaire	159	1	159	0.50 (30 mins)	79.5
Practitioner Trainee Assessment	16	4	64	0.17 (10 mins)	10.9
Practitioner Trainee Interview	8	1	8	1.00 (60 mins)	8.0
Juvenile/Adult	61	1	61	0.50 (30 mins)	30.5
J/A Re-Offense	61	1	61	0.17 (10 mins)	10.4
Parent/Caretaker	122	1	122	0.50 (30 mins)	61.0
Community Key Informant Questionnaire	24	1	24	1.50 (90 mins)	36.0
Community Key Informant Interview	24	1	24	1.0 (60 mins)	24.0
Medical (Treatment and Health Review)	61	1	61	0.75 (45 mins)	45.7
Agency Record Review	61	1	61	1.00 (60 mins)	61.0
Total	597				367.0

*For ease of understanding, burden hours are also provided in actual minutes.

There are no Capital Costs, Operating Costs and/or Maintenance Costs to report.

Request for Comments: Your written comments and/or suggestions are invited on one or more of the following points: (a) whether the information collection activity is necessary to carry out an agency function; (b) whether the IHS processes the information collected in a useful and timely fashion; (c) the accuracy of the public burden estimate (the estimated amount of time needed for individual respondents to provide the requested information); (d) whether the methodology and assumptions used to determine the estimate are logical; (e) ways to enhance the quality, utility, and clarity of the information being collected; and (f) ways to minimize the public burden through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Send your written comments and suggestions regarding the proposed information collection contained in this notice, especially regarding the estimated public burden and associated response time, to: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for IHS.

To request more information on the proposed collection or to obtain a copy of the data collection instrument(s) and/or instruction(s), contact: Mr. Lance Hodahkwen, Sr., M.P.H., IHS Reports Clearance Officer, 12300 Twinbrook Parkway, Suite 450, Rockville, MD 20852.1601, or call non-toll free (301) 443–5938 or send via facsimile to (301) 443–2316, or send your E-mail requests, comments, and return address to: lhodahkw@hqe.ihs.gov.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received on or before May 30, 2000.

Dated: April 11, 2000.

Michael H. Trujillo,

Assistant Surgeon General, Director.

[FR Doc. 00–10543 Filed 4–27–00; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4566–N–05]

Notice of Proposed Information Collection: Comment Request Rental Rehabilitation Program

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments Due Date: June 27, 2000.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW, Room 7232, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Franklin Price, (202) 708–2094 Ext. 4572 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Rental Rehabilitation Program Reports.

OMB Control Number, if applicable: 2506–0080.

Description of the need for the information and proposed use: Although the Rental Rehabilitation Program was terminated October 1, 1991, Public Law 98–181 (97 Stat. 1153), Section 17, that originally authorized the Rental Rehabilitation Program still imposes data collection and reporting requirements upon HUD and grantees. The information will be used by HUD to account for program grant funds and to satisfy statutory reporting requirements.

Agency form numbers, if applicable: HUD–440014m HUD–40014–B, HUD–44021, and HUD–40070.

Members of affected public: State and local governments.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: Number of respondents—200; frequency of response—HUD–40014, HUD–40014–B, HUD–40021 once per project, and for HUD–40070 once annually per grantee; hours of response—19.5 hours per grantee.

Status of the proposed information collection: Reinstatement, with change, of a previously approved collection for which approval has expired.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: April 21, 2000.

Cardell Cooper,

Assistant Secretary for Community Planning and Development.

[FR Doc. 00–10658 Filed 4–27–00; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4561–N–33]

Notice of Submission of Proposed Information Collection to OMB; Notice of Funding Availability/Improving the Evaluation and Control of Residential Lead-Based Hazards

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* May 30, 2000.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2539–0010) and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail Wayne__Eddins@HUD.gov; telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Notice of Funding Availability/Improving the Evaluation and Control of Residential Lead-Based Hazards.

OMB Approval Number: 2539–0010.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use: The Office of Lead Hazard Control of the Department of Housing and Urban Development has published a Notice of Funds Availability (NOFA) for lead hazard control research for the past three years. The research is used to improve the efficacy and cost effectiveness of the evaluation and control of residential lead-based paint hazards, and to revise and update the guidelines for the evaluation and control of lead-based paint hazards in housing.

Respondents: Business or other for-profits, Not-for-profits and State, local, or Tribal Governments.

Frequency of Submission: On occasion, Semi-annually.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
	20		4		26.7		2,136

Total Estimated Burden Hours: 2,136.

Status: Extension of currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: April 21, 2000.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 00–10659 Filed 4–27–00; 8:45 am]

BILLING CODE 4110–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4557–N–17

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: April 28, 2000.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus

Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: April 20, 2000.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Special Needs Assistance Programs.

[FR Doc. 00–10306 Filed 4–27–00; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent To Prepare a Comprehensive Conservation Plan for Bayou Cocodrie National Wildlife Refuge in Concordia Parish, Louisiana

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service intends to gather information necessary to prepare a comprehensive conservation plan and associated environmental documents pursuant to the National Environmental Policy Act and implementing regulations to achieve the following:

(1) Advise other agencies and the public of our intentions, and

(2) To obtain suggestions and information on the scope of issues to include in the environmental documents.

DATES: Written comments should be received on or before June 27, 2000.

ADDRESSES: Address comments and requests for more information to the following: Refuge Manager, Bayou Cocodrie National Wildlife Refuge, P.O. Box 1772, Ferriday, Louisiana 71334, (318) 336–7119.

If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to the above address. You may also comment via the Internet to the following address: Jerome Ford_@fws.gov. Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at Bayou Cocodrie National Wildlife Refuge at the above address. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

SUPPLEMENTARY INFORMATION: By Federal law, all lands within the National Wildlife Refuge System are to be managed in accordance with an approved comprehensive conservation plan. These plans will guide management decisions and identify refuge goals, long-range objectives, and strategies for achieving refuge purposes. The planning process will consider many elements, including habitat and wildlife management, habitat protection and acquisition, public use, and cultural resources. Public input into this planning process is essential. Plans will provide other agencies and the public with a clear understanding of the desired conditions for the refuge and how the Service will implement management strategies.

Review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), National Environmental Policy Act Regulations (40 CFR parts 1500–1508), other appropriate Federal laws and regulations, including the National Wildlife Refuge System Improvement Act of 1997, Executive Order 12996, and Service policies and procedures for compliance with those regulations.

We estimate that the draft environmental documents will be available for public review by August 2000.

Dated: April 20, 2000.

H. Dale Hall,

Acting Regional Director.

[FR Doc. 00–10682 Filed 4–27–00; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent To Prepare a Comprehensive Conservation Plan for St. Marks National Wildlife Refuge in Wakulla, Jefferson, and Taylor Counties, Florida

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service intends to gather information necessary to prepare a comprehensive conservation plan and associated environmental documents pursuant to the National Environmental Policy Act and implementing regulations to achieve the following:

(1) Advise other agencies and the public of our intentions, and

(2) To obtain suggestions and information on the scope of issues to include in the environmental documents.

DATES: Written comments should be received on or before June 27, 2000.

ADDRESSES: Address comments and requests for more information to the following: National Resource Planner, St. Marks National Wildlife Refuge, 7298 Coastal Highway, Crawfordville, Florida 32372, (850) 925–1497.

If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to the above address. You may also comment via the Internet to the following address: Steven__ Ovenden@fws.gov. Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at St. Marks National Wildlife Refuge, at the above address. Finally, you may hand-deliver comments to the Refuge Visitor Center at 1255 Lighthouse Road, St. Marks, Florida. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We

will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

SUPPLEMENTARY INFORMATION: By Federal law, all lands within the National Wildlife Refuge System are to be managed in accordance with an approved comprehensive conservation plan. These plans will guide management decisions and identify refuge goals, long-range objectives, and strategies for achieving refuge purposes. The planning process will consider many elements, including habitat and wildlife management, habitat protection and acquisition, public use, and cultural resources. Public input into this planning process is essential. Plans will provide other agencies and the public with a clear understanding of the desired conditions for the refuge and how the Service will implement management strategies.

The Service will solicit information from the public via open houses, meetings, and written comments. Special mailings, newspaper articles, and announcements will inform people in the general refuge area of the time and place of such opportunities for public involvement. Review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), National Environmental Policy Act Regulations (40 CFR parts 1500–1508), other appropriate Federal laws and regulations, including the National Wildlife Refuge System Improvement Act of 1997, Executive Order 12996, and Service policies and procedures for compliance with those regulations.

We estimate that the draft environmental documents will be available in March 2002.

Dated: April 20, 2000.

H. Dale Hall,

Acting Regional Director.

[FR Doc. 00–10683 Filed 4–27–00; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Denial of Permit for Marine Mammals

On December 17, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 242, Page 70723, that an application had been filed with the Fish and Wildlife Service by Leviathan Legacy, Inc., for a permit (PRT–020346) for a permit to conduct scientific research with West Indian Manatees (Trichechus manatus).

Notice is hereby given that on April 18, 2000, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service denied the requested permit.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Rm 700, Arlington, Virginia 22203, phone (703) 358–2104 or Fax (703) 358–2281.

Dated: April 25, 2000.

Kristen Nelson,

Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 00–10642 Filed 4–27–00; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Geological Survey

Request for Public Comments on Information Collection To Be Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

A request extending the collection of information listed below will be submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the USGS Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made within 60 days directly to the USGS Clearance Officer, U.S. Geological Survey, 807 National Center, Reston, VA 20192. As required by OMB regulations at 5 CFR 1320.8(d)(1), the U.S. Geological Survey solicits specific public comments regarding the proposed information collection as to:

1. Whether the collection of information is necessary for the proper performance of the functions of the USGS, including whether the information will have practical utility;
2. The accuracy of the USGS estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
3. The utility, quality, and clarity of the information to be collected; and,
4. How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

Title: Comprehensive Test Ban Treaty.

Current OMB approval number: 1028–0059.

Abstract: The information, required by the Comprehensive Test Ban Treaty (CTBT), will provide the CTBT Technical Secretariat with geographic locations of sites where chemical explosions greater than 300 tons TNT-equivalent have occurred. Respondents to the information collection request are U.S. nonfuel minerals producers.

Bureau form number: 9–4040–A.

Frequency: Annual.

Description of respondents: Companies that have conducted in the last calendar year, or that will conduct in the next calendar year, explosions with a total charge size of 300 tons of TNT-equivalent, or greater.

Annual Responses: 3,000.

Annual burden hours: 750.

Bureau clearance officer: John Cordyack, 703–648–7313.

John H. DeYoung, Jr.,

Chief Scientist, Minerals Information Team.

[FR Doc. 00–10625 Filed 4–27–00; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF INTERIOR

Bureau of Land Management

[CA–610–5101–ER–G032; CACA–40467]

Proposed Right-of-Way for an AT&T Corp. Buried Fiber Optic Telecommunications System and Plan Amendment

AGENCY: Bureau of Land Management, California Desert District, DOI.

ACTION: Notice of Intent to Prepare an Environmental Assessment and an Amendment to the California Desert Conservation Area Plan.

SUMMARY: The Department of Interior, Bureau of Land Management (''BLM'') will prepare an Environmental Assessment for a right-of-way proposed by AT&T Corp. for a buried fiber optic telecommunications line and associated facilities. This system, running from Lamesa, Texas to Los Angeles, California, is called the AT&T-NexGen Project (''Project''). The proposed action, which crosses federal lands in the States of California, Arizona and New Mexico, will also include a proposed plan amendment to the California Desert Conservation Area (CDCA) Plan, since it specifically involves rights-of-way outside of designated utility corridors

on federal lands in Riverside, Imperial, and San Diego Counties, California.

The proposed Project would consist of five links: (1) Lamesa to El Paso, Texas; (2) El Paso, Texas to Tuscon, Arizona; (3) Tucson to Phoenix, Arizona; (4) Phoenix, Arizona to San Diego, California; and (5) San Diego to Los Angeles, California. The purpose being to construct, operate and maintain a buried fiber optic telecommunications system, including signal regeneration or optical amplification stations located every 40–50 miles, between Texas and California.

The project configuration, as proposed and including measures to avoid, minimize, or mitigate impacts on the environment, is being considered along with a ''No Project'' alternative. The BLM has been asked to issue rights-of-way for portions of this fiber optic system that cross federal lands.

SUPPLEMENTARY INFORMATION: The California portion of this Project begins at the Point of Presence (POP) in Blythe, California, and would travel in a southwesterly direction along Highway 78 and Old Highway 80 through the following city jurisdictions: Blythe, Brawley, El Centro, El Cajon, La Mesa, and San Diego. From San Diego north to Los Angeles the route would primarily parallel the coast. In addition, the route would pass through large portions of unincorporated areas in Riverside, Imperial and San Diego Counties, and would also cross Cleveland National Forest, public lands administered by the BLM, as well as the La Posta and Campo Indian Reservations. It would require an urban build through San Diego and Los Angeles, terminating at the POP in Los Angeles, California.

The fiber optic telecommunications system project entails the design and construction of a six-duct conduit system and ancillary facilities to accommodate digital broadband Internet Protocol. Ancillary facilities would include: regeneration stations and Optical Amplification (Op Amp) Stations spaced an average of 50 miles; buried splice boxes placed at 2,500-foot intervals; and market poles placed 500 feet apart. The Project, as proposed, should contribute small to no additional impacts to the environment and would operate entirely within previously disturbed and routinely maintained road rights-of-way. The proposed alignment is shorter and thus could present fewer impacts on the environment than construction entirely within a utility corridor.

DATES: Written comments are requested on this notice concerning the scope of analysis of the Environmental Assessment. Comments must be received on or before May 30, 2000. It is important that those interested in the management of the BLM properties within the Project area provide input at this time. A Notice of Availability will be published when the Environmental Assessment is complete.

ADDRESSES: Please submit comments concerning the scope of the analysis for the Proposed AT&T Corp. Buried Fiber Optic Telecommunications System and Plan Amendment in writing to Mr. Stephen Johnson, Bureau of Land Management, California Desert District, 6221 Box Springs Boulevard, Riverside, California, 92507.

FOR FURTHER INFORMATION CONTACT: Contact Mr. Stephen Johnson at the above address or at (909) 697–5233.

Dated: April 24, 2000.

Douglas A. Romoli,

Acting District Manager.

[FR Doc. 00–10679 Filed 4–27–00; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–200–1430–EQ COC–63465]

Notice of Realty Action—Chaffee County, CO

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action COC–63465, Federal Land Policy and Management Act Section 302 Lease, in Chaffee County, Colorado.

SUMMARY: The following public land, northeast of Salida, Colorado is available for lease under Section 302 of the Federal Land Policy and Management Act of 1976 as amended, and the regulations thereunder 43 CFR 2920 for agricultural use.

New Mexico Principal Meridian, Colorado

T. 50 N., R. 8E., Section 14 S½S½SE¼NE¼, an 800 foot by 200 foot portion consisting of approximately 3.67 acres.

Adjacent landowner Chris Nachtrieb would be offered a 20 year lease to allow a center pivot irrigation system that exists on his adjacent private land to cross and irrigate the above described Public land as well as operate a hay production operation thereon.

DATES: Interested parties may submit comments on this action on or before June 15, 2000.

ADDRESSES: Field Officer Manager, Bureau of Land Management, 3170 East Main St., Canon City, CO 81212.

FOR FURTHER INFORMATION CONTACT: David Hallock, BLM Realty Specialist, at the above address, e-mail *dave_hallock@CO.BLM.gov,* or phone: (719) 269–8536.

SUPPLEMENTARY INFORMATION: The pivot irrigation system is crossing the corner of an isolated 40 acre parcel of Public land that is surrounded by private land and is without legal public access.

Levi D. Deike,

Field Office Manager.

[FR Doc. 00–10586 Filed 4–27–00; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–020–00–1060–PD: GP0–0100]

Notice of Supplementary Rules on Public Land in Oregon

AGENCY: Bureau of Land Management (BLM), Burns District, Oregon, DOI.

ACTION: Supplementary rules for public land within the Three Rivers Resource Area, Burns District, Oregon.

SUMMARY: These supplementary rules will apply to the public land within the Wild Horse Corrals facility in the Three Rivers Resource Area, Burns District, Harney County, Oregon. The supplementary rules are needed to protect the area's wild horses and burros, ensure public health and safety, protect resources from damage, and safeguard government property. The Burns Wild Horse Corrals facility is located west of Hines, Oregon, within Section 6 of Township 24 South, Range 30 East of the Willamette Meridian. The supplementary rules serve to limit entry to the regular working hours of the facility, prevent entry on service roads or cross-country travel. This facility is already closed and the main access road gate locked after regular working hours. This notice enables the BLM to limit access to a sensitive facility.

DATES: These supplementary rules will take effect upon the published date of this notice.

Supplementary Rules for the Burns Wild Horse Corrals Facility

Under 43 CFR 8365.1–6, the BLM will enforce the following rules on the public land within the Burns Wild Horse Corrals facility, Three Rivers Resource Area, Burns District, Oregon. You must follow these rules:

1. You must not enter the facility except during regular business hours of 8:00 a.m. to 3:00 p.m., Monday through

Friday, excluding Federal holidays or during an adoption process.

2. You must not enter the facility through any other location other than the main gate located off Highway 20.

3. You must not drive any vehicle anywhere in the facility except along the main entrance road from the entry gate to the public parking lot.

4. You must obey all posted signs.

Exemptions

Persons who are exempt from these rules include any Federal, State or local officer or employee in the scope of their duties, members of any organized rescue or firefighting force in performance of an official duty, and any person authorized in writing by the BLM.

Penalities

On public land, under Section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)) and 43 CFR 8360.0–7 any person who violates any of these supplementary rules within the boundaries established in the rules may be tried before a United States Magistrate and fined no more than $1,000 or imprisoned for no more than 12 months, or both. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

FOR FURTHER INFORMATION CONTACT: Cody Hansen, Three Rivers Resource Area Manager, HC 74–12533 Highway 20 West, Hines, Oregon 97738, telephone (541) 573–4400.

Dated: March 17, 2000.

Chuck Wassinger,

Associate, State Director.

[FR Doc. 00–10213 Filed 4–27–00; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–021–00–1220–AF]

Modification of Firearms Closure for the William L. Matthews Wildlife Habitat and Recreation Area, Montana

AGENCY: Bureau of Land Management, Miles City Field Office, Interior.

ACTION: Modification of firearms closure to further restrict the discharge of firearms on the William L. Matthews Wildlife Habitat and Recreation Area, Custer County, Montana.

SUMMARY: On May 31, 1994, the Bureau announced, through the **Federal Register**, a rule to close the William L. Matthews Wildlife Habitat and Recreation Area to discharge of rifles and pistols year-long. Further analysis and coordination with various interests, landowners and agencies have identified the need to expand the rule as follows to improve visitor safety and reduce conflicts:

The area of public land known as William L. Matthews (formerly Tusler) Wildlife Habitat and Recreation Area is closed to discharge or use of all firearms including archery equipment with the following exceptions: (1) Law enforcement officers in performance of their official duties; and (2) use of shotguns and archery equipment for hunting during the State of Montana's legal upland game bird and waterfowl hunting seasons. For the purpose of this rule, a firearm is a rifle, pistol, shotgun and bow and arrow. Even though seasonal hunting is allowed on site, shooting is not allowed at any time in the picnic area. The intent is to prohibit target shooting to improve safety for non-hunting visitors.

The public land affected by this closure is described as:

Principal Meridian, Montana

T. 9N., R. 48E.,

Sec. 30, lots 5 and 6, and that portion of the W½SE¼ lying westerly of the Chicago, Milwaukee, St Paul, and Pacific Railroad right-of-way.

Consisting of 74.38 acres of surface estate.

DATES: Comments on the proposed modification must be submitted on or before May 30, 2000.

ADDRESSES: Comments may be submitted to Field Manager, Miles City Field Office, 111 Garryowen Road, Miles City, MT 59301.

FOR FURTHER INFORMATION CONTACT: Dan Bricco, Outdoor Recreation Planner, Miles City Field Office, 111 Garryowen Road, Miles City, MT 59301 or call (406) 233–2827.

SUPPLEMENTARY INFORMATION: Barring any comments that cause BLM to reconsider the modification, this rule becomes effective the day after the comment period ends. Opening this area will require public participation and an opening order published in the **Federal Register**.

Authority for this action is outlined in sections 302, 303, and 310 of the Federal Land Policy and Management Act of October 26, 1976 (43 U.S.C. 1716) Title 43 Code of Federal Regulations subpart 8364 (43 CFR 8364.1). Any person who fails to comply with this closure is subject to a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

Dated: April 18, 2000.

Timothy M. Murphy,

Field Manager.

[FR Doc. 00–10626 Filed 4–27–00; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

National Park Service

Selma to Montgomery National Historic Trail Advisory Council; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, Public Law 92–463, that a meeting of the Selma to Montgomery National Historic Trail Advisory Council will be held May 24, 2000 at 9:30 am, at the town hall in Whitehall, Alabama.

The Selma to Montgomery National Historic Trail Advisory Council was established pursuant to Public Law 100–192 establishing the Selma to Montgomery National Historic Trail. This law was put in place to advise the National Park Service on such issues as preservation of trail routes and features, public use, standards for posting and maintaining trail markers, and administrative matters.

The matters to be discussed include:

A. Update on status of Cultural Resource Inventory.

B. Update of High priority projects.

C. Further define high priority projects as input to ALDOT application for FY 2001 Scenic Byways funds. The application is due June 2000.

D. Update on Welcome Center at the Tent City Site.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited and persons will be accommodated on first come, first serve basis. Any member of the public may file a written statement concerning the matters to be discussed with Lee Edwards, Trail Superintendent.

Person wishing further information concerning this meeting, or who wish to submit written statements may contact Lee Edwards, Trail Superintendent, Selma to Montgomery National Historic Trail, P.O. Box 5690, Montgomery, AL 36103, telephone 334–353–3744 or 334–727–6390.

Lee Edwards,

Trail Superintendent.

[FR Doc. 00–10587 Filed 4–27–00; 8:45 am]

BILLING CODE 4310–70–U

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing that the information collection requests for the titles described below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The information collection requests describe the nature of the information collections and their expected burden and cost.

DATES: Comments must be submitted on or before May 30, 2000, to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: To request a copy of either information collection request, explanatory information and related form, contact John A. Trelease at (202) 208–2783. You may also contact Mr. Trelease at jtreleas@osmre.gov.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement 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)). OSM has submitted two requests to OMB to renew its approval for the collections of information found at 30 CFR part 779, Surface mining permit applications—minimum requirements for environmental resources; and for the Coal Production and Reclamation Fee Report—Form OSM–1. OSM is requesting a 3-year term of approval for these information collection activities.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for these collections of information are 1029–0035 for Part 779 and 1029–0063 for the OSM–1 form.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on these collections of information was published on February 16, 2000 (65 FR 7881). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activities.

Title: Surface mining permit applications—minimum requirements for environmental resources, 30 CFR part 779.

OMB Control Number: 1029–0035.

Summary: Applicants for surface coal mining permits are required to provide adequate descriptions of the environmental resources that may be affected by proposed surface mining activities. The information will be used by the regulatory authority to determine if the applicant can comply with environmental protection performance standards.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: Coal mining companies and State regulatory authorities.

Total Annual Responses: 315.

Total Annual Burden Hours: 51,188 hours.

Title: Coal Reclamation Fee Report—OSM–1 Form.

OMB Control Number: 1029–0063.

Summary: The information is used to maintain a record of coal produced for sale, transfer, or use nationwide each calendar quarter, the method of coal removal and the type of coal, and the basis for coal tonnage reporting in compliance with 30 CFR 870 and section 401 of Pub. L. 95–87. Individual reclamation fee payment liability is based on this information. Without the collection of information OSM could not implement its regulatory responsibilities and collect the fee.

Bureau Form Number: OSM–1.

Frequency of Collection: Quarterly.

Description of Respondents: Coal mine permittees.

Total Annual Responses: 15,804.

Total Annual Burden Hours: 4,280.

Send comments on the need for the collection of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collection; and ways to minimize the information collection burden of respondents, such as use of automated means of collection of the information, to the following address. Please refer to the appropriate OMB control number in all correspondence.

ADDRESSES: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of Interior Desk Officer, 725 17th Street, NW, Washington, DC 20503.

Dated: April 21, 2000.

Richard G. Bryson,

Chief, Division of Regulatory Support.

[FR Doc. 00–10608 Filed 4–27–00; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF JUSTICE

Notice of Consent Judgment Pursuant to the Clean Air Act

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed Consent Decree in *United States* v. *Big Apple Wrecking Corp., et al.,* 88 Civ. No. 9190 (D.S.N.Y.) (DNE), was lodged in the United States District Court for the Southern District of New York on March 30, 2000. This is an action brought under section 113(b) of the Clean Air Act (the ''Act''), 42 U.S.C. 7413(B), for civil penalties and injunctive relief for violations of the Act, 42 U.S.C. 7401 et seq., and of the asbestos National Emission Standard for Hazardous Pollutants (the ''asbestos NESHAP''), 40 CFR part 61, Subpart M. promulgated pursuant to section 112 of the Act, 42 U.S.C. 7412.

The proposed Consent Decree resolves the claims against defendants Big Apple Wrecking Corporation (''Big Apple''), DeMatteis Construction Corporation and Crescent-Duane Co. for their failures to comply with work practice standards contained in the asbestos NESHAP during the removal, handling and disposal of asbestos from a building being demolished at 105–107 Duane Street in New York City (the ''Duane Street site''). The Consent Decree provides that Big Apple Wrecking Corporation will pay $15,000.00, and DeMatteis Construction Corporation and Crescent-Duane Co. will pay, collectively, $25,000.00 to the United States as civil penalties. The Consent Decree also includes general injunctive relief that prohibits future violations of the Act and the asbestos NESHAP, and requires the defendants to provide notice to EPA of future demolition or renovation operations. The Consent Decree resolves only those civil claims alleged in the complaint against settling defendants.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, written comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environmental and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Big Apple Wrecking Corp., et al.,* DOJ

#90–5–2–1–1281, 88 Civ. No. 9190 (DNE).

The proposed Consent Decree may be examined at the Office of the United States Attorney, Southern District of New York, 100 Church Street, 19th Floor, New York, New York 10007; and at the Region II Office of the U.S. Environmental Protection Agency, 290 Broadway, New York, New York 10278. Copies of the Consent Decree may be obtained by mail from the Consent Decree Library, United States Department of Justice, PO Box 7611 Ben Franklin Station, Washington, DC 20044, (202) 514–1547. In requesting a copy, please enclose a check in the amount of $3.25 (25 cents per page reproduction costs) payable to the Consent Decree Library.

Walker B. Smith,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–10593 Filed 4–27–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Corrected Notice of Lodging of Consent Decree Pursuant to the Clean Water Act (''CWA'') and the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA'')

On April 7, 2000, a Notice of Lodging was published in the **Federal Register** stating that a Consent Decree had been lodged in *United States* v. *Gulf States Steel, Inc.,* in the United States District Court for the Northern District of Alabama on March 28, 2000 (CV–97–BU–2755–M). *See* 65 FR 18351 (April 7, 2000).

This Notice of Lodging contained a typographical error. Specifically, the original Notice of Lodging stated that Gulf States Steel had agreed to undertake certain Supplemental Environmental Projects (SEPs) in the amount of at least $206 million as part of its Consent Decree resolving its Clean Water Act liability. The actual SEP amount contained in the Consent Decree with the United States is 42.6 million.

Due to the typographical error in the original publication, the Department of Justice will extend the comment period for an additional ten (10) days. Thus, the Department of Justice will receive, for a period of forty (40) days from the date of the original **Federal Register** publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Washington, DC 20044; and refer to *United States* v. *Gulf States Steel, Inc.,* DOJ Ref. #90–5–1–1–4211.

The proposed settlement agreement may be examined at the Office of the United States Attorney, 1800 Fifth Avenue, North, Birmingham, Alabama, 35203, and at the office of the Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, GA 30303. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $4.25 (25 cents per page reproduction costs).

Bruce Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–10686 Filed 4–27–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to The National Cooperative Research and Production Act of 1993—Advanced Lead-Acid Battery Consortium (ALABC)

Notice is hereby given that, on October 6, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Advanced Lead-Acid Battery Consortium has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, AeroVironment, Inc., Monrovia, CA has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Advanced Lead-Acid Battery Consortium intends to file additional written notification disclosing all changes in membership.

On June 15, 1992, Advanced Lead-Acid Battery Consortium filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 29, 1992 (57 FR 33522).

The last notification was filed with the Department on April 8, 1999. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 26, 1999 (64 FR 28515).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–10621 Filed 4–27–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant To The National Cooperative Research and Production Act of 1993—Affymetrix, Inc., Molecular Dynamics, Inc. and Molecular Applications Group

Notice is hereby given that, on August 17, 1999, pursuant to Section 6(a) of the National cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Affymetrix Gene Chip has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Affymetrix, Inc., Santa Clara, CA; Molecular Dynamics, Inc., Sunnyvale, CA; and Molecular Applications Group, Palo Alto, CA. The nature and objectives of the venture are to conduct research and development activities relating to the miniature integrated nucleic acid diagnostic (MIND) development. The work is being performed pursuant to Proposal No. 94–05–0016 made to the National Institute of Standards and Technology, United States Department of Commerce, Advanced Technology Program (''the Proposal''). The work will be performed to generate and develop nucleic acid evaluation systems for use in, for example, DNA diagnostics, research, forensics, and other applications.

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 00–10596 Filed 4–27–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Commercenet Consortium, Inc.

Notice is hereby given that, on December 2, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), CommerceNet Consortium, Inc. (the ''Consortium'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Connectinc.com, Mountain View, CA; Cohera Corporation, Hayward, CA; EPRICSG, Palo Alto, CA; and bTrade.com, Dallas, TX have joined the Consortium as Core members. Ocwen Technology Xchange, West Palm Beach, FL; and Inforonics.com, Littleton, MA have joined the Consortium as Portfolio members. Also, Inference Corporation, Novato, CA has been dropped as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CommerceNet Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On June 13, 1994, CommerceNet Consortium, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on August 31, 1994 (59 FR 45012).

The last notification was filed with the Department on October 14, 1999. A notice has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–10602 Filed 4–27–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to The National Cooperative Research and Production Act of 1993—Digital Imaging Group, Inc.

Notice is hereby given that, on December 2, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. *et. seq.* (''the Act''), Digital Imaging Group, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, AXS Technologies SA, Lousanne, SWITZERLAND; Alchemedia, San Francisco, CA; Museum Informatics Project, Berkeley, CA; and Pegasus Imaging Corp., Tampa, FL have been added as parties to this venture. Also, Sound Vision, Inc., Framingham, MA; and Micrografx, Inc., Richardson, TX have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the joint venture. Membership in this joint venture remains open, and Digital Imaging Group, Inc. intends to file additional written notification disclosing all changes in membership.

On September 25, 1997, Digital Imaging Group, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 10, 1997 (62 FR 60530).

The last notification was filed with the Department on August 19, 1999. A notice has not yet been published in the **Federal Register.**

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–10601 Filed 4–27–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—General Motors Corporation: Restraints Deployment Bus Working Group

Notice is hereby given that, on October 7, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), General Motors Corporation has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are General Motors Corporation, Detroit, MI; Chrysler Corporation, Auburn Hills; MI; and Ford Motor Company, Dearborn, MI. The nature and objectives of the venture are to research ways to transfer some electronics from the airbag control module to the airbag igniters. It is expected that the igniters will be able to diagnose their health better than the control module is able to do today. It is also expected that the system will become much more robust against wiring issues that are a primary issue with today's technology. To accomplish this objective, the parties are working together and with various potential suppliers to develop this technology. The parties expect to share the information generated with other suppliers and vehicle manufacturers in the future. To accomplish this objective, the parties will perform acts allowed by the National Cooperative Research and Production Act that would advance these goals.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–10622 Filed 4–27–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Integrated Shipbuilding Environment Consortium

Notice is hereby given that, on December 7, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Integrated Shipbuilding Environment Consortium (''ISEC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Electric Boat Corporation, Groton, CT; Intergraph Corporation, Huntsville, AL; Newport News Shipbuilding and Dry Dock Company, Newport News, VA; NIIP, Inc., Stamford, CT; and NNS Research Inc, Newport News, VA. The nature and objectives of the venture are the development of industry software protocols that will integrate electronic business environments across the U.S. shipbuilding industry.

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 00–10594 Filed 4–27–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Inter Company Collaboration for Aids Drug Development

Notice is hereby given that, on October 25, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Inter Company Collaboration for AIDS Drug Development (the ''Collaboration'') filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, although no changes have been made in the membership of the Collaboration, Collaboration Member Gilead Sciences of Foster City, CA, has acquired NeXstar Pharmaceuticals, Inc. of Boulder, CO.

No other changes have been made in either the membership or planned activity of the collaboration. Membership in the Collaboration remains open, and the Collaboration intends to file additional written notification disclosing all changes in membership.

On May 27, 1993, the Collaboration filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 6, 1993 (58 FR 36223).

The last notification was filed with the Department on June 29, 1999. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on September 22, 1999, (64 FR 51337).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–10620 Filed 4–27–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; OBI Consortium, Inc.

Notice is hereby given that, on November 26, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ''the Act''), OBI Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Chase Manhatten Bank, Brooklyn, NY; and Itec AB, Stockholm, Sweden have been added as parties to this venture. Also, Johnson & Johnson, New Brunswick, NJ has been dropped as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and OBI Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On September 10, 1997, OBI Consortium, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on November 10, 1997 (62 FR 60531).

The last notification was filed with the Department on August 23, 1999. A notice has not yet been published in the**Federal Register.**

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–10604 Filed 4–27–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Portland Cement Association (''PCA'')

Notice is hereby given that, on October 25, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Portland Cement Association (''PCA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, RMC Pacific Materials Inc., Pleasanton, CA; and Southdown, Inc., Owen Sound, Ontario, Canada have been added as parties to this venture. Also, RMC Lonestar, Pleasanton, CA has been dropped as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Portland Cement Association (''PCA'') intends to file additional written notification disclosing all changes in membership.

On January 7, 1985, Portland Cement Association (''PCA'') filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 5, 1985 (50 FR 5015).

The last notification was filed with the Department on September 7, 1999.

A Notice has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 00–10598 Filed 4–27–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Project DeepLook

Notice is hereby given that, on October 13, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Project DeepLook has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Aramco Services Company, Houston, TX; CiDRA Corporation, Houston, TX; Gas Research Institute, Chicago, IL; and Baker Hughes, Houston, TX have been added as parties to this venture. Also, Mobil Technology Company, Dallas, TX; and Western Atlas International, Inc., Houston, TX have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Project DeepLook intends to file additional written notification disclosing all changes in membership. Information regarding participation in the group research project, may be obtained from Edward T. Stoessel, BP Exploration & Oil Co., 200 Westlake Park Blvd., Houston, TX 77079 and Richard J. Goetsch, Esq., BP Amoco Corporation, 200 East Randolph Drive, MC–1907B, Chicago, IL 60601.

On September 18, 1997, Project DeepLook filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on October 31, 1997 (62 FR 58983).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–10619 Filed 4–27–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Salutation Consortium, Inc.

Notice is hereby given that, on December 6, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Salutation Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, MicroBurst, Inc., Rockville, MD; TRG Products, Inc., Des Moines, IA; Dr. Tomohiro Takagi, Kawasaki-shi Kanagawa-ken, Japan; Infrared Data Association, Walnut Creek, CA; Stephen P. Reiss, Providence, RI; and Dr. Tamal Bose, Denver, CO have been added as parties to this venture. Also, Advanced Peripherals Technologies, Inc., Fujisawa-shi, Kanagawa-ken, Japan has been dropped as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Salutation Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On March 30, 1995, Salutation Consortium, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on June 27, 1995 (60 FR 33233).

The last notification was filed with the Department on August 12, 1999. A notice has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–10595 Filed 4–27–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTIC

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Siemens Westinghouse: Dual-Fuel Catalytic Combustion for Advanced Gas Turbines

Notice is hereby given that, on July 20, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Siemens Westinghouse: Dual-Fuel Catalytic Combustion for Advanced Gas Turbines has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Siemens Westinghouse Power Corporation, Orlando, FL; and Precision Combustion, Incorporated, New Haven, CT. The nature and objectives of the venture are to develop a dual-fuel catalytic system for high-temperature gas turbine engines for the power generation industry under the subject Advanced Technology Program of the National Institute of Standards and Technology, Department of Commerce.

Constance K. Robinson,

Director of Operations Antitrust Division

[FR Doc. 00–10599 Filed 4–27–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; SMC Research Consortium

Notice is hereby given that, on September 16, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), SMC Research Consortium has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to

actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are The Budd Company, Troy, MI; Cambridge Industries, Inc., Madison Heights, MI; and Venture Holdings Corporation, doing business as Bailey Manufacturing Corporation, Fraser, MI. The nature and objectives of the venture are to engage in joint research projects to address, analyze and resolve manufacturing problems common to molders of plastic sheet molding compounds including, for example, coatings; edge finishing; repair systems; surface measurement; and shipping rack design.

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 00–10597 Filed 4–27–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Frame Relay Forum

Notice is hereby given that, on December 8, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), The Frame Relay Forum (FRF) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ASC, Vienna, VA; TeraGen, San Jose, CA; Science Dynamics, Cherry Hill, NJ; Advantel S.A., Garza Garcia, Nuevo Leon, MEXICO; and T–DATA, Bonn, GERMANY have joined FRF as worldwide members. Ascend Communication, Westford, MA has changed its name to Lucent Technologies, Westford, MA; and Hewlett Packard, Colorado Springs, CO has changed its name to Agilent Technologies, Colorado Springs, CO.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and The Frame Relay Forum (FRF) intends to file additional written notification disclosing all changes in membership.

On April 10, 1992, The Frame Relay Forum (FRF) filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 2, 1992 (57 FR 29537).

The last notification was filed with the Department on July 22, 1999. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 2, 1999 (64 FR 67589).

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 00–10600 Filed 4–27–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Wireless Application Protocol Forum (''WAP'')

Notice is hereby given that, on July 9, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Wireless Application Protocol Forum (''WAP'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ASL, Bristol, United Kingdom; AU-System Mobile AB, Stockholm, SWEDEN; Baltimore Technologies, Dublin, Ireland; BEA WebXpress;, San Francisco, CA; Cap Gemini, Puteaux, Cedex, France; Digital Mobility Ltd., London, United Kingdom; East Digifone, Dublin, Ireland; Hitachi Ltd., Tokyo, Japan; Japan Telecom Ltd., Tokyo, Japan; Lexacom Inc., Montreal, Quebec, Canada; MapQuest.com Inc., Mountville, PA; Merita Bank Plc, Merita, Finland; Microsoft, Redmond, WA; Mobile Services Group, Irving, TX; Orange Communications SA, Lausanne, Switzerland; Peramon Technology Ltd., Reading, United Kingdom; Razorfish, Inc., Helsinki, Finland; Sun Microsystems, Palo Alto, CA; TAN TAU Software Inc., Utrecht, The Netherlands; Telecom Wireless Solutions, Alpharetta, GA; UBS, Zurich, Switzerland; Usha Communication Technology, Portland, OR; WapIT Ltd., Helsinki, Finland; and Wireless Knowledge, San Diego, CA have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Wireless Application Protocol Forum (''WAP'') intends to file additional written notification disclosing all changes in membership.

On March 18, 1998, Wireless Application Protocol Forum (''WAP'') filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on December 31, 1998 (63 FR 72333).

The last notification was filed with the Department on April 6, 1999. A notice has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 00–10603 Filed 4–27–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 24, 2000, Eli-Elsohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, Mississippi 38655, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Dihydromorphine (9145)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Benzoylecqonine(9180)	II
Hydrocodone (9193)	II
Morphine (9300)	II

The firm plans to bulk manufacture non-deuterated controlled substances for use as analytical standards and deuterated controlled substances for ause as internal standards.

Any other such applicant and any person who is persently registered with DEA to manufacturer such substance may file comments or objections to the issance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to

the Deputy Assistance Administrator, office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than June 27, 2000.

Dated: April 18, 2000.

John H. King,

Deputy Assistant Administrator, Office of Division Control, Drug Enforcement Administration.

[FR Doc. 00–10667 Filed 4–27–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on March 16, 2000, Lonza Riverside, 900 River Road, Conshohocken, Pennsylvania 19428, made application by letter to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of gamma hydroxybutyric acid (2010), a basic class of controlled substance listed in Schedule I.

The firm plans to bulk manufacture gamma hydroxybutyric acid for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than June 27, 2000.

Dated: April 21, 2000.

John H. King,

Deputy Assistant Administrator Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 00–10668 Filed 4–27–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[AAG/A Order No. 195–2000]

Privacy Act of 1974; System of Records

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice of Minor Modifications to Systems of Records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended, (5 U.S.C. 552a), the Drug Enforcement Administration (DEA), Department of Justice, is modifying two (2) existing Privacy Act Systems of Records. The ''Automated Records and consolidated Orders System/Diversion Analysis and Detection System (ARCOS/DADS), JUSTICE/DEA–003,'' was last published in the **Federal Register** on December 11, 1987 (52 FR 47206). The ''DEA Aviation Unit Reporting System, JUSTICE/DEA–021,'' was last published in the **Federal Register** on December 11, 1987 (52 FR 47220). The System Notices are published in their entirety below.

DATES: These actions will be effective April 28, 2000.

FOR FURTHER INFORMATION CONTACT: For information regarding these changes, and for general information regarding DEA's Privacy Act program, contact Mr. William C. Little, Jr., DEA Privacy Act Officer, at (202) 307–7622.

SUPPLEMENTARY INFORMATION: Since the last publication of the ''Automated Records and Consolidated Orders System/Diversion Analysis and Detection System (ARCOS/DADS), JUSTICE/DEA–003,'' the ''System Location,'' the ''System Manager(s) and Address,'' and the address for the ''Notification Procedure,'' and ''Contesting Record Procedure'' have changed. The System Notice is modified to reflect the current DEA office location and mailing address. Editorial changes are also made to: (1) Include the previously omitted system ''Purpose,'' ''Record Source Category'' and ''Contesting Record Procedure;'' (2) clarify ''Retrievability;'' (3) state the current ''Safeguards'' used to protect information; and, (4) eliminate repetitive language from the ''Routine uses * * *'' in the references to releases to the news media, Members of Congress, the National Archives and Records Administration and the General Services Administration.

Since the last publication of the ''DEA Aviation Unit Reporting System, JUSTICE/DEA–021,'' the address for the ''Notification Procedure,'' ''Record Access Procedure'' and ''Contesting Record Procedure'' have changed. The System Notice is modified to reflect the current DEA office mailing address. Editorial changes are also made to eliminate repetitive language from the ''Routine uses * * * '' in the references to release to the news media, Members of Congress, the National Archives and Records Administration and the General Services Administration.

Dated: March 31, 2000.

Stephen R. Colgate,

Assistant Attorney General for Administration.

JUSTICE/DEA–003

SYSTEM NAME:

Automated Records and Consolidated Orders System/Diversion Analysis and Detection System (ARCOS/DADS).

SYSTEM LOCATION:

Drug Enforcement Administration, 700 Army Navy Drive, Arlington, VA 22202. Also field offices. See Appendix 1 for list of addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons registered with DEA under the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Pub. L. 91–513).

CATEGORIES OF RECORDS IN THE SYSTEM:

The information contained in this system consists of individual business transactions between levels of handlers of controlled substances to provide an audit trail of all manufactured and/or imported controlled substances to the dispensing level.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system of records is maintained pursuant to the reporting requirements of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826(d)) and to enable the United States to fulfill its treaty obligations under the Single Convention on Narcotic drugs and the Convention on Psychotropic Storage.

All automated data files associated with ARCOS–DADS are maintained in the Department of Justice Data Center and the Drug Enforcement Administration Data Center.

RETRIEVABILITY:

Records on individuals are retrieved by name and DEA registration number.

SAFEGUARDS:

The portion of the records maintained in DEA headquarters is protected by

twenty-four hour guard service and electronic surveillance. Access to all DEA facilities is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. Access to the system is restricted to DEA employees who have appropriate security clearances on a need to know basis. Access to automated records requires user identification numbers which are issued to authorized DEA employees.

RETENTION AND DISPOSAL:

Input data received from registrants is maintained for 60 days for backup purposes and then destroyed by shredding or electronic erasure. ARCOS master inventory records are retained for eight consecutive calendar quarters. As the end of a new quarter is reached, the oldest quarter of data is purged from the record. ARCOS transaction history will be retained for a maximum of five years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to Freedom of Information Section, Drug Enforcement Administration, Washington, D.C. 20537. Inquiries should include inquirer's name, date of birth, and social security number.

RECORD ACCESS PROCEDURES:

Same as the above.

CONTESTING RECORD PROCEDURES:

Same as the above.

RECORD SOURCE CATEGORIES:

Information is obtained from registrants under the Controlled Substances Act (Pub. L. 91–513).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3), (d), (e)(4)(G) and (H), (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 552a(k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. (b), (c) and (e) and have been published in the **Federal Register**.

JUSTICE/DEA–021

SYSTEM NAME:

DEA Aviation Unit Reporting System.

SYSTEM LOCATION:

Drug Enforcement Administration (DEA), Investigative Support Section, Aviation Unit, DEA/Justice, PO Box 534, Addison, Texas 75001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DEA pilots.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains: (1) Records relating to the operation and maintenance of DEA aircraft. (2) Records relating to pilot qualifications (CSC Form 671).

PURPOSE(S):

This system is maintained to monitor the utilization and maintenance of DEA aircraft and the qualifications of DEA pilots in furtherance of DEA enforcement operations conducted pursuant to the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Pub. L. 91–513).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(a) Federal Aviation Administration for purposes of aircraft documentation and pilot certification.

(2) Department of Defense for communication purposes.

(3) United States Coast Guard for communication purposes.

(4) Communications relay services under contract with DEA for communications purposes.

(5) Release of information to the news media: Information permitted tone released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

(6) Release of information to Members of Congress. Information contained in the systems of records maintained by the Department of Justice, not otherwise requested to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

(7) Release of information to the National Archives and Records Administration (NARA) and to the General Services Administration (GSA): A record from a system of records may be disclosed as a routine use to the NARA and GSA in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM

STORAGE:

The automated portion of the records is maintained on an ADP disk storage device. Documentary records are maintained in manual file folders.

RETRIEVABILITY:

Information relating to individuals in the system is retrieved by pilot name or identifying number assigned by DEA.

SAFEGUARDS:

Access to the system is restricted to DEA personnel on a need-to-know basis. The records are maintained in a secure room at the Addison Aviation Facility in accordance with DEA security procedures and are protected by an electronic alarm system.

RETENTION AND DISPOSAL:

The automated records are maintained for five years and then purged from the data base. Manual records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Investigative Support Section, Drug Enforcement Administration, Washington, D.C. 20537.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the Freedom of Information Section, Drug Enforcement Administration, Washington, D.C. 20537.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORDS SOURCE CATEGORIES:

Information pertaining to individuals in the system is obtained from reports submitted by DEA pilots.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 00–10687 Filed 4–27–00; 8:45 am]

BILLING CODE 4410–CJ–M

DEPARTMENT OF JUSTICE

Federal Bureau of Prisons

Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS) for Development of a Medium/High-Security Federal Correctional Facility in Terre Haute, Indiana

AGENCY: U.S. Department of Justice, Federal Bureau of Prisons.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY:

Proposed Action

The United States Department of Justice, Federal Bureau of Prisons has determined that additional medium/high-security federal correctional facilities are needed in its system.

The DEIS will focus upon a 1,000-acre (approximately) tract of land currently controlled by the Federal Bureau of Prisons in Terre Haute, Indiana.

This notice also initiates the Federal Bureau of Prisons' responsibilities under the National Historic Preservation Act of 1966, as amended.

The Federal Bureau of Prisons proposes to build and operate a medium/high-security federal correctional facility in Terre Haute, Indiana. The facility would provide secure correctional habitation for approximately 1,000–1,200 inmates. The Federal Bureau of Prisons proposes to build the facility adjacent to the existing United States Penitentiary, Terre Haute, on a portion of the land currently controlled by the Federal Bureau of Prisons. The site appears to be of sufficient size to provide space for inmate housing, correctional programs, administrative services and other support areas such as parking and perimeter security.

The Process

In the process of evaluating the site, several aspects will receive detailed examination including: utilities, traffic patterns, noise levels, visual intrusion, threatened and endangered species and socioeconomic impacts. Possible archeological and cultural resources will be studied and documented pursuant to the National Historic Preservation Act of 1966, as amended.

Alternatives

In developing the DEIS, the options of ''no action'' and other ''alternatives'' for the proposed facility will be fully and thoroughly examined.

Scoping Process

During the preparation of the DEIS, there will be opportunities for public involvement in order to determine the issues to be examined. A public Scoping Meeting will be held at the Terre Haute South High School Cafeteria, 3737 South 7th Street, Terre Haute, Indiana, at 7:00 p.m. on May 17, 2000. The meeting will be well publicized and will be held at a time which will make it possible for the public and interested agencies or organizations to attend. In addition, the Federal Bureau of Prisons will host an agency Scoping Meeting on May 3, 2000, and sponsor other meetings with the public as required.

DEIS Preparation

Public notice will be given concerning the availability of the DEIS for public review and comment.

Address

Questions concerning the proposed action and the DEIS may be directed to: David J. Dorworth, Chief, Site Selection and Environmental Review Branch, Federal Bureau of Prisons, 320 First Street, NW, Washington, DC 20534, telephone (202) 514–6470, telefacsimile (202) 616–6024, email: siteselection@bop.gov.

Dated: April 20, 2000.

David J. Dorworth,

Chief, Site Selection and Environmental Review Branch.

[FR Doc. 00–10323 Filed 4–27–00; 8:45 am]

BILLING CODE 4410–05–P

DEPARTMENT OF LABOR

Office of the Secretary

Women in Apprenticeship and Nontraditional Occupations DOL FY 2000 Budget, Training and Employment Services (TES) 1600174

AGENCY: Women's Bureau, Department of Labor.

ACTION: Notice of Availability of Funds and Solicitation for Grant Applications (SGA 00–03).

SUMMARY: All information required to submit a proposal is contained in this announcement. Applicants for grant funds should read this notice in its entirety and respond as directed. Grant proposals that are not completed as directed will be judged nonresponsive and will not be evaluated.

The Women's Bureau (WB), U.S. Department of Labor (DOL) announces the Solicitation for Grant Applications (SGA) authorized under the Women in Apprenticeship and Nontraditional Occupations (WANTO) Act of 1992. The major provisions of the WANTO legislation are to ''assist business in providing women with opportunities in apprenticeship and nontraditional occupations.'' The WANTO grant program funds Community-Based Organizations (CBOs) to provide technical assistance (TA) to employers and labor unions (E/LUs) that will ''enable business to meet the challenge of Workforce 2000.'' The challenge is greater than the shortage of skilled workers in construction trades, and it is especially acute in recruiting and retaining workers with technology skills in nonconstruction industries with increasing inputs of technological innovation that interfaces with computer-based information technology, e.g., telecommunications, utilities, manufacturing, transportation, and services.

The Women's Bureau co-administers WANTO with the DOL's Bureau of Apprenticeship and Training (BAT), with the WB having responsibility for implementing the grant process. Congress first appropriated funds for WANTO in Fiscal Year (FY) 1994, under JTPA (Title IV–D). JTPA expires on June 30, 2000, and will be superseded by the Workforce Investment Act (WIA) on July 1, 2000. WANTO (FY) 2000 is funded by DOL (FY) 2000 Budget: Training and Employment Services (TES) 1600174.

The Department of Labor will competitively award grants to CBOs who represent the best from the segment of CBOs actively involved in pre-apprenticeship and skills training, advocacy, technical assistance to employers/labor unions, mentorship, and other support services to increase the participation of women in apprenticeship and skilled, high-pay nontraditional occupations (A/NTO). These CBOs must provide TA to E/LUs to prepare them to successfully recruit, train, and retain women in apprenticeable and other skilled high-pay nontraditional occupations. In addition, TA must include strategic planning with E/LUs for identifying sources of support services—child care, transportation, and necessary transitional costs—to ensure the successful transition of women to apprenticeship and other skilled high-pay workplaces. As a result, the Department expects employers and labor unions ''to expand the employment and self-sufficiency options of women.''

Further, the Department will give priority consideration to proposals in the following order: (1) CBOs in the 32 States previously unserved by WANTO, (2) CBOs working to employ women

with physical and/or cognitive disabilities in skilled high-pay jobs, (3) CBOs with diverse race-ethnic backgrounds, and (4) CBOs with programs to provide TA to E/LUs that assist women to make the transition from welfare to pre-apprenticeship, apprenticeship, and other entry-level skilled nontraditional employment.

Applicant CBOs should document the extent of their:

(1) Established and growing employer/labor union working relationships;

(2) Proven service delivery to assist women to enter and remain in A/NTO as the major component of its employment and training activities, including outreach, orientation, mentoring, support groups, networks, workplace consultations (including troubleshooting and other work site resolution practices), employee and supervisory workshops, seminars and other workplace specific strategic planning to increase the participation of women in A/NTO; and

(3) recognized leadership credentials in the A/NTO community that also promotes leadership in social and economic change for women and their families to economic self-sufficiency, as well as mentoring relationships with other CBOs working in A/NTO.

The above discussion summarizes the general focus of SGA 00–03; however, applicants are again urged to read the SGA in its entirety to ensure that their submission is fully responsive to SGA 00–03. WANTO grant awards are competitive and based only on how responsive an applicant's proposal is to the SGA and its evaluation criteria.

This notice describes the background, the application process, statement of work, evaluation criteria, and reporting requirements for this Solicitation for Grant Applications (SGA 00–03). WB anticipates that a total amount of $927,000 will be available for the support of all Fiscal Year 2000. (See Part II. C. and Part III. A.2.f. for funding limitations per grant.)

DATES: One (1) ink-signed original, complete grant application plus five (5) copies of the Technical Proposal and two (2) copies of the Cost Proposal shall be submitted to the U.S. Department of Labor, Office of Procurement Services, Room N–5416, Reference SGA 00–03, 200 Constitution Avenue, N.W., Washington, D.C. 20210, not later than 4:45 p.m. EST, June 30, 2000. Hand-delivered applications must be received by the Office of Procurement Services by that time.

ADDRESSES: Applicants who intend to submit a proposal *must register immediately* with the Grant Officer in order to receive any amendment to this solicitation that is issued. Please send registration to U.S. Department of Labor, Office of Procurement Services, Attention: Grant Officer, Reference SGA 00–03, Room N–5416, 200 Constitution Avenue, NW., Washington, DC 20210. Grant applications must be mailed to U.S. Department of Labor, Office of Procurement Services, Attention: Grant Officer, Reference SGA 00–03, Room N–5416, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Applicants are encouraged to verify delivery to this office directly through their delivery service and as soon as possible.

FOR FURTHER INFORMATION CONTACT: Applications will not be mailed. The **Federal Register** may be obtained from your nearest government office or library. Questions concerning this solicitation may be sent to Lisa Harvey at the following Internet address: lharvey@dol.gov.

Part I. Background

The Women in Apprenticeship and Nontraditional Occupations (WANTO) Act—Public Law 102–530, signed October 27, 1992—The Act has three major activities that affect this SGA:

1. Outreach to private-sector Employers and Labor Unions. DOL will promote the Act's program to employers and labor unions by informing them of the availability of technical assistance and keeping a database of employers and community-based organizations with active grants.

2. Technical Assistance. DOL will provide grants to community-based organizations to deliver technical assistance to employers and labor unions to prepare them to recruit, train, and retain women in apprenticeship and other apprenticeable nontraditional occupations.

3. Liaison Role of Department of Labor. DOL will serve as follows: (1) To act as a liaison between employers, labor unions, and the community-based organizations providing technical assistance; (2) coordinating, conducting regular assessment, and seeking input of employers and labor unions.

The Women's Bureau has been the champion of the concerns of working women since its creation by Congress in 1920. For over 70 years, improving employment opportunities and related equity issues has been the driving force of the Bureau's policies and programs. From its national office and 10 regional offices, the Bureau conducts advocacy and outreach activities across the United States. The Bureau participates in meetings with international visitors and others who are concerned with the employment and related social issues of working women. Within the Department of Labor, the WB Director serves as the policy advisor to the Secretary, ensuring that women's voices are heard and that their priorities are represented in the public policy arena.

The Bureau has a history of encouraging women to consider the wide array of apprenticeship and other nontraditional occupations (NTOs) as one way to obtain economic self-sufficiency for themselves and their families. NTOs are often thought of as the blue-collar skill occupations in highway and building trades. But NTOs can also be the lab coat and clean room occupations associated with computer-based technology innovation linked to information technology in manufacturing, utilities, telecommunications, and related business and professional services. One thing many of the skilled and high-pay jobs have in common is the lack of women employed in them.

The lack of a critical mass of women in apprenticeship and other skilled and high-pay jobs has resulted in continued workplace occupational segregation that fuels pay inequities and other artificial employment barriers to women's success in the workplace, including apprenticeship and other nontraditional occupations. For example, studies point out that once hired, women in construction face problems (sexism, racism, homophobia, inadequate toilet facilities, health and safety, isolation from other women, etc.) that erode their retention in jobs. In other nonconstruction occupations, the lack of developmental work assignments and mentors results in women being confined by ''glass ceilings'' and ''sticky'' floors. These artificial barriers are beyond the usual problems faced by all women and some men—child care, sexual harassment, pay equity, balancing work and family responsibilities. The WANTO technical assistance grant program requires CBOs to work with E/LUs to explore collaborative ways to provide increased employment opportunities for women in apprenticeship and other nontraditional occupations, in a ''women-friendly'' workplace environment.

The Bureau of Apprenticeship and Training co-administers WANTO with the **Women's Bureau.** BAT was established in 1937 as the national administrative agency in the Department of Labor to carry out the objectives of the National Apprenticeship Act (also known as the Fitzgerald Act), guided by the recommendations of the Federal

Committee on Apprenticeship, now named the Federal Committee on Registered Apprenticeship (FCRA). BAT has the objective to stimulate and assist industry in the development, expansion, and improvement of apprenticeship and training programs designed to provide the skilled workers required by the American economy. BAT is the Federal program office that administers the National Registered Apprenticeship System (NRAS). One component of the System is the Federal/State partnership.

The BAT works very closely with State Apprenticeship Agencies/Councils (SAC) and the educational system to deliver support services at the national, State, and local level. When apprentices finish their training, they receive certificates of completion of apprenticeship. These are issued by the State apprenticeship agencies, or in those States not having such an agency, by BAT, in accordance with its recommended standards. BAT is committed to improving the access of women to apprenticeship training to increase their employment in jobs that have historically put men on the career ladder to successful working careers.

Definitions

Nontraditional Occupations (NTOs) are those where women account for less than 25 percent of all persons employed in a single occupational group.

Pre-Apprenticeship Programs are for women (and others) to prepare them to keep pace with occupational skills training or entry-level employment in nontraditional occupations. The curriculum includes pre-vocational instruction in identification and use of tools, blueprint reading, basic shop skills, and safety procedures, as well as math skills, and physical conditioning.

Apprenticeship is a formal paid training-work agreement where labor and management work together to promote learning on the job. (Some BAT registered apprenticeship programs are operated by employers independent of labor unions.) To support the ''hands on'' learning, there must be related theoretical instruction (often in classroom). After successfully completing the BAT registered program standards—usually three to five years—the apprentice is awarded a certificate of completion by either BAT or the State Apprenticeship Council (SAC).

Employers or groups of employers and unions design, organize, manage, and finance apprenticeship programs under the standards developed and registered with BAT or BAT-recognized State apprenticeship agencies. They also select apprentices who are trained to meet certain predetermined occupational standards.

Community-Based Organizations (CBOs) are as defined in Section 4(5) of the Job Training Partnership Act (29 U.S.C. 1501(5)): private nonprofit organizations which are representative of communities or significant segments of communities and which provide job training services. For this solicitation, communities or significant segments of communities are the private nonprofit organizations that have demonstrated at least five years experience in (1) The operation and delivery of employment and training related services to promote women in apprenticeship and other nontraditional occupations, (2) community recognition of leadership in advocacy and service to promote economic equity, justice, and social change for women and their families, and (3) the development of policies, programs, and technical assistance for employers and labor unions for the recruitment, selection, training, placing, retaining, and otherwise preparation of Women to enter and remain in Apprenticeship and other Nontraditional Occupations.

Please Note That Eligible Applicants Must Not Be Classified Under the IRS Tax Code as a 501(c)(4) Entity

A. Authorities

The technical assistance grants were first authorized under the Women in Apprenticeship and Nontraditional Occupations (WANTO) Act, Public Law 102–530, approved October 27, 1992.

B. Purpose of the Demonstration

The purpose of the WANTO demonstration program is to assist business to increase apprenticeship and other nontraditional employment opportunities for women. The Department will make grants to community-based organizations who will provide technical assistance to employers and labor unions to encourage and prepare them to increase the participation of women in apprenticeship and nontraditional occupations in their workplaces. Such technical assistance should result in an increase of women employed in jobs that pay a self-sufficient wage for women and their families.

Part II. Application Process

A. Eligible Grant Applicants

Please Note Well That Eligible Grant Applicants Must not Be Classified Under the IRS Tax Code as a 501(c)(4) Entity.

1. Private, Nonprofit, Community-Based Organizations that provide service delivery to assist women to enter and remain in A/NTO as the major component of its employment and training activities are the only entities eligible for grant awards. Further, the Department will give priority consideration to proposals from:

a. CBOs from one of the 32 States previously unserved by WANTO (see Appendix A);

b. CBOs who provide services that assist women with physical and/or cognitive disabilities to enter and remain in skilled high-pay jobs commensurate with their potential;

c. CBO founder/management reflects diverse race-ethnic backgrounds;

d. CBOs with programs to provide TA to E/LUs that assist women to make the transition from welfare to pre-apprenticeship, apprenticeship, and other entry-level skilled nontraditional employment.

e. CBOs with an existing FY ''98 WANTO grant can apply for an additional grant if the existing grant has been performed in an exemplary way—completed two-thirds of the planned goals, particularly those for serving employers, unions, and women, reflecting the fact that the grant is running ahead of schedule. The completion should be specifically documented (names and addresses) with the FY 2000 WANTO application.

2. Applicant CBOs' proposals must document their experience and expertise in A/NTO services and TA delivery in the following areas:

a. Document established and growing employer/labor union working relationships with A/NTO community sources for exploring new working relations;

b. Document services to assist women to enter and remain in A/NTO as the major component of their employment and training activities, including outreach, orientation, mentoring, support groups, networks, workplace consultations (including troubleshooting and other work site problem resolutions and changes in employer and workplace practices), employee and supervisory workshops, seminars, and other workplace specific strategic planning to increase the participation of women in A/NTO; and

c. Document leadership in the A/NTO community to promote leadership for economic equity, justice, and social change for women and their families that also support economic self-sufficiency.

3. CBO's proposal must include a management and staff loading plan.

a. The management plan should include the CBO's *organizational chart* and accompanying narrative that

differentiate between elements of the applicant's staff, subcontractors, or consultants, who will be retained, and *full resumes* of proposed grant staff.

b. The staff loading plan must identify all key tasks and the hours required to complete each task. Labor estimates for each task must be broken down by individuals assigned to the task, with subcontractors and consultants. All key tasks must be *charted month-to-month to show beginning and ending time line* required to perform project tasks, hours, and the person responsible for implementing and completing the task.

c. CBOs' proposals must list the name, trade, and organizational position of tradeswomen and other women in nontraditional occupations on staff or on their organization's Board of Directors. Include the dates when tradeswomen served in active paid or unpaid positions in your organization.

d. CBOs' technical proposal submissions should include a listing of all items for which grant funds will be expended. (Do not include any cost information in the technical proposal, but expenditure items *Must* be listed.)

e. CBOs' technical proposal submissions should include copies of the CBO's budget and major funding sources for the past three (3) years, including foundation and government grants and other types of funding.

3. Public bodies such as JTPA administrative entities, public schools, colleges, and hospitals are *not eligible* for WANTO grants.

B. Employers and Labor Unions are Eligible to Receive TA from CBOs

1. *Private Sector Employers and Labor Unions* are eligible to request and receive TA provided by CBOs with a WANTO grant. The goal of WANTO is to assist businesses to provide opportunities for women in A/NTO in the private economy.

a. *Employers and Labor Unions* may request that the Department of Labor match them with a CBO.

b. *TA Requests from Employers and Labor Unions* may be delivered with a specific applicant CBO's proposal, or independent of a specific CBO.

c. *Regardless of the method,* all employers and labor unions must provide the information described in Item 2. below, either to their chosen CBO or directly to the U.S. Department of Labor, Office of Procurement Services, Room N–5416, Attention: Lisa Harvey, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

2. *All Employers and Labor Unions requesting technical assistance must provide a written commitment for technical assistance by responding to the following:*

a. A description of the need for assistance;

b. A description of the types of apprenticeable occupations or nontraditional occupations in which the employer or labor union would like to train or employ women;

c. Assurances that there are or will be suitable and appropriate employment available in the apprenticeable occupations or in the nontraditional occupations being targeted; and

d. Commitments that all reasonable efforts should be made to place women in apprenticeable occupations or nontraditional occupations as they develop skills.

C. Contents

To be considered responsive to this SGA, each application must consist of, and follow the order of, the sections listed in Part III of this solicitation. The application must also include information which the applicant believes will address the selection criteria identified in Part IV. Technical proposals shall not exceed twenty (20) single sided, double spaced, 10 to 12 pitch typed pages (not including attachments). *ANY PROPOSAL THAT DOES NOT CONFORM TO THESE STANDARDS SHALL BE DEEMED NONRESPONSIVE TO THIS SGA AND WILL NOT BE EVALUATED.*

1. *Technical Proposal*

Each proposal shall include: (1) a two-page abstract summarizing the proposal, and (2) a complete description of the CBO's program for technical assistance, including information required in *Part III and IV*. No cost data or reference to price shall be included in the technical proposal although the technical proposal must include the items—publications, seminars, E/LU consultations, troubleshooting, etc.—for which grant funds are to be spent.

2. *Cost Proposal*

The cost proposal is a physically separate document and shall not be included in the twenty (20) page limit. The cost (business) proposal must be separate from the technical proposal. (If applicants do not have the current version of the standard grant forms listed below, they must download the forms from the following OMB website address: *www.whitehouse.gov/OMB/grants/index.html.* The transmittal letter and the grant assurances and certification forms shall be attached to the business proposal, which shall consist of the following:

a. Standard Form 424 ''Application for Federal Assistance,'' signed by an official from the applicant's organization who is authorized to enter the organization into a grant agreement with the Department of Labor. The *Catalog of Federal Domestic Assistance Number (CFDA) is 17.700;*

b. Standard Budget Form 424A ''Budget Information Form,''; and

c. Budget Narrative; provide a narrative explanation of the budget which describes all proposed costs and indicates how they are related to the operation of the project. Provide this information separately for the amount of requested Federal funding and the amount of proposed Non-Federal contribution. In an application which proposes to fund staff positions, the budget narrative must provide information which describes the number of proposed positions by title and by the amount of staff time and salary charged to Federal and Non-Federal funding resources. The Budget Narrative provides the detailed description of the costs reflected on the SF 424A.

D. Funding Levels

The Department expects to have $927,000 to be disbursed through WANTO grants. The Department expects to make up to fifteen (15) awards to community-based organizations. The Women's Bureau expects awards to range from approximately $50,000 to $75,000 (see also Part III. A.2.f.), depending upon the scope of the technical assistance and the number of employer/labor union written commitments included with the proposal—between ten (10) and twenty (20)—and the design, size, and scope of the technical assistance proposed for this demonstration and reflected in the E/LU technical assistance requests. Written commitments for technical assistance may also include working with E/LUs to move women employed in NTO related entry level employment to registered apprenticeship programs and higher level skilled NTO jobs. The proposal should include the names and employment of women in the entry level work and the proposed upgrade for her.

E. Length of Grant and Grant Awards

The initial performance period for the grants awarded under this SGA shall be for twelve (12) months with one (1) option to extend for up to three months as a no-cost extension to complete final reports. Each applicant shall reflect in their application the intention to begin operation no later than September 2000.

F. Submission

One (1) ink-signed original, complete grant application (plus five (5) copies of

the Technical Proposal and two (2) copies of the Cost Proposal must be submitted to the U.S. Department of Labor, Office of Procurement Services, Room N–5416, 200 Constitution Avenue, NW, Washington, DC 20210, not later than 4:45 p.m. EST, June 30, 2000. Hand delivered applications must be received by the Office of Procurement Services by that time. Any application received at the Office of Procurement Services after 4:45 p.m. EST will not be considered unless it is received before an award is made and:

1. It was sent by registered or certified mail not later than the fifth calendar day before June 30, 2000 (not later than June 25, 2000);

2. It is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the U.S. Department of Labor at the above address; or

3. It was sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee, not later than 5:00 p.m. EST at the place of mailing two working days, excluding weekends and Federal holidays, prior to June 30, 2000 (not later than 5:00 p.m. EST June 28, 2000).

The only acceptable evidence to establish the date of mailing of a late application sent by registered or certified mail is the U.S. Postal Service postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. If the postmark is not legible, an application received after the above closing time and date shall be processed as if mailed late. ''Postmark'' means a printed, stamped, or otherwise placed impression (*not* a postage meter machine impression) that is readily identifiable without further action as having been applied and affixed by an employee of the U.S. Postal Service on the date of mailing. Therefore, applicants shall request that the postal clerk place a legible hand cancellation bull's-eye postmark on both the receipt and the wrapper or envelope.

The only acceptable evidence to establish the date of mailing of a late application sent by U.S. Postal Service Mail Next Day Service-Post Office to Addressee is the date entered by the post office receiving clerk on the ''Express Mail Next Day Service-Post Office to Addressee'' label and the postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. ''Postmark'' has the same meaning as defined above. Therefore, applicants shall request that the postal clerk place a legible hand cancellation bull's-eye postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the time of receipt at the U.S. Department of Labor is the date/time stamp of the Office of Procurement Services on the application wrapper or other documentary evidence of receipt maintained by that office. Applications sent by E-mail, telegram, or facsimile (Fax) will *not* be accepted.

Part III. The Statement of Work—Key Features

A. Technical Assistance

1. CBOs are to provide technical assistance (TA) that may include a broad range of activities to prepare employers and labor unions (E/LUs) to provide opportunities for women in apprenticeship and other nontraditional occupations (A/NTO). CBOs should encourage E/LUs to work with them to assess their workplaces and develop strategic plans for changes in the workplace and in work practices that support women. Requests may include linkages of pre-apprenticeship programs to a commitment for employment and/or sponsored apprenticeship training. Such TA should result in jobs that pay a living wage that will support women and their families. Support services are of major importance to sustaining women to enter and complete training and entry employment. Child care, transportation, and related transitional costs—union fees, tools, and uniforms—are the support services most often cited as necessary for women to enter employment and/or to complete training, including registered apprenticeship.

2. Applicant CBOs should respond with:

a. A program designed to build on established working relationships with employers and labor unions and to develop new working relationships to provide TA to ten (10) or more private sector E/LUs. Proposal should include targeted E/LUs, as well as E/LUs specifically requesting TA.

b. A program designed to build on established working relationships with employers and labor unions to move working women from NTO related entry level employment into registered apprenticeship or other higher skilled NTO occupations, including those requiring technology skills. Proposals should include the names of the targeted firms, women, and employment upgrades.

c. CBO proposal should include E/LUs selected from the following five (5) industry groups and registered apprenticeships—manufacturing, information technology, medical technology, utilities, telecommunications, and registered apprenticeship and on-the-job training programs in highway and the building trades construction industries.

d. The Department would consider:

(1) proposals from established CBOs that want to mentor less experienced CBOs in unserved States to build the organizational and technical assistance capacity of the less experienced CBOs.

e. (2) Joint proposals of several CBOs who have bundled their strengthens together to form one grant application. The proposal will provide TA in unserved States that propose to build their regional capacity to provide TA to employers and labor unions to promote women in A/NTO.

f. The final amount of each grant, $50,000 to $75,000, will depend upon the quality of the program—depth and scope of services, as well as the number of those served.

B. Support Services

1. CBO proposal should include a plan for support services for women when the TA results in women moving into apprenticeship or other NTO employment and training.

a. Support service plans should include cooperative E/LU programs along with services available from the workplace and/or employee's community.

b. Support services strategic planning for support services should include, at least, child care, transportation, and transitional costs.

D. Leverage of WANTO Funding and Continuance

1. The proposed project submissions should include any leverage or co-funding anticipated by this submission.

2. The proposed project submission should include any activities to encourage and promote the continuation or expansion of grant activities beyond the grant's period of program performance.

Part IV. Evaluation Criteria and Selection

Applicants are advised that selection for a grant award is to be made after careful evaluation of technical applications by a panel. Each panelist will evaluate applications against the various criteria on the basis of 100 points. The scores will then serve as the primary basis to select applications for a potential award. Clarification may be requested of grant applicants if the situation so warrants it. Please see Part III, Sections A and B, for additional information on the elements against which proposals will be reviewed.

1. Technical Evaluation Criteria

	Points
a. Capabilities and Qualifications of CBO and Staff (A/NTO experience, education, and leadership in the community to foster social and/or economic justice for equity for women and their families moving to self-sufficiency); programs for women with disabilities, diversity, inclusion of and management and staffing plans	50
b. Established Program and E/LU Linkages; the commitment and/or potential for ten (10) or more new working relationships with E/LUs; working with employed women to move into registered apprenticeship or higher skilled NTO	20
c. Quality and Scope of WANTO Project (as discussed/described throughout SGA 00–03, including workplace assessment and technical assistance strategies for E/LU changes in the workplace culture and work practices to promote the increase in women in apprenticeship and nontraditional occupations; upgrading working women NTOs, focus industries, mentor, or joint CBOs, proposed A/NTO outcomes, leverage and continuance TA)	30

2. Cost Criteria

Proposals will be scored, based on their costs in relation to other proposals submitted in response to this SGA.

3. Total Score

Technical quality of proposals will be weighted three (3) times the estimated price in ranking proposals, for purposes of selections for awards. Proposals received will be evaluated by a review panel based on the criteria immediately above, in Technical Evaluation Criteria 1 and 2. The panel's recommendations will be advisory, and final awards will be made based on the best interests of the Government, including but not limited to such factors as technical quality, geographic balance, occupational/industrial impact, and diversity in service providers.

The Department wishes to make it clear that it is not simply the best written proposals that will be chosen, but rather those which demonstrate the greatest experience and commitment to assisting employers and labor organizations to successfully develop successful strategies to increase the participation of women in higher-paying apprenticeship and nontraditional occupations and to expand the employment and self-sufficiency options of women returning to work after welfare and other work and family disruptions. In addition, the Department considers geographic and race-ethnic diversity in the array of award-winning proposals important considerations in making the final awards.

The submission of the same proposal from any prior year WANTO competition does not guarantee an award under this solicitation. Although the Government reserves the right to award on the basis of the initial proposal submission, the Government may establish a competitive range or technically acceptable range based upon proposal evaluation, for the purpose of selecting qualified applicants. The panel's conclusions are advisory in nature and not binding on the Grant Officer. The Government reserves the right to ask for clarification or hold discussions, but is not obligated to do so. The Grant Officer's determination for award under SGA 00–03 is the final agency action.

Part V

A. Deliverables

(This section is provided only so that grantees may more accurately estimate the staffing budgetary requirements when preparing their proposal. Applicants are to exclude from their cost proposal the cost of any requested travel to Washington, D.C.)

1. No later than eight (8) weeks after an award, the grantees and partners shall meet with the Women's Bureau and the Bureau of Apprenticeship and Training at the Post-Award Conference to discuss the demonstration project and related components and technical assistance activities, time lines, technical assistance outcomes, assessment for comment, and final approval. The grantees and partners and the Department will discuss and make decisions on the following program activities:

a. The proposed technical assistance commitments for employment, registered apprenticeship, and related skilled nontraditional occupation activities and responsibilities; the number of targeted partnerships with employers and labor unions and the resultant women to be served.

b. The methodology the proposed partnership will use to support/change management and employee attitudes to promote female workers in nontraditional occupations.

c. The types of systemic change anticipated by technical assistance strategies anticipated to be incorporated into ongoing employer recruitment, hiring, training, and promotion of women in apprenticeship and apprenticeable nontraditional occupations.

d. The occupational, industrial, and geographical impact anticipated.

e. The supportive services to be provided to employers and women after successful placement into registered apprenticeship, or other skilled nontraditional occupations.

f. The plan for the development and maintenance of a relationship with the State level of the Federal Bureau of Apprenticeship and Training and the State Apprenticeship Council.

The Women's Bureau and the Bureau of Apprenticeship and Training will provide further input orally and in writing, if necessary, within ten (10) working days after the Post-Award Conference.

1. No later than ten (10) weeks after an award, the grantees and the Women's Bureau will confirm the ''plan of action'' and detailed time line for program implementation.

2. No later than twelve (12) weeks after an award, the grantee(s) shall have begun the provision of technical assistance to employers and labor unions to recruit, select, train, place, retain, and other areas of preparation to promote the increase of women in apprenticeable occupations and other nontraditional training for women, characterized by employment growth and above average earnings.

3. No later than sixteen (16) weeks after an award, the first quarterly progress report of work done under this grant will be due. Thereafter, quarterly reports will be due twenty (20) working days after the end of each of the remaining quarters.

Quarterly progress reports must include:

a. A description of overall progress on work performed during the reporting period—(a) the number of employers and labor unions provided onsite, off-site (conferences, workshops, seminars, training, etc., (b) number of women trained (on and off the work site), placed in apprenticeship or other nontraditional employment. Describe: (1) Any linkages of pre-apprenticeship (on and off a work site) with sponsored apprenticeship: number of women affected or participating in programs; include name and address of workplace/company and person responsible for the operation, (2) number of employers and labor unions receiving technical assistance—name, address, size of the workplace, including proportion of women, include brief profiles of employers and labor organizations, (3) describe any systemic workplace and policy changes—actual or in process, including the hiring and promotion of

women already in the workplace, career ladders, or other training activities, (4) public presentations, (5) media articles or appearances, (6) publications disseminated, and (7) publications developed.

b. An indication of any current problems which may impede the performance of the grant and the proposed corrective action.

c. A discussion of work to be performed during the next reporting period.

Between scheduled reporting dates the grantee(s) also shall immediately inform the Grant Officer's Technical Representative (GOTR) of significant developments affecting their ability to accomplish the work.

5. No later than sixty-four (64) weeks after an award, the grantee(s) shall submit three (3) copies of the draft Final Report, an integrated draft analysis of the process and results of the technical assistance activities during the year. The Women's Bureau and the Bureau of Apprenticeship and Training will provide written comments on the draft Report within twenty (20) working days if substantive problems are identified. The grantee's response to these comments shall be incorporated into the Final Report.

6. The Final Report shall cover findings, final performance data, outcome results and assessment, and employer or labor organization plans for follow-up of participants. The Final Report shall provide all information to replicate the project including copies of curriculums, technical assistance materials developed for the project and technical assistance—videos, posters, notices, etc.—as well as any plans for replication and dissemination of information. An Executive Summary of the findings and recommendations shall be included in the Final Report, separately, or combined with the Final Report—at the opening. No later than sixty-four (64) weeks after an award, the grantee(s) shall (1) submit one (1) diskette (IBM compatible, WordPerfect 6.1), one (1) camera-ready copy of the Final Report, and five (5) copies of the camera-ready Final Report, bound in a professional manner, and not a collection of loose leaf sheets, and (2) computer-based, electronic files for each of the other products—*e.g.,* manual(s), curriculums, ''how-to-do-it'' handbooks, videos, etc.—paid for with grant funds, along with five (5) copies of the final camera-ready products.

In addition to the grant's Final Report, proposed project submissions should include plans for a ''how-to-do-it'' project replication manual, including awareness/outreach material, technical assistance and curriculum manual(s) and all other materials developed as a result of the grant activities. All grant materials should be submitted with ''hard copy'' and electronic (computer-based) copy.

B. Administrative Provisions

The grant awarded under this SGA shall be subject to the following administrative standards and provisions:

29 CFR Part 97—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

29 CFR Part 96—Federal Standards for Audit of Federally Funded Grants, Contracts and Agreements.

29 CFR Part 95—Uniform Administrative Requirements for Grants and Cooperative Agreements with Institutions of Higher Education, *etc.*

C. Certifications and Assurances

If the applicant is awarded a grant, they are required to operate the program in accordance with the following Certifications and Assurances. An original signed and dated signature page providing the following Certifications and Assurances must accompany the Cost Proposal.

Certifications and Assurances

Assurances and Certifications Signature Page

The Department of Labor will not award a grant or agreement where the grantee/recipient has failed to accept the ASSURANCES AND CERTIFICATIONS contained in this section. By signing and returning this signature page, the grantee/recipient is providing the certifications set forth below:

A. Certification Regarding Lobbying, Debarment, Suspension, Other Responsibility Matters—Primary Covered Transactions and Certifications Regarding Drug-Free/Tobacco-Free Workplace,

B. Certification of Release of Information

C. Assurances—Non-Construction Programs

D. Applicant is not a 501(c)(4) organization

APPLICANT NAME and LEGAL ADDRESS:

If there is any reason why one of the assurances or certifications listed cannot be signed, please explain. Applicant need only submit and return this signature page with the grant application. All other instruction shall be kept on file by the applicant.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL TITLE

APPLICANT ORGANIZATION DATE SUBMITTED

Please Note: This signature page and any pertinent attachments which may be required by these assurances and certifications shall be attached to the applicant's Cost Proposal.

D. Allowable Costs

Determinations of allowable costs shall be made in accordance with the following applicable Federal cost principles:

a. State and Local Government—OMB Circular A–87

b. Educational Institutions—OMB Circular A–21

c. Nonprofit Organizations—OMB Circular A–122

d. Profit-making Commercial Firms—48 CFR Part 31

Signed at Washington, D.C. on April 21, 2000.

Lawrence J. Kuss,

Grant Officer.

Appendix A—States That Have No WANTO Grantees.

Alabama, Alaska, Arkansas, Arizona, Connecticut, Delaware, Idaho, Iowa, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Rhode Island, South Carolina, South Dakota, Utah, Virginia, West Virginia, Wisconsin, Wyoming.

[FR Doc. 00–10585 Filed 4–27–00; 8:45 am]

BILLING CODE 4510–23–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than May 8, 2000.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than May 8, 2000.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 3rd day of April, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted On 04/03/2000]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
37,520	Althin Medical, Inc (Wrks)	Miami Lake, FL	03/02/2000	Hemodialysis Machines.
37,521	Woodgrain Millwork, Inc (Comp)	Lakeview, OR	03/15/2000	Pine Mouldings.
37,522	INX International Ink Co (Wrks)	Warminster, PA	03/20/2000	Printing Inks.
37,523	Sangamon, Inc (PACE)	Taylorville, IL	03/17/2000	Greeting Cards.
37,524	Gaudette Leather Goods (Wrks)	North Attleboro, MA	03/14/2000	Organizers, Key Fobes, Frames.
37,525	Old Deerfield Fabrics (UNITE)	Cedar Grove, NJ	03/08/2000	Textile Printing.
37,526	Milco Industries Co., Inc (Wrks)	Bloomsburg, PA	03/21/2000	Night Gowns, Robes, PJ's.
37,527	C.P. Lighting, Inc (Wrks)	Pottsville, PA	03/21/2000	Portable Lighting.
37,528	Trinity Fitting (Wrks)	Ackerman, MS	03/11/2000	Carbon Steel Pipe Flanges.
37,529	Hartz and Co., Inc. (UNITE)	Broadway, VA	03/24/2000	Men's Suits, Sportcoats.
37,530	American Recreation Prod (Comp)	Mineola, TX	03/23/2000	Sleeping Bags.
37,531	Swank, Inc. (Comp)	Attleboro, MA	03/21/2000	Costume Jewelry.
37,532	Berne Apparel Co (The) (Wrks)	Berne, IN	03/16/2000	Work Jackets.
37,533	Hexcel Structures (Wrks)	Kent, WA	03/23/2000	Composite Airplane Parts.
37,534	Hartwell Sports (Wrks)	Tylertown, MS	03/22/2000	Men's Jackets.
37,535	Alliance Carolina Tool (Comp)	Arden, NC	03/22/2000	Plastic Molded Printer Parts.
37,536	Talema Electronic, Inc (Comp)	St. James, MO	03/21/2000	Toroidal Transformers.
37,537	Barry Manufacturing Co. (Comp)	Lynn, MA	03/10/2000	Shoes—Children's, Infants.
37,538	North American Heater (Wrks)	Franklin, TN	03/16/2000	Heating Coils.
37,539	Quebecor World, Inc (Comp)	Nashville, TN	03/24/2000	Commercial Printing.
37,540	Kimberly Clark Corp (Comp)	Cleburne, TX	03/28/2000	Cut Fabric.
37,541	Joshua L. Baily and Co (Comp)	Hoboken, NJ	03/13/2000	Unfinished Woven Fabrics.
37,542	Phillips Petroleum GPM (Comp)	Bartlesville, OK	03/23/2000	Natural Gas and Natural Gas Liquids.
37,543	Chevron Products USA (UNITE)	El Paso, TX	03/20/2000	Crude Oil.
37,544	Fall River Weaving (Wrks)	Fall River, MA	03/23/2000	Narrow Fabrics.
37,545	Midwest Micro (Wrks)	Fletcher, OH	03/22/2000	Computers and Related Components.
37,546	Best Manufacturing Co (Comp)	Moss Point, MS	03/22/2000	Nitrile Gloves.
37,547	Donnkenny Apparel, Inc (Comp)	Independence, VA	03/16/2000	Ladies' Sportswear.

[FR Doc. 00–10582 Filed 4–27–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,513]

Apparel Sales & Printing, Inc., Andrews, SC; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974; an investigation was initiated on February 14, 2000, in response to a worker petition which was filed by Elizey & Brooks, LLC, on behalf of workers at Apparel Sales & Printing, Inc., Andrews, South Carolina.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 17th day of April, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00–10579 Filed 4–27–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,366]

California Shirt Sales, Inc., Fullerton, CA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 22, 2000 in response to a worker petition which was filed on behalf of workers at California Shirt Sales, Inc., Fullerton, California.

An active certification covering the petitioning group of workers is already in effect (TA–W–37,208A). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C., this 10th day of April 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00–10584 Filed 4–27–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,518]

Lucky Star Industries, Workers Employed at Double ''L'' Learning Center, Nettleton, MS; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 27, 2000 in response to a worker petition which was filed on behalf of workers at Double ''L'' Learning Center who were employees of Lucky Star Industries, Nettleton, Mississippi.

The petitioning group of workers are covered under an existing Trade Adjustment Assistance certification, TA–W–35,320A, which is valid through March 23, 2001. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C., this 13th day of April 2000.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 00–10583 Filed 4–27–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA—03529]

Cerplex, Corvallis, OR; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Cerplex, Corvallis, Oregon. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

NAFTA—03529; Cerplex, Corvallis, Oregon (April 14, 2000)

Signed at Washington, D.C. this 14th day of April, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00–10580 Filed 4–27–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–3454]

Tektronix, Incorporated, Video and Networking Division, Beaverton, OR; Notice of Negative Determination Regarding Application for Reconsideration

By application dated December 9, 1999, one of the petitioners requested administrative reconsideration of the Department's negative determination regarding worker eligibility to apply for NAFTA–TAA. The denial notice applicable to workers of the subject firm located in Beaverton, Oregon, was signed on November 16, 1999 and published in the **Federal Register** on December 2, 1999 (64 FR 67595).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

Findings of the initial investigation showed that workers of Tektronix, Incorporated, Video and Networking Division, Beaverton, Oregon, produced profile products which are used for the production of videos and computer products. The Department's denial of NAFTA–TAA for workers of the subject firm was based on the finding that criterion (3) and (4) of the worker group eligibility requirements of paragraph (a)(1) of section 250 of the Trade Act of 1974, as amended, were not met. There were no company imports or increased customer imports from Mexico or Canada of profile products. Tektronix, Incorporated, did not shift production of articles produced in the Video and Networking Division to Mexico or Canada. Layoffs were attributable to a domestic shift in production.

The petitioner claims that the Lightworks product line was sold to a company in Montreal, Canada, which contributed to worker separations at the Beaverton plant of the subject firm.

In order to respond to the petitioner, the Department contacted the subject firm to learn whether Lightworks was produced in the Video and Networking Division of the subject firm, and whether there was a shift in the production from Beaverton to Canada of Lightworks.

Information provided by the company affirms that Lightworks, a non-linear video editing product, was produced by workers in the Video and Networking Division of the subject firm. Further, the company official confirmed the sale of Lightworks to a Canadian firm within the time period relevant to the investigation. The sale of a product line by the subject firm to a company in Canada, however, is not a basis for worker group certification under NAFTA–TAA. In this case, only increased imports from Canada of articles like or directly competitive with those produced at the workers' firm, or a shift in production from the workers' firm to Canada would constitute a basis for NAFTA–TAA certification for the petitioners.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC this 14th day of April 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00–10581 Filed 4–27–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29

CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issues, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under the Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

New General Wage Determination Decision

The number of the decisions added to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' are listed by Volume and States:

Volume I

New Jersey
NJ000009 (Apr. 28, 2000)

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

None

Volume II

None

Volume III

Georgia
GA000022 (Feb. 11, 2000)
GA000033 (Feb. 11, 2000)
GA000065 (Feb. 11, 2000)
GA000085 (Feb. 11, 2000)
GA000086 (Feb. 11, 2000)
GA000087 (Feb. 11, 2000)
GA000088 (Feb. 11, 2000)
GA000089 (Feb. 11, 2000)
GA000093 (Feb. 11, 2000)
GA000094 (Feb. 11, 2000)

Volume IV

Illinois
IL000018 (Feb. 11, 2000)
Michigan
MI000001 (Feb. 11, 2000)
MI000002 (Feb. 11, 2000)
MI000003 (Feb. 11, 2000)
MI000005 (Feb. 11, 2000)
MI000007 (Feb. 11, 2000)
MI000012 (Feb. 11, 2000)
MI000030 (Feb. 11, 2000)
MI000031 (Feb. 11, 2000)
MI000046 (Feb. 11, 2000)
MI000049 (Feb. 11, 2000)
MI000060 (Feb. 11, 2000)
MI000062 (Feb. 11, 2000)
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MI000079 (Feb. 11, 2000)
MI000080 (Feb. 11, 2000)
MI000081 (Feb. 11, 2000)
MI000082 (Feb. 11, 2000)
MI000084 (Feb. 11, 2000)
MI000085 (Feb. 11, 2000)
MI000088 (Feb. 11, 2000)

Volume V

None

Volume VI

Oregon
OR000001 (Feb. 11, 2000)
OR000017 (Feb. 11, 2000)
Washington
WA000001 (Feb. 11, 2000)
WA000005 (Feb. 11, 2000)
WA000008 (Feb. 11, 2000)

Volume VII

California
CA000009 (Feb. 11, 2000)
CA000028 (Feb. 11, 2000)
CA000029 (Feb. 11, 2000)
CA000033 (Feb. 11, 2000)
CA000035 (Feb. 11, 2000)
CA000036 (Feb. 11, 2000)
CA000037 (Feb. 11, 2000)
CA000038 (Feb. 11, 2000)
CA000039 (Feb. 11, 2000)
CA000040 (Feb. 11, 2000)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts.'' This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual

edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC this 20th day of April 2000.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 00–10344 Filed 4–27–00; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Review; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA is submitting the following new information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until June 27, 2000.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

Clearance Officer: Mr. James L. Baylen (703) 518–6411, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–518–6433, E-mail: jbaylen@ncua.gov.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling the: NCUA Clearance Officer, James L. Baylen, (703) 518–6411. It is also available on the following website: *www.NCUA.gov.*

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

OMB Number: New.

Form Number: N/A.

Type of Review: New.

Title: Office of Community Development Credit Unions Annual Survey Report.

Respondents: Certain low-income designated credit unions.

Estimated No. of Respondents/Recordkeepers: 50.

Estimated Burden Hours Per Response: 3.25 hours.

Frequency of Response: On occasion.

Estimated Total Annual Burden Hours: 162.

Estimated Total Annual Cost: N/A.

By the National Credit Union Administration Board on April 19, 2000.

Becky Baker,

Secretary of the Board.

[FR Doc. 00–10617 Filed 4–27–00; 8:45 am]

BILLING CODE 7535–01–U

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* Reports Concerning Possible Non-Routine Emergency Generic Problems.

3. *The form number if applicable:* N/A.

4. *How often the collection is required:* On occasion.

5. *Who will be required or asked to report:* Nuclear power plant, non-power reactor, and materials applicants and licensees.

6. *An estimate of the number of responses:* 203.

7. *The estimated number of annual respondents:* 203 (103 reactor licensees: 100 materials licensees).

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 43,260 (420 hours per reactor licensee respondent); 10,000 (100 hours per materials licensee respondent).

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* N/A.

10. *Abstract:* NRC is requesting approval authority to collect information concerning non-routine, emergency generic problems which would require prompt action from NRC to preclude potential threats to public health and safety.

A copy of the final 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 should be directed to the OMB reviewer listed below by May 30, 2000. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date. Erik Godwin, Office of Information and Regulatory Affairs (3150–0012), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 21st day of April 2000.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 00–10662 Filed 4–27–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Information pertaining to the requirement to be submitted:

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* 10 CFR Part 60—''Disposal of High-Level Radioactive Wastes in Geologic Repositories.''

3. *The form number, if applicable:* N/A.

4. *How often the collection is required:* The information need only be submitted one time.

5. *Who is required or asked to report:* State or Indian Tribes, or their representatives, requesting consultation with the NRC staff regarding review of a potential high-level waste geologic repository site, or wishing to participate in a license application review for a potential geologic repository.

6. *An estimate of the number of responses:* Six.

7. *The number of annual respondents:* Two.

8. *The number of hours needed annually to complete the requirement or request:* An average of 40 hours per response for consultation requests, 80 hours per response for license application review participation proposals, and 1 hour per response for statements of representative authority. The total burden for all responses is estimated to be 242 hours.

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* Not applicable.

10. Abstract: Part 60 requires States and Indian Tribes to submit certain information to the NRC if they request consultation with the NRC staff concerning the review of a potential repository site, or wish to participate in a license application review for a potential repository. Representatives of States or Indian Tribes must submit a statement of their authority to act in such a representative capacity. The information submitted by the States and Indian Tribes is used by the Director of the Office of Nuclear Material Safety and Safeguards as a basis for decisions about the commitment of NRC staff resources to the consultation and participation efforts. On February 22, 1999, the Commission proposed to modify its generic criteria for disposal of spent nuclear fuel and high-level radioactive wastes in geologic repositories at 10 CFR part 60 to make clear that they will not apply, nor be the subject of litigation, in any NRC licensing proceeding for a repository at Yucca Mountain (64 FR 8639). Information collection requirements applicable to the licensing of a geologic repository at Yucca Mountain were proposed at that time, in 10 CFR part 63, and will be issued later this year.

A copy of the final 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 should be directed to the OMB reviewer by May 30, 2000: Erik Godwin, Office of Information and Regulatory Affairs (3150–0143), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 21st day of April, 2000.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 00–10663 Filed 4–27–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–282 and 50–306]

Northern States Power Company; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses DPR–42 and DPR–60, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses DPR–42 and DPR–60 issued to Northern States Power Company (the licensee) for operation of the Prairie Island Nuclear Generating Plant, Units 1 and 2, located in Goodhue County, Minnesota.

The proposed amendments would relocate the shutdown margin requirements from the Technical Specifications to the Core Operating Limits Report (COLR).

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment[s] will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes do not affect any systems that is a contributor to initiating events for previously evaluated design basis accidents. The proposed changes do not involve any system changes or modifications. No systems or equipment will be operated in a new manner as a result of the proposed changes. Therefore, the proposed changes do not involve a significant increase in the probability of an accident previously evaluated.

Relocation of the shutdown margin requirements to the COLR is an administrative change. The shutdown margin requirements being incorporated into the COLR will be developed using NRC approved methodology. That methodology will establish the minimum required shutdown margin for a dilution accident during Modes 3, 4, 5, and 6 and will ensure that a complete loss of shutdown margin will not occur for at least twenty-four minutes from initiation of the dilution as specified in the Prairie Island USAR [Updated Safety Analysis Report]. Therefore, the relocation of the shutdown margin requirements to the COLR will not result in any increase in the consequences of an accident previously evaluated.

The proposed changes to Table TS.1–1 invoke an additional third criteria for shutdown margin during MODE 6. This proposed change involves an additional restriction designed to ensure that shutdown margin is maintained during MODE 6 operation, and as such will not result in any increase in the consequences of an accident previously evaluated.

Therefore, based on the conclusions of the above analysis, the proposed changes do not involve a significant increase in the probability of consequences of an accident previously evaluated.

2. The proposed amendment[s] will not create the possibility of a new or different kind of accident from any accident previously analyzed.

The proposed changes do not alter the design or function of any plant component and do not install any new or different equipment. The proposed changes do not alter the operation of any plant component in a manner which could lead to a new or

different kind of accident. Therefore, the possibility of a new or different kind of accident from those previously analyzed has not been created.

3. The proposed amendment[s] will not involve a significant reduction in the margin of safety.

Relocation of the shutdown margin requirements to the COLR is an administrative change. The shutdown margin requirements being incorporated into the COLR will be developed using NRC approved methodology. That methodology will establish the minimum required shutdown margin for a dilution accident during Modes 3, 4, 5 and 6 will ensure that a complete loss of shutdown margin will not occur for at least twenty-four minutes from initiation of the dilution as specified in the Prairie Island USAR. Therefore, the relocation of the shutdown margin requirements to the COLR will not reduce the margin of safety because it has no effect on any safety analyses assumptions.

The proposed changes to Table TS.1–1 invoke an additional third criteria for shutdown margin during MODE 6. This proposed change involves an additional restriction designed to enhance plant safety by ensuring that shutdown margin is maintained during MODE 6 operation. The imposition of more restrictive requirements either has no effect on or increase the margin of plant safety. The change maintains requirements within the safety analyses and licensing basis. Therefore, the proposed changes to Table TS.1–1 do not involve a significant reduction in the margin of safety.

Therefore, based on the conclusions of the above analysis, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 30, 2000, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no

significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by close of business on the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Jay Silberg, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW, Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated April 12, 1999, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 25th day of April 2000.

For the Nuclear Regulatory Commission.

Tae Kim,

Senior Project Manager, Section 1, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–10665 Filed 4–27–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–282 and 50–306]

Northern States Power Company; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses DPR–42 AND DPR–60, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses DPR–42 and DPR–60 issued to Northern States Power Company (the licensee) for operation of the Prairie Island Nuclear Generating Plant (PINGP), Units 1 and 2, located in Goodhue County, Minnesota.

The proposed amendments would revise License Condition 2.C.4, ''Fire Protection,'' to correct cited references. More specifically, the amendments would remove the reference to NRC safety evaluations dated September 12, 1984, and June 25, 1985, from the current License Condition 2.C.4, and would also correct the date of a safety evaluation cited.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment[s] will not involve a significant increase in the probability or consequences of [any] accident previously evaluated.

The proposed changes are administrative in nature. The proposed changes clarify section 2.C.4 of the PINGP [Prairie Island Nuclear Generating Plant] Unit 1 and Unit 2 Operating Licenses as to which SER's [safety evaluation report's] approved the PINGP fire protection program. The proposed changes do not involve any change to the configuration or method of operation of any plant equipment that is used to mitigate the consequences of an accident, nor do they affect any assumptions or conditions in any of the accident analyses. Since the accident analyses remain bounding, their radiological consequences are not adversely affected.

Therefore, the proposed changes will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment[s] will not create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes are administrative in nature. The proposed changes clarify section 2.C.4 of the PINGP Unit 1 and Unit 2 Operating Licenses as to which SER's approved the PINGP fire protection program. The proposed changes do not involve any change to the configuration or method of operation of any plant equipment.

Therefore, the proposed changes will not create the possibility of a new or different kind of accident.

3. The proposed amendment[s] will not involve a significant reduction in a margin of safety?

The proposed changes are administrative in nature. The proposed changes clarify section 2.C.4 of the PINGP Unit 1 and Unit 2 Operating Licenses as to which SER's approved the PINGP fire protection program.

Therefore, the proposed changes will not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to

take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 30, 2000, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by close of business on the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Jay Silberg, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW, Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated March 19, 1999, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 25th day of April 2000.

For the Nuclear Regulatory Commission.

Tae Kim,

Senior Project Manager, Section 1, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–10666 Filed 4–27–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–336]

Northeast Nuclear Energy Company, Et Al., Millstone Nuclear Power Station, Unit No. 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–65, issued to the Northeast Nuclear Energy Company, et al., (NNECO or the licensee), for operation of the Millstone Nuclear Power Station, Unit No. 2, located in Waterford, Connecticut.

Environmental Assessment

Identification of the Proposed Action

The proposed amendment would revise Technical Specification (TS) Sections: 3.3.2.1, ''Instrumentation—Engineered Safety Feature Actuation System Instrumentation''; 3.3.3.1, ''Instrumentation—Monitoring Instrumentation—Radiation Monitoring''; 3.7.6.1, ''Plant Systems—Control Room Emergency Ventilation System''; 3.9.3.1, ''Refueling Operations—Decay Time''; 3.9.4, ''Refueling Operations—Containment Penetrations''; 3.9.9, ''Refueling Operations—Containment Radiation Monitoring''; 3.9.10, ''Refueling Operations—Containment Purge Valve Isolation System''; 3.9.13, ''Refueling Operations—Storage Pool Radiation Monitoring''; 3.9.14, ''Refueling Operations—Storage Pool Area Ventilation System—Fuel Movement''; 3.9.15, ''Refueling Operations—Storage Pool Area Ventilation System—Fuel Storage''; 3.9.16.1, ''Refueling Operations—Shielded Cask''; 3.9.16.2, ''Refueling Operations—Shielded Cask'; 3.9.17, ''Refueling Operations—Movement of Fuel in Spent Fuel Pool''; and 3.9.19.2, ''Refueling Operations—Spent Fuel Pool—Storage Pattern,'' and add new TS 3.3.4, ''Containment Purge Valve Isolation Signal.'' The requested changes would make the TSs and the Final Safety Analysis Report (FSAR) consistent with new analyses of the fuel handling and cask drop accidents. The Index Pages and the Bases for these TSs would be modified to reflect these changes.

The proposed action is in accordance with the licensee's amendment request dated December 14, 1999, as supplemented on February 11 and March 30, 2000.

The Need for the Proposed Action

The proposed action is needed for the licensee to move new and spent fuel while the containment is open during refueling operations. As a result of the recovery effort for Millstone Unit No. 2, NNECO determined that the current analysis of a fuel handling accident inside containment is not valid since the current analysis is not conservative with respect to the amount of fuel damage that will occur. As a result, Millstone Unit No. 2 will be required to keep containment isolated during fuel movement inside containment until a revised analysis is approved by the Commission. With the containment isolated, high temperature and humidity conditions create an adverse environment for individuals working inside containment. This type of environment is a personnel safety concern and can increase the potential for human errors. In addition, the revised analysis includes a provision to maintain the personnel air lock doors open under administrative control. This will greatly simplify normal entry and egress. This provision will also decrease the time necessary to evacuate containment in the event of a fuel handling accident, thereby decreasing personnel exposure.

Environmental Impacts of the Proposed Action

The Commission has completed its assessment of the potential environmental impacts associated with the TS. These TS changes are supported by a revised fuel handling analyses and cask drop accident analyses. The impact of the above proposed TS changes has been evaluated by the Commission in consideration for approval of the changes and supporting analyses. The TS change will not significantly increase the probability of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. The consequences of the postulated accidents, related to fuel handling and cask drop accidents, will be greater than previously evaluated. However, the consequences remain well within Part 100 doses (25 percent of 10 CFR Section 100.11(a)(1)) for offsite releases. Therefore, the TS changes will not significantly increase the consequences of any fuel handling or cask drop accidents. In addition, while the TS change described is a substantial change, its efficacy has been demonstrated in other operating facilities. The TS change will not significantly increase the probability or consequences of accidents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed TS amendment.

With regard to potential non-radiological impacts, the proposed amendment does involve features located entirely within the restricted area as defined in 10 CFR part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed amendment.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.,* the ''no-action'' alternative). Denial of the application would result in no significant change in current environmental impacts. Such action would not enhance the protection of the environment and would result in unjustified hardship to the licensee. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Millstone Nuclear Power Station, Unit No. 2.

Agencies and Persons Consulted

In accordance with its stated policy, on April 25, 2000, the staff consulted with the Connecticut State official, Michael Firsick of the Division of Radiation, Department of Environmental Protection, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated December 14, 1999, as supplemented by letters dated February 11 and March 30, 2000, which is available for public inspection at the

Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. Publically available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Library component of the NRC Web site, <http://www.nrc.gov> (the Electronic Reading Room).

Dated at Rockville, Maryland, this 25th day of April 2000.

For the U.S. Nuclear Regulatory Commission.

Jacob I. Zimmerman,

Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–10664 Filed 4–27–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NUREG–1702, Final Report]

Standard Review Plan for the Review of a License Application for the Tank Waste Remediation System Privatization Project: Notice of Availability

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: The Nuclear Regulatory Commission (NRC) is announcing the completion and availability of NUREG–1702, Final Report, entitled ''Standard Review Plan for the Review of a License Application for the Tank Waste Remediation System Privatization (TWRS–P) Project.''

ADDRESSES: Copies of NUREG–1702, Final Report, may be obtained by writing to the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20402–9328. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161. A copy of the document is available for inspection and/or copying for a fee in the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC 20555–0001. A copy is also posted on the NRC's internet web site at *http://www.nrc.gov/NRC/NUREGS/indexnum.html.*

FOR FURTHER INFORMATION CONTACT: Michael Tokar, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: (301) 415–7251.

SUPPLEMENTARY INFORMATION: On March 19, 1999 (64 FR 13613), NRC announced the availability of draft NUREG–1702, ''Standard Review Plan for the Review of a License Application for the Tank Waste Remediation System Privatization (TWRS–P) Project,'' and requested comments on it. This draft NUREG report was the first specific guidance developed for the NRC staff to review a possible future license application for immobilizing highly radioactive waste in underground tanks at the Department of Energy (DOE) reservation in Hanford, Washington.

If NRC were to receive a license application for a TWRS–P facility, it is anticipated that the application would be reviewed under 10 CFR part 70, Domestic Licensing of Special Nuclear Material. The NRC is currently considering revisions to 10 CFR part 70 and the associated standard review plan (SRP), draft NUREG–1520, ''Standard Review Plan for the Review of a License Application for a Fuel Cycle Facility,'' (see *http://techconf.llnl.gov/cgi_bin/topics*). To provide facility specific guidance for the review of a license application for a TWRS–P facility, the NRC simultaneously developed NUREG–1702.

At the present time, NRC is assisting DOE in developing an effective regulatory program for proposed licensing of a TWRS–P facility. NRC and DOE interactions during this initial phase are governed by a Memorandum of Understanding (MOU) signed January 1997. This MOU is currently undergoing revision.

NRC staff considered all public comments received in the preparation of the final NUREG report.

The final version of NUREG–1702, is now available for use by applicants, NRC license reviewers, and other NRC staff. This ''standard review plan,'' (SRP) provides guidance for the evaluation of health, safety, and environmental protection in a license application. Its principal purpose is to ensure quality and uniformity of staff reviews of the application and any later amendments to the license. In addition, it provides information about review acceptance criteria to interested members of the public and the regulated industry. Each SRP section addresses the regulations pertinent to specific technical matters, the acceptance criteria used by the staff, how the review is accomplished, and the conclusions that are appropriate for the Safety Evaluation Report.

Dated at Rockville, Maryland, this 31st day of January 2000.

For the Nuclear Regulatory Commission.

Michael F. Weber,

Director, Division of Fuel Cycle Safety and Safeguards, NMSS.

[FR Doc. 00–10661 Filed 4–27–00; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Information Initiative ''Collecting Information in the Information Age''

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice.

SUMMARY: The Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB), with help from a group of Federal agencies, is beginning an initiative to examine how agencies can collect information more effectively and efficiently. The initiative will focus on improving the quality of information agencies collect while minimizing the collection burden, particularly through the use of information technology. Eight Federal agencies are participating in the initiative: the Internal Revenue Service (IRS), the Occupational Health and Safety Administration (OSHA) of the Department of Labor, the Environmental Protection Agency (EPA), the Department of Transportation (DOT), the Health Care Financing Administration (HCFA) of the Department of Health and Human Services (HHS), the Department of Agriculture (USDA), the Student Financial Assistance Agency of the Department of Education (ED), and the Small Business Administration (SBA). The initiative will begin with a public Forum on April 27, 2000. Through a series of Roundtables with stakeholders, each agency will explore ways to improve the quality of data collected, disseminate better information to the public, and reduce burden. The dates, topic and discussion questions for each Roundtable are in the Supplementary Information below. OMB is seeking written or electronic comments from members of the public on the topics and discussion questions. The procedure for submitting comments is in Dates and Addresses below. At a second Forum and in a final report, OIRA will compile the comments received, present the results of the roundtable discussions regarding specific and overall agency collection efforts, and recommend opportunities for further progress in

information management and burden reduction.

DATES AND ADDRESSES: The first Forum will be on April 27 in Room 450 of the Eisenhower Executive Office Building (EEOB), Pennsylvania Avenue, Washington, D.C. Roundtables will be held on April 27 and other dates, including April 28, and May 5, 8, 10, and 11. There will be morning and afternoon Roundtables on April 27. Roundtables will be held in the New Executive Office Building, 725 17th Street, NW., and the Indian Treaty Room, EEOB, Washington, DC. Because space may be limited for specific roundtables, OMB recommends that those wishing to participate pre-register to ensure that they can participate in the sessions of their choice. Registration procedures are in the Supplemental Information below. Those not registered will be accommodated as space and time permit. The second forum will be held approximately 90 days after the first Forum.

Written and electronic comments must be received by June 12, 2000. DOT has established an electronic docket at *http://dms.dot.gov/* to receive electronic comments. OMB encourages members of the public to submit electronic comments to that site. When you access the site, click on ES Submit. Then click on unregistered user submission. You will see a document submission sheet. Fill in the data elements for submitter, docket ID, operating administration, and document title. The docket ID is 7156. The operating administration (use pull-down window) is OMB. The document title corresponds to a Roundtable and is one of the following:

- ED—Electronic Documentation
- EPA—TRI;
- EPA—RCRA;
- EPA—TSCA;
- EPA—Air;
- HCFA—CMNs;
- HCFA—Provider Enrollment;
- IRS—Self Employed;
- IRS—Employment Tax;
- IRS—Post Filing Burden;
- OSHA—Certifications;
- USDA—SCI.

Type the document title exactly as written here. Then click ''enter comment'' and type in your comment on screen, or click on attach to attach a file. Click on Help for acceptable file formats. Submit written comments to DOT Dockets, 400 7th St. SW., PL401, Washington, DC 20590. Include the docket ID (7156) and the document title at the top of your comment (for example: docket 7156, HCFA – CMN). Submit comments by fax to 202–493–2251.

FOR FURTHER INFORMATION CONTACT: For further information contact Ronald F. Matzner, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC, 20503. Telephone: (202) 395–4856 or at *rmatzner@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA) requires OMB to oversee the information collection activities of Federal agencies. Among the purposes of the PRA are to improve data quality, program efficiency, and delivery of services to the public, while minimizing information collection burdens. OMB is charged with responsibility to work with agencies to make their information collections more effective and efficient. To this end, OMB, with help from Federal regulatory agencies, has begun an initiative to examine how agencies can collect information more effectively and efficiently.

Each of the participating agencies will hold a series of roundtables or dialogue sessions with stakeholders. In each Roundtable session, the agency chairing the session will ask participants to address specific topics and issues with respect to a particular information collection or the agency's information collection efforts in general. The participating agencies have chosen information collections and topics that illustrate current agency practices or highlight issues common to government in general. Agencies will use the input and dialogue from stakeholders in their decision making regarding the specific collection initiatives and generally in their efforts to improve data quality, gather and disseminate better information, and reduce burden. OMB will consider the input from stakeholders and the agency responses in its final report. OMB expects that the roundtables will focus on best information collection practices and new uses of technology to help government balance the need for information with the minimization of burden. Special attention may focus on the use of information technology to change significantly the way government obtains information. OMB also expects that agencies may discuss efforts to share information across programs, agencies, and Departments.

The initiative will begin with a public Forum on April 27, 2000, consisting of presentations by senior agency officials and Roundtables. Agency officials first will discuss burden reduction accomplishments to date and current agency initiatives to improve data quality and reduce collection burden. Most participating agencies will then host Roundtable sessions. The IRS will have additional roundtables on May 8 and 11. EPA and HCFA will have Roundtables on April 28 and May 10 respectively.

As of April 4, the following Roundtables have been scheduled:

- EPA—TSCA Electronic Reporting (April 27, 10:30–12:30);
- EPA—RCRA Burden Reduction (April 27, 2–4:30);
- EPA—TRI Certification in Lieu of Full Reporting (April 28, 10–12:30);
- EPA—Consolidated Emissions Reporting and Consolidated Federal Air Rules (April 28, 2–4:30);
- HCFA—Certificates of Medical Necessity for DMEs (April 27, all day);
- HCFA—Provider Enrollment (May 10, all day);
- IRS—Self Employed Tax Burden (April 27, all day);
- IRS—Employment Tax Burden (May 8, all day);
- IRS—Post Filing Burden (May 11, all day);
- OSHA—Certifying Regulatory Compliance (April 27, 10:30–12:30);
- USDA—Service Center Initiative (April 27, 10:30–12:30);

The following is a detailed description of the information collections, topics, issues and questions that will be discussed at each roundtable, arranged in chronological order.

There will be five roundtables on April 27 from 10:30 to 12:30.

EPA—RCRA Streamlining

The Office of Solid Waste (OSW) reviewed all of its RCRA reporting and recordkeeping requirements. It is considering streamlining or eliminating many of them, which could reduce the information collection burden of the program by up to 40%. The key issues to discuss are:

(1) Eliminating or streamlining one third of the 334 notices and reports that facilities send to states or EPA.

(2) Eliminating or streamlining four reporting requirements for the Land Disposal Restrictions Program.

(3) Reducing the frequency of facility self-inspections for hazardous waste tanks from daily to weekly and reducing inspection frequencies for all other treatment units on a case-by-case basis.

(4) Deferring to the OSHA standards for facility emergency response training.

(5) Allowing electronic recordkeeping and reporting.

HCFA—Certificates of Medical Necessity (CMN) for DMEs

HCFA has published a notice in the **Federal Register** announcing the agency's review of all CMNs (except for oxygen). It is extending the comment period until June 1, 2000 to receive additional input in the Information Initiative. HCFA hopes the roundtable will result in useful information to help it improve the design and administration of CMNs. Key issues are: (1) Practical experience with DMERCs in processing CMNs; (2) the elimination or addition of data elements (Is HCFA collecting the correct information?); (3) the utility of CMN information; (4) the clarity of CMN questions; (5) information technology that can make the collections more efficient and effective; (6) present burden (complexity and time); and (7) reengineering the process (such as getting the physician's signature, ICD–9 codes).

IRS—Self-Employed Tax Burden

Approximately one million new small businesses start up each year. Currently, about 10 million Americans are self-employed full time. This number will continue to climb as information technology changes the way Americans do their work. IRS is reinventing itself to better adapt its services to meet the needs of this dynamic taxpayer segment. In general, the self-employed taxpayer population has substantially higher income and files up to three to four times the number of forms and schedules as wage and investment taxpayers. A majority of self-employed taxpayers (about 88 percent) rely on tax professionals to prepare their income tax forms. Many are savvy technologically—about 65 percent use the World Wide Web to access the Internet. On the other hand, many of the self-employed do not understand tax law requirements, rely on inadequate accounting practices, and struggle with resource and cash flow problems. This roundtable discussion, therefore, will focus on what can be done to help the self-employed comply with tax law requirements while decreasing the amount of time and out-of-pocket costs (burden) these individuals face in preparing and filing their Federal income tax return.

Specific issues to be discussed during this roundtable are:

Identifying Self-Employed Burden

- Is the burden of preparing and filing Federal income tax returns greater on the self-employed taxpayer than on wage and investment taxpayers?
- What are the specific burdens on the self-employed taxpayer?
- Are any of these elements unique to the self-employed taxpayer?
- Identify specific legislative provisions that may cause unnecessary burden on self-employed taxpayers.
- Identify specific elements in IRS procedures and processes that are affecting the most self-employed taxpayers? What processes are costing self-employed taxpayers the most money?
- Identify specific elements in IRS forms and publications that may cause unnecessary burden on self-employed taxpayers.

Process and Form Redesign To Reduce Burden

- Are there any legislation or regulatory changes that would decrease burden?
- Are there any changes in IRS processes and processes that would decrease burden without impacting compliance?
- Are there any changes in forms and publications that would decrease burden?
- What education/outreach efforts are working and what additional efforts are needed to improve self-employed individuals' knowledge of what their responsibility is for filing taxes?
- Are there joint efforts with third parties that could solidify better relations between IRS and the self-employed?

The Role of Tax Professionals in Reducing Burden

- Many self-employed individuals turn to tax professionals to prepare and file their Federal income tax return. What is the role of the tax preparer today? How has this role changed in recent years?
- What special benefits do tax professionals afford the self-employed individual?
- What role may tax professionals play in the future that will help reduce self-employed tax burden?

Technology Issues

Off-the-shelf tax software packages provide self-employed individuals with powerful tools to assist them in preparing and filing their federal income tax returns. But many self-employed individuals do not take advantage of these tools.

- Are there barriers, that IRS can control, that keep self-employed individuals from optimizing their use of tax preparation software?
- What can IRS do to eliminate these barriers?
- How effective have other electronic tools, such as e-filing, been in reducing self-employed tax burden.
- How can information technology be best utilized to reduce self-employed tax preparation and filing burden?
- What policies, business prophecies, and procedures might the IRS change to maximize the benefits of information technology?
- Are there any legislative or regulatory changes needed to optimize the use of technology?
- How can IRS make better use of its Web site for burden reduction?
- What education/outreach is necessary?

OSHA—Certifying Regulatory Compliance

OSHA has reviewed all of its rules and regulations to identify existing information collection requirements, including certification records. After conducting this review, OSHA identified a number of existing provisions in the General Industry, Shipyard Employment, and Construction industry standards which require employers to prepare a certification record to demonstrate regulatory compliance. Employers must prepare and maintain documents confirming that they completed required activities, including: inspecting, testing, and checking equipment; assessing and controlling safety and health hazards; and training employees. OSHA is considering the possibility of revoking some or all of the certification records if it would reduce unnecessary paperwork without diminishing employee protection. OSHA has had discussions with the National Advisory Committee on Occupational Safety and Health, the Advisory Committee on Construction Safety and Health, and the Maritime Advisory Committee on Occupational Safety and Health about the certification records. As part of this forum, OSHA will discuss the recommendations and comment from those Committees and seek input from attendees. The discussion will focus on the following questions:

(1) Should OSHA eliminate some or all of the certification requirements? If so, which?

(2) How much burden reduction will result from the elimination of certification records?

(3) How will employers demonstrate to OSHA that they have complied with a regulatory provision if a certification record is not required?

(4) Will employers forego the required inspections, tests, assessments or training if OSHA does not require written documentation to certify completion of these activities?

(5) Should OSHA retain any specific certification requirements?

(6) Are any existing certification requirements useful to employers for purposes other than documenting compliance with an OSHA standard?

(7) What alternatives to certification are available that employers could use to demonstrate compliance with the required activities (*e.g.,* equipment testing, employee training)?

(8) If certification requirements are revoked, what would be the effect on employee protection?

(9) Are there other paperwork requirements the Agency could eliminate without jeopardizing the safety and health of workers?

(10) Are there any paperwork requirements that hinder employers from using the latest technology to reduce the paperwork burden?

(11) Are there ways to modify existing paperwork requirements that could reduce burden? For example, modifying the frequency of the collection, the contents, or identification of areas of duplication?

(12) Are there services or products the Agency could provide to make it easier to comply with paperwork requirements?

USDA—Service Center Initiative (SCI)

SCI is an effort by USDA's county-based agencies, the Farm Service Agency, Natural Resources Conservation Service and Rural Development to provide one-stop service for farm programs and farm credit, conservation programs, and rural loans and grants. It would allow customers to conduct business, and submit and receive information without visiting a service center. It also would integrate service delivery with that provided by other service providers in the community. The effort will reduce burden by sharing information, eliminating redundancy, reengineering business processes, and reducing office visits and paperwork. Key issues for discussions are building common business and technical architectures; business process reengineering; eliminating redundancy; sharing customer information; privacy and security; and pilot site status. Discussion Topics will include:

1. Are these needs and expectations the right improvements for USDA to target?

2. What service delivery methods used successfully by other public or private enterprises can and should USDA follow?

3. Will providing information and delivering services through the Internet and e-mail be a useful alternative to visiting a service center?

4. What privacy concerns arise from USDA consolidating information from the three agencies onto single computer systems?

5. Given existing budget realities, how should USDA best assist and train staff and customers to empower them to use the Internet and USDA Internet-based services?

6. How should USDA measure success in delivering these services over the Internet?

There will be four Roundtables on April 27 from 2:00 to 4:30.

EPA—Electronic Reporting, Focusing on TSCA

EPA's Office of Prevention, Pesticides, and Toxic Substances has developed electronic technology initiatives for reporting under sections 4, 5, 8(c), 8(d), 8(e), and 12(b) of the Toxic Substances Control Act (TSCA). They also will be used for reporting to the Interagency Testing Committee (ITC), an independent advisory committee to the EPA Administrator that includes 15 U.S. Government organizations. These initiatives use state of the art technologies such as public key infrastructure (PKI) to digitally sign submissions, and portable document format (PDF) and hypertext mark up language (HTML) to submit reports to the EPA over the Internet or on compact discs.

EPA would like to discuss the following with stakeholders:

(1) Does the approach do what EPA intends it to do (*i.e.* make it easier to use, reduce errors, improve tracking, satisfy company needs)?

(2) What do they think about the system and forms used (*i.e.,* user friendly, help menus, easy to follow, instructions, related guidance)?

(3) Would companies use this optional electronic reporting approach? Why? Why not?

(4) Are incentives available to encourage electronic submission of TSCA data?

(5) How should the Agency measure and account for the burden related to electronic submissions like these? How should the Agency measure and account for other benefits related to this electronic approach, *i.e.,* increased efficiencies for the regulated community, as well as within EPA?

(6) Can EPA reduce related burden further?

(7) Are there other reporting or submission requirements within OPPTS where this approach would help to significantly reduce burden?

(8) Are there new ways to report electronically that OPPTS should consider?

HCFA—CMNs Continues

IRS—Self-Employed Tax Burden Continues

USDA–SUSDA—Service Center Initiative Continues

EPA will have two half-day Roundtables on April 28, one on TRI and the other on Consolidated Air Emissions and Consolidated Federal Air Rules.

EPA—TRI Certification of No Significant Change From Prior Year

The Toxics Release Inventory is a publicly available EPA database that contains information on specific toxic chemical releases and other waste management activities reported annually by facilities in certain industry sectors. A suggestion has been made that some of the facilities that file a Form R should have the option to file a ''Certification of No Material Change'' in lieu of Form R in alternate years. EPA would like to discuss this suggestion with interested parties. Key issues are:

(1) What qualitative conditions would a facility need to certify had not changed (inputs, production processes, production levels, and waste management practices)?

(2) How much is a ''material change'' with respect to each qualifying condition?

(3) Should there be a quantitative certification with respect to either total releases or distribution of releases among media?

(4) If a quantitative certification were needed, what would be a simple, verifiable standard? (For example, eligibility could be limited to facilities that did not have more than an X% change in their reported quantities over the past two or three years.)

(5) How much burden reduction would certification yield?

EPA—Consolidated Emissions Reporting and Consolidated Federal Air Rules

A. Regulated facilities submit air pollutant emissions data to the state governments that submit the data to EPA. EPA is considering a Consolidated Emissions Reporting Rule (CERR) to simplify emissions reporting, unify reporting dates, streamline the way states submit this data to EPA, consolidate and harmonize reporting requirements, improve data quality, and minimize overall reporting burden. Key issues for discussion are:

(1) Whether EPA can streamline or simplify the requirements further.

(2) Whether EPA should apply the same streamlining and simplification to new categories of data the Agency needs

to collect to support its programs to control fine particles and ozone.

(3) Whether EPA should add hazardous air pollutants to the categories of pollutants for which state reporting is required.

B. Consolidated Federal Air Rule. EPA is also in the final stages of developing a ''one-stop'' air pollution regulation for the chemical industry. Called the Consolidated Federal Air Rule, this regulation, the first of its kind, will combine all existing air regulations affecting the synthetic organic chemical industry into one streamlined and simplified rule, eliminating duplication and substantially reducing paperwork burden. EPA and the affected industry entered into the process with hopes that the effort could be a model for the consolidation of air rules affecting other industry sectors. EPA and the synthetic organic chemical industry expended an enormous amount of effort and resources developing the rule. The experience has been mixed. While the rule does simplify and reduce paperwork, the effort was so resource intensive and the issues so complex that it calls into question whether it is a useful model for other industries. At the Roundtable, EPA will briefly describe how this new concept works, and will invite discussion whether the concept is likely to prove useful for other industries.

On May 8, the IRS Will Have a Full Day Roundtable on Employment Tax Burden

This roundtable discussion will focus on the burden faced by small businesses and self-employed individuals in preparing and filing their Federal employment tax return. The process of completing IRS Form 941 (Federal Employment Tax Return) is by itself not a major source of burden for small businesses—it's only one page. The real burden is derived from the day-to-day activities, such as completing calculations and record keeping, that supply the numbers needed to fill out the form.

The issues to be discussed during this roundtable session are:

Identifying the Issues

- What are the specific elements of burden associated with preparing and filing Federal employment tax returns?
- Identify specific legislative provisions that may cause unnecessary burden on small businesses and self-employed taxpayers preparing and filing their employment tax return.
- Identify specific elements in IRS procedures and processes that may cause unnecessary burden.
- Identify specific elements in IRS forms and publications that may cause unnecessary burden.

Process Redesign

Two States, Iowa and Montana, have initiated simplified tax and wage reporting processes where one form 941 serves the needs of both the Federal and the state taxing authorities. What can be done at the Federal level to encourage cooperation between the states and the IRS to expand this burden reducing process?

- Is there anything outside of ongoing efforts that you would recommend IRS should consider that would simplify the current employment tax reporting process?
- What outreach efforts would you recommend to encourage greater cooperation among the States, IRS, and the small business community to facilitate such filing?

Other Burden

- When an employer has employees, complying with IRS requirements necessarily involves consideration of other agency rules and procedures. For example, a small business owner must determine if an applicant can work in the US, and if so, at what rate to withhold taxes—if at all. Also, the small business owner must be familiar with Immigration and Naturalization Service rules and procedures. It is often unclear to which agency an employer should refer questions and discuss issues. How can the Federal government work more effectively to minimize the employer's burden and assist the employer to comply with the requirements of all regulatory agencies?
- Proposals have been made for legislation that would allow return free filing for taxpayers who file the Form 1040EZ and 1040A. The IRS would use W–2s, 1099s, and withholding to calculate and send tax bills or refunds to taxpayers, who could accept or challenge the calculation. What would the impact be on employers who would have to obtain information from employees to supply to the IRS? How would this impact the burden of filing employment tax forms?
- Small business owners do not always understand how penalties are assessed and how the amount of the penalty is calculated. How can the IRS disseminate better information to clarify how penalties are assessed?
- As businesses grow they often face new sets of employment tax issues. Adding more employees can often mean that a business will face more payroll tax issues. For example, as a company's payroll increases the number of required tax deposits might also increase and/or the company may be required to electronically transfer payroll information to IRS. What can be done to alleviate this burden?

Using Technology

The IRS provides several options for filing Form 941 using modern technology. IRS implemented TeleFile in 1998. In April, 2000, the IRS introduced 941 e-File.

- What else might the IRS do to maximize the benefit of information technology with respect to employment taxes?
- Are there legislative or regulatory changes that could facilitate greater use of software and the Internet for filing employment tax forms?
- Do you know of any specific problems in IRS' distribution of information about employment tax law changes that may be impeding small business and self-employed taxpayers from receiving necessary information clearly and quickly?
- Tax laws frequently change. Small businesses don't always have the time to keep up with the changes. How can technology be best used to inform small business about tax changes?
- What education/outreach is working and what education/outreach is needed?
- How can IRS make better use of its Web site for burden reduction in this area?
- The IRS is encouraging the electronic filing of Form 941. IRS has a 941 e-file program. It is a relatively new program with specified procedures. Are there additional procedures or formats needed to make it even easier for small business to file online?
- Is there anything else the IRS might do to revise the existing program or add additional options that would maximize the benefits of information technology with respect to employment taxes?

Service Providers

- Many self-employed individuals turn to service providers to prepare and file their Federal employment tax return. What is the role of the service provider today? How has this role changed in recent years?
- What special benefits do service providers afford small business and self-employed taxpayers?
- What role may service providers play in the future that will help reduce small business/self-employed tax burden?

HCFA Will Have a Full Day Roundtable Session on May 10 on Provider Enrollment for Medicare Billing Privileges

HCFA is proposing to revise its provider enrollment forms. It has consulted with the industry, conducted various outreach, including at least one town meeting. In response to the industry input, HCFA has made some changes to the new forms and other aspects of the proposal. Prior to publishing the proposal for agency review and public comment, HCFA would like additional public dialogue on the proposed forms. Drafts of the proposed forms are at *http://www.hcfa.gov/regs/prdact95.htm.* Key issues are:

(1) Use of three separate forms to target specific providers and suppliers (855 for individual practitioners, 855A for providers billing fiscal intermediaries, and 855B for organizations billing carriers);

(2) Differences between current and proposed forms;

(3) Needs and use of the information; and

(4) Use of information technology.

On May 11, the IRS Will Have a Full Day Roundtable on Post Filing Burden

Post-filing time and out-of-pocket costs incurred by taxpayers in an effort to comply with the existing tax laws have been largely unmeasured. In 1983 Arthur D. Little developed a methodology to measure filing burden. However, no method was developed to measure post-filing burden. The focus of this roundtable discussion will be to assess ways in which post-filing burden can and should be measured.

The issues to be discussed during this roundtable session are:

(1) Defining Post Filing Burden. When does the post-filing process begin? Can post filing burden be initiated by the taxpayer or only by IRS? What specific activities constitute post-filing burden? What is the best way to measure post-filing burden?

(2) Wage and Investment versus Small Business. How is post-filing burden on small businesses and the self employed different from the post-filing burden on wage and investment taxpayers?

(3) New Approaches. Given IRS's mission to provide American taxpayers with quality service by helping them understand and meet their tax responsibilities what processes and procedures do you think IRS can streamline to alleviate post-filing burden? As the IRS restructures, what operational issues should it consider that would reduce small business/self-employed filing burden?

(4) The IRS is conducting a pilot in which qualified tax professionals can discuss taxpayer account issues with IRS customer service representatives by e-mail over the IRS Web site 24 hours a day. How effective is such a program in reducing post-filing burden? How might the IRS maximize the benefit of information technology to minimize post filing burden?

Among the information collections that DOT has chosen for this initiative are two associated with rulemakings that are either proposed or about to be proposed. First, the Department published in the **Federal Register** on December 9, 1999 (64 FR 69076) a notice of proposed rulemaking (NPRM) to revise the Department's drug and alcohol testing procedures. DOT has held public listening sessions on its proposed rulemaking in Washington DC on March 20 and 21, in Los Angeles, California on March 28, and in Dallas Texas on March 30. Due to the close proximity of the Information Initiative's roundtables to the drug and alcohol sessions, the latter will be treated as part of the Information Initiative in lieu of a roundtable. The Department also will conduct an electronic chat room regarding the drug and alcohol NPRM from April 3 to April 7. The issues discussed and the comments submitted in the drug and alcohol meetings and in the electronic chat room will be considered at the final Forum and in OMB's final report and recommendations. Similarly, the Department expects to publish shortly an NPRM to revise its Motor Carrier Hours of Service. After it is published, DOT intends to hold a series of listening sessions similar to those conducted for the drug and alcohol NPRM. These sessions also will be considered part of the Information Initiative in lieu of a Roundtable.

ED recently has begun a negotiated rulemaking that would reengineer its regulations to make it easier for educational and financial institutions to use electronic technology to document interactions with students and ED. ED expects to conduct a number of stakeholder sessions between now and early summer. These sessions will be part of the Information Initiative.

On May 5, the participating agencies will conduct an interagency roundtable to share best practices and discuss the challenges and opportunities of information technology with respect to information collections. This roundtable will not be open to the public. An agency may hold additional roundtables on one or more of the collections, topics or issues during the month of May if warranted.

OMB recommends that attendees register for the Forum and each roundtable that they wish to attend. Attendees may register by e-mail to rmatzner@omb.eop.gov, or by fax at 202–395–7285. Submit registrations at least 3 working days before the date of a Roundtable. All attendees must provide the following: full name, full mailing address, telephone number, e-mail address, and each roundtable that he or she will attend. If an attendee will attend the Forum held in the EEOB, he or she must also provide his or her date of birth and social security number.

John T. Spotila,

Administrator, Office of Information and Regulatory Affairs.

[FR Doc. 00–10570 Filed 4–27–00; 8:45 am]

BILLING CODE 3110–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Application and Claim for Unemployment Benefits and Employment Service.

(2) *Form(s) submitted:* UI–1, UI–3.

(3) *OMB Number:* 3220–0022.

(4) *Expiration date of current OMB clearance:* 8/31/2000.

(5) *Type of request:* Revision of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 11,200.

(8) *Total annual responses:* 78,700.

(9) *Total annual reporting hours:* 8,617.

(10) *Collection description:* Under Section 2 of the Railroad Unemployment Insurance Act, unemployment benefits are provided for qualified railroad employees. The collection obtains the information needed for determining the eligibility to and amount of such benefits from railroad employees.

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be

addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 and the OMB reviewer, Joe Lackey (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 00–10618 Filed 4–27–00; 8:45 am]

BILLING CODE 7905–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Nonresident Questionnaire.

(2) *Form(s) submitted:* RRB–1001.

(3) *OMB Number:* 3220–0145.

(4) *Expiration date of current OMB clearance:* 6/30/2000.

(5) *Type of request:* Revision of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 1,500.

(8) *Total annual responses:* 1,500.

(9) *total annual reporting hours:* 750.

(10) *Collection description:* Under the Railroad Retirement Act, the benefits payable to an annuitant living outside the United States may be subject to withholding under Public Laws 98–21 and 98–76. The form obtains the information needed to determine the amount to be withheld.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 and the OMB reviewer, Joe Lackey (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 00–10627 Filed 4–27–00; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27171]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

April 21, 2000.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by May 16, 2000, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After May 16, 2000, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Energy East Corp., et al. (70–9569)

Energy East Corp. (''Energy East''), P.O. Box 1196, Stamford, Connecticut 06904–1196, a New York corporation and a public utility holding company exempt from registration under section 3(a)(1) of the Act, by order of the Commission dated February 2, 2000,[1] CMP Group, Inc. (''CMP Group''), 83 Edison Dr., Augusta, Maine 04336, a Maine corporation and a public utility holding company exempt from registration under section 3(a)(1) of the Act, by order of the Commission dated February 12, 1999,[2] CTG Resources, Inc. (''CTG Resources''), 100 Columbus Boulevard, Hartford, Connecticut 06103, a Connecticut corporation and a public utility holding company exempt from registration under section 3(a)(1) by rule 2 under the Act, and Berkshire Energy Resources (''Berkshire Energy''), 115 Chesire Road, Pittsfield, Massachusetts 01201, a Massachusetts corporation, and a public utility holding company exempt from registration under section 3(a)(2) by rule 2 under the Act (collectively, ''Applicants''), have filed with this Commission an application under sections 9(a)(2), 10 and 11 under the Act.

The Applicants seek authorization for Energy East to acquire all of the issued and outstanding common stock of CMP Group, CTG Resources and Berkshire Energy (''Merger''). Under the proposed transactions, CMP Group, CTG Resources and Berkshire Energy would become direct subsidiaries of Energy East and Energy East would register as a public utility holding company under section 5 of the Act.[3] The Applicants also seek authorization to operate as a combination electric and gas utility holding company. In addition, Energy East seeks authorization to retain its interests in its utility and nonutility activities, businesses and investments and to acquire and retain the interests of CMP Group, CTG Resources and Berkshire Energy's utility and nonutility activities, businesses and investments.

Description of the Merger[4]

On June 14, 1999, CMP Group, Energy East and EE Merger Corp. (a wholly owned subsidiary of Energy East) entered into the CMP Group Merger Agreement. The CMP Group Merger Agreement contemplates that EE Merger Corp., will merge with and into CMP Group with CMP Group being the surviving corporation and becoming a wholly owned subsidiary of Energy East (''CMP Group Merger''). Under the terms of the CMP Group Merger Agreement, each outstanding share of CMP Group's common stock, $5.00 par value per share, other than dissenting shares and any treasury shares or shares owned by CMP Group, Energy East or any of their subsidiaries, will be converted into the right to receive $29.50 in cash. Under the CMP Group Merger Agreement, approximately $957 million in cash will be paid to holders of shares of CMP Group common stock.

On June 29, 1999, CTG Resources entered into the CTG Resources Merger Agreement with Energy East and Oak

[1] Holding Co. Act Release No. 27128.

[2] Holding Co. Act Release No. 26977.

[3] The Applicants have also filed in S.E.C. file no. 70–9609 an application-declaration related to the financing of the proposed Energy East registered holding company system.

[4] The Merger will be accounted for as an acquisition of CMP Group, CTG Resources and Berkshire Energy by Energy East under the purchase method of accounting in accordance with generally accepted accounting principles.

Merger Co. (''Oak''), a Connecticut corporation and a wholly owned subsidiary of Energy East. CTG Resources will merge with and into Oak, with Oak being the surviving corporation (''CTG Resources Merger''). Oak will continue to conduct CTG Resource's business under the name ''CTG Resources, Inc.'' as a direct, wholly owned subsidiary of Energy East. Under the terms of the CTG Resources Merger Agreement, each outstanding share of CTG Resources common stock, other than dissenting shares, will be converted into the right to receive: (i) $41.00 in cash (''CTG Resources Cash Consideration''); (ii) a number of shares of Energy East common stock equal to the Exchange Ratio; or (iii) the right to receive a combination of cash and shares of Energy East common stock. The ''Exchange Ratio'' shall be equal to the CTG Resources Cash Consideration divided by either; (i) the Energy East share price if the Energy East share price is equal to or less than $30.13 and equal to or more than $23 .67; (ii) $30.13 if the energy East share price is greater than $30.13, in which case the Exchange Ratio will equal 1.3609; or (iii) $23.67 if the Energy East share price is less than $23.67, in which case the Exchange Ratio will equal 1.7320. The Energy East share price will equal the average of the closing prices of Energy East common stock as reported in the *Wall Street Journal,* for the 20 trading days immediately preceding the second trading day prior to the effective time of the CTG Resources Merger. The aggregate number of shares of CTG Resources' common stock that is convertible into cash is limited to 55% of the total number of shares of CTG Resources common stock issued and outstanding as of the effective time of the CTG Resources Merger.

On November 9, 1999, Berkshire Energy, Energy East and Mountain Merger LLC entered into the Berkshire energy Merger Agreement Mountain Merger LLC will merge with and into Berkshire Energy, with Berkshire Energy being the surviving company and becoming a wholly owned subsidiary of Energy East (''Berkshire Energy Merger''). Under the terms of the Berkshire Energy Merger Agreement, each outstanding Berkshire Energy common share, without par value, other than any treasury shares of shares owned by Berkshire Energy, Energy East or any of their subsidiaries, will be converted into the right to receive $38.00 in cash. Under the Berkshire Energy Merger Agreement, approximately $96 million in cash will be paid to holders of Berkshire Energy common shares.

As a result of the Merger, the post-merger Energy East System will have *pro forma* assets of approximately $7.275 billion for the twelve month period ended September 30, 1999 and combined operating revenues of approximately $3.9 billion, for the same period. If approved, the Energy East System will serve approximately 1,359,000 electric customers in two states and 579,800 gas customers in four states. Following completion of the Merger, Energy East will register with the Commission, as a holding company, under section 5 of the Act.

Parties to the Merger

Energy East and Its Subsidiaries

Energy East, through its subsidiaries, is an energy delivery, products and services company with operations in New York, Connecticut, Massachusetts, Maine, New Hampshire, Vermont and New Jersey. Energy East currently owns, directly or indirectly, three public utility companies: New York State Electric & Gas Corporation (''NYSEG''), CMP Natural Gas, L.L.C. (''Maine Gas Co.'') and The Southern Connecticut Gas Company (''Southern Connecticut Gas'').[5]

NYSEG's service territory is in the central, eastern and western parts of New York. NYSEG's service territory has an area approximately 19,900 square miles and a population of 2,400,000. The larger cities in which NYSEG serves both electricity and natural gas customers are Binghamton, Elmira, Auburn, Geneva, Ithaca and Lockport, New York. No customer accounts for 5% or more of either electric or natural gas revenues. During 1996 through 1998, approximately 84% of NYSEG's operating revenue was derived from electric service with the balance derived from natural gas service.

As of December 31, 1998, NYSEG's electric transmission system consisted of approximately 4,482 circuit miles of line. NYSEG's electric distribution system consisted of 33,858 pole-miles of overhead lines and 2,109 miles of underground lines.

For the twelve months ended September 30, 1999, Energy East's consolidated gross utility revenues consisted of electric revenues of approximately $1,725,112,000 (84%) and gas revenues of approximately $322,870,000 (16%). Energy East's utility operating income and utility net income available for common stock were $615,872,000 and $232,383,000, respectively. Consolidated assets of Energy East and its subsidiaries as of September 30, 1999, were approximately $4.0 billion, consisting of $2.1 billion in net utility plant and $1.9 billion in other utility and nonutility assets. For the twelve months ended September 30, 1999, consolidated operating revenues, operating income and net income for Energy East and its subsidiaries were approximately $2,348,310,000, $565,003,000, and $233,044,000 respectively. Connecticut Energy's operating revenues totaled approximately $228,296,000 for the twelve months ended September 30, 1999. Connecticut Energy's consolidated net income for the same period was $17 million.

NYSEG is engaged in the business of purchasing, transmitting and distributing electricity and purchasing, transporting and distributing natural gas. NYSEG also generates electricity from its 18% share of the Nine Mile Point Unit 2 Nuclear Plant (''NM2'') and from its hydroelectric stations. NYSEG has agreed to sell its share of NM2.[6] NYSEG serves 826,000 electric customers and 244,000 natural gas customers in upstate New York. NYSEG retains hydroelectric facilities with an aggregate capacity of 623 MW, nonutility generation (''NUG'') contracts and contracts under which the New York Power Authority sells power to NYSEG, as well as an 18% ownership interest in the NM2.

Maine Gas Co., a gas utility company, is in the process of constructing a local natural gas distribution system, on a nonexclusive basis, in certain areas of the state or Maine, including among others, the Bethel, Windham, Augusta, Waterville and Bangor metropolitan areas, and the coastal area, including Brunswick and Bath. Maine Gas Co. began to provide service to retail customers in May 1999.

On April 23, 1999, Energy East and Connecticut Energy Corporation (''Connecticut Energy'') entered into an

[5] NYSEG and Southern Connecticut Gas are wholly owned subsidiaries of Energy East. Maine Gas Co. is a joint venture between New England Gas Development Corporation, a wholly owned subsidiary of CMP Group, and Energy East Enterprises, (''EE Enterprises''), a wholly owned subsidiary of Energy East.

[6] NYSEG has contracted to sell its 18% interest in NM2 to AmerGen Energy Corporation (''AmerGen''). Approval of that sale is pending before the New York Public Service Commission (''NYPSC''). In December 1999, Rochester Gas & Electric Corporation (''RG&E''), an NM2 cotenant, exercised its right of first refusal in connection with the sale of plant. The NYPSC began settlement negotiations in January 2000, seeking modifications to the proposed terms of the sale, whether to AmerGen or RG&E. An application for authorization to transfer associated jurisdictional facilities filed under section 203 of the Federal Power Act is also pending before the Federal Energy Regulatory Commission (''FERC'').

agreement and plan of merger. On February 2, 2000 the Commission issued an order authorizing the merger.[7] On February 8, 2000 Energy East completed its merger with Connecticut Energy. Connecticut Energy, an exempt holding company, is primarily engaged in the retail distribution of natural gas through its principal wholly owned subsidiary, Southern Connecticut Gas.

Southern Connecticut Gas, a public utility company incorporated under the laws of Connecticut, is engaged in the retail distribution of natural gas for residential, commercial and industrial users and the transportation of natural gas for commercial and industrial users.[8] Southern Connecticut Gas serves approximately 158,000 customers in Connecticut, primarily in 22 towns along the southern Connecticut coast from Westport to Old Saybrook, which include the urban communities of Bridgeport in New Haven. Southern Connecticut Gas is the sole distributor of natural gas, other than bottled gas, in its service area.

Connecticut Energy has a number of direct and indirect nonutility subsidiaries including CNE Energy Services Group, In. (''CNE Energy''), CNE Development Development Corporation (''CNE Development'') and CNE Venture-Tech, Inc. (''CNE Venture-Terch''). All three of these nonutility subsidiaries are Connecticut corporation.

CNE Energy, a wholly owned subsidiary of Connecticut Energy, provides an array of energy products and services to commercial and industrial customers throughout New England, both on its own through participation as a member of various energy-related limited liability companies. CNE Energy's principle subsidiaries are Energy East Solutions, LLC; Total Peaking Services, LLC, a wholly owned subsidiary of CNE Energy, which operates a 1.2 billion cubic foot liquefied natural gas open access storage facility in Milford, Connecticut, a Conectiv/CND Peaking, LLC, a wholly owned subsidiary of CNE Energy, which provides a firm in-market supply source to assist marketers and local gas distribution companies in meeting the maximum demands of their customers by offering firm supplies for peak-shaving and emergency deliveries.

CNE Development, a wholly owned subsidiary of Connecticut Energy, is a 16.67% equity participant in East Coast Natural Gas Cooperative, LLC (''East Coast''). East Coast purchases and stores spot gas supplies, provides storage service utilization services and is involved in bundled sales.

CNE Venture-Tech, a wholly owned subsidiary of Connecticut Energy, invests in ventures that produce or market technology advanced energy-related products. CNE Venture-Tech owns a 7.8884% limited partnership interest in Nth Power Technologies Fund I, L.P., which invests in companies that develop, produce and market innovative energy-related products; and CIS Service Bureau, LLC, a service bureau which provides access to customer-billing software and other related services for local distribution and other utility-type companies (including Southern Connecticut Gas) and which is wholly owned by CNE Venture-Tech.

Energy East also has a number of direct and indirect nonutility subsidiaries including EE Enterprises, a Maine corporation, XENERGY Enterprises, Inc. (''XENERGY''), a Delaware corporation, and Energy East Management Corporation (''Energy East Management''), a Delaware corporation.

EE Enterprises owns natural gas and propane air distribution companies. It is a wholly owned subsidiary of Energy East. It is currently an exempt public utility holding company under the Act by order of the Commission dated February 12, 1999.[9] It indirectly holds public utility assets through its ownership of a 77% interest in Maine Gas Co., a gas utility company.

EE Enterprises' nonutility subsidiaries: New Hampshire Gas Corporation, a New Hampshire corporation, which is a wholly owned subsidiary of EE Enterprises and is an energy services company in New Hampshire specializing in propane air distribution systems; Southern Vermont Natural Gas Corporation, a Vermont corporation, which is a wholly owned subsidiary of EE Enterprises and is developing a combined natural gas supply and distribution project that includes a extension of a pipeline from New York to Vermont by Iroquois Gas Transmission System and the development of natural gas distribution systems in Vermont; and Seneca Lake Storage, Inc., a New York corporation, which is a wholly subsidiary of EE Enterprise and proposes to own and operate a gas storage facility in New York.

XENERGY is a wholly owned subsidiary of Energy East. It currently holds no public utility assets and is neither a public utility company nor a holding company under the Act. XENERGY invests in providers of energy and telecommunication services. XENERGY's principal subsidiaries are as follows:

XENERGY Inc., a Massachusetts corporation, is a wholly owned subsidiary of XENERGY and is an energy services, information systems and consulting company that specialties in energy management, conservation engineering and demand-side management.

Energy East Solutions, Inc., a Delaware corporation, and a wholly owned subsidiary of XENERGY, markets electricity and natural gas to end users and provides wholesale commodities to retail electric suppliers in the northeastern United States.

NYSEG Solutions, Inc., a New York corporation and a wholly owned subsidiary of Energy East Solutions, markets electricity and natural gas to end users and provides wholesale commodities to retail electric suppliers in the state of New York.

South Jersey Energy Solutions, LLC, a Delaware limited liability company, is a partially owned subsidiary of Energy East Solutions and was formed to market retail electricity and energy management services in the mid-Atlantic region of the United States.

Energy East Solutions, LLC, a Delaware limited liability company, is a partially owned subsidiary of Energy East Solutions and CNE Energy Services Group, Inc. and sells natural gas, fuel oil and other services, and markets a full range of energy-related planning, financial, operational and maintenance services to commercial, industrial and municipal customers in New England.

Energy East Telecommunications, Inc., a Delaware corporation, is a wholly owned subsidiary of XENERGY Enterprises and was formed to provide telecommunication services, including the construction and operation of fiber optic networks.

Telergy East, LLC, a New York limited liability company, is a partially owned subsidiary of Energy East Telecommunications, Inc., and was formed to construct, own and operate a fiber optic network.

Cayuga Energy, Inc., a Delaware corporation, is a wholly owned subsidiary of XENERGY Enterprises and invests in co-generation facilities.

Carthage Energy, LLC, a New York limited liability company, is a wholly owned subsidiary of Cayuga and owns a co-generation facility in upstate New York. It is an exempt wholesale generator (''EWG''), as defined in section 32 of the Act.

South Glens Falls Energy, LLC, a New York limited liability company, is a

[7] Holding Co. Act Release No. 27128.

[8] Southern Connecticut Gas is a ''gas utility company'' as defined in section 2(a)(4) of the Act.

[9] Holding Co. Act Release No. 26976.

partially owned subsidy of Cayuga Energy, Inc. and owns a co-generation facility in upstate New York. It is an exempt EWG, as defined in Section 32 of the Act.

XENERGY Inc.'s subsidiaries are as follows:

XENERGY Canada, Inc., incorporated in Quebec, Canada, is a wholly owned subsidiary of XENERGY, Inc. and provides software services related to a utility client management system.

XENERGY International, a Delaware corporation, is a wholly owned subsidiary of XENERGY, Inc. and is an energy services, information systems and consulting company that specializes in energy management, conservation engineering and demand-side management in the United Kingdom and Spain.

KENETECH Energy Management, Inc. (''KENETECH''), a Massachusetts corporation, is a wholly owned subsidiary of XENERGY, Inc. and is an energy services company specializing in energy management.

KENETECH Energy Management International, Inc. (''KENETECH International''), a Delaware corporation, is a wholly owned subsidiary of KENETECH and is an energy services company specializing in energy management.

KENETECH Energy Management Limited, a limited company formed in Ontario, Canada, is a wholly owned subsidiary of KENETECH International and is an energy services company specializing in energy management.

KEM 1991, Inc. (''KEM 1991''), a Delaware corporation, is a wholly owned subsidiary of KENETECH and is an energy services company specializing in energy management.

KEM partners 1991, L.P., a Delaware limited partnership, is an energy services company specializing in energy management. All of its interests are owned by KENETECH and KEM 1991.

Other current direct nonutility subsidiaries of Energy East are: Energy East Management Corporation, a Delaware corporation that invests the proceeds of the 1999 sale of Energy East's coal-fired generation assets;[10] Oak, formed solely for the purpose of consummating the proposed merger with CTG Resources and which, upon consummation of such merger, will change its name to, and operate under, the name of ''CTG Resources, Inc.''; and EE Merger Corp., a Maine corporation, formed solely for the purpose of consummating the proposed merger with CMP Group.

CMP Group and Its Subsidiaries

CMP Group is a holding company by virtue of owning, directly or indirectly, the voting securities of Central Main Power, Maine Electric Power Company, Inc. (''MEPCo''), NORVARCO and Maine Gas Co., all public utility companies as defined in the Act.

CMP Group's principal utility subsidiary, Central Maine Power, is primarily engaged in transmitting and distributing electricity generated by others to retail customers in Maine.[11] Central Maine Power is the largest electric utility in Maine and serves approximately 538,000 customers in its 11,000 square-mile service area in southern and central Maine. Central Maine Power had approximately $972 million in consolidated electric operating revenues in the twelve month period ended September 30, 1999.

As of December 31, 1999, Central Maine Power's delivery system consisted of 2,288 miles of overhead transmission lines, 19,754 pole-miles of distribution lines and 155 miles of network underground and submarine cable.

For the twelve months ended September 30, 1999, CMP Group's operating revenue on a consolidated basis was approximately $1,006,000,000 of which approximately $972,000,000 was derived from electric operations, and $33,715,000 from other operations. Consolidated assets of CMP Group and its subsidiaries at September 30, 1999 were approximately $807,596,000 in net electric utility property, plant and equipment, and approximately $1,338,584,000 in other corporate assets.

Central Maine Power currently has two utility subsidiaries, each of which is organized and operates exclusively in Maine: MEPCo and NORVARCO. MEPCo owns and operates a 345kV transmission interconnection between the Maine-New Brunswick, Canada international border at Orient, Maine. Central Maine Power owns a 78.3% voting interest in MEPCo, with the remaining interests owned by two other Maine utilities. NORVARCO holds a 50% general partnership interest in Chester SVC Partnership, a general partnership which owns a static var compensator in Chester, Maine, adjacent to MEPCo's transmission interconnection.

Central Maine Power owns a 38% voting interest in Maine Yankee Atomic Power Company, which owns the Maine Yankee nuclear electric generating plant in Wiscasset, Maine.[12]

CMP group's nonutility subsidiaries are as follows.[13]

CNEX (formerly called CMP International Consultants), provides consulting, planning, training, project management, and information and research services to foreign and domestic utilities and government agencies in various aspects of utility operations and utility support services.

MaineConn Services (''MaineCom''), develops fiber-optic data service for bulk carriers and provides other telecommunications services, including point to point connections, private networking, consulting, private and voice and data transport, carrier services, and long-haul transport. MaineCom holds direct or indirect voting interests in various entities that are in the business of developing a fiber-optics network in the northeast. It is subject to regulation by the MPUC, with respect to making available a fiber optics cable for public use in Maine.

Northeast Optic Network (''NEON'') develops, constructs, owns and operates a fiber optic telecommunications system in New York and New England. New England Business Trust, a wholly owned subsidiary of MaineCom owns 37.9% of NEON's common stock.

TeleSmart provides, for utility companies, collections and related accounts receivable management services and has a division which collects charged-off accounts. TeleSmart is currently in the process of being dissolved. Applicants anticipate this

[10] Energy East Management Corporation's investments are passive.

[11] Central Maine Power has sold its hydroelectric, fossil and biomass generating assets. Central Maine Power has sold its entitlements to purchase capacity and energy under the NUG contracts, as well as its entitlements to energy from its 2.5% interest in the Millstone 3 nuclear plant, and from its 4% interest in the Vermont Yankee nuclear plant, and its entitlement in a firm energy contract with Hydro Quebec. Further, Central Maine Power entered into an agreement to sell its ownership interest in Vermont Yankee, and it has reached an agreement with Northeast Utilities, the majority owner of Millstone 3, whereby Northeast Utilities will include Central Maine Power's interest in its planned auction of Millstone 3. The sales of generating capacity and entitlements to purchase capacity and energy under NUG contracts, nuclear interest and the Hydro Quebec contract were conducted under the requirements of Maine's recently enacted electric utility restructuring legislation and Maine Public Utilities Commission (''MPUC'') Rules and Regulations.

[12] Maine Yankee's plant was permanently shut down on August 6, 1997. Central Maine Power also holds a 9.5% voting interest in Yankee Atomic Electric Company, which permanently shut down its plant located in Rowe, Massachusetts, and 6% voting interest in Connecticut Yankee Atomic Power Company, which permanently shut down its plant in Haddam, Connecticut.

[13] All companies involved in telecommunications are either exempt telecommunication companies (''ETC''), under section 34 of the Act or Applicants expect to seek ETC status with respect to such companies.

process will be completed by May 1, 2000.

Central Securities Corporation owns and leases office and service facilities in Central Maine Power's service territory for the conduct of Central Maine Power's business. Central Maine Power owns all of the outstanding common stock of Central Securities Corporation.

Cumberland Securities Corporation owns and leases office and service facilities in Central Maine Power's service territory for the conduct of Central Maine Power's business. Central Maine Power owns all of the outstanding common stock of Cumberland Securities Corporation.

The Union Water-Power Company (''Union Water''), a wholly owned subsidiary of CMP Group, provides utility construction and support services (On Target division), energy efficiency performance contracting and energy use and management services (Combined Energies division), and utility-related real estate development services, (UnionLand Services). Union Water's Maine HomeCrafters division, which was in the business of brokering and financing pre-fabricated housing has been sold.

CTG Resources and Its Subsidiaries

CTG Resources is an exempt public utility holding company that owns all of the common stock of Connecticut Natural Gas Corporation (''CNGC''), a public utility that operates as a regulated local natural gas distribution company. CNGC distributes gas to approximately 146,000 customers in 22 Connecticut communities, principally in the Hartford-New Britain area and Greenwich. CNGC's gas distribution business is subject to regulation by the Connecticut Department of Public Utility Control as to franchises, rates, standards of service, issuance of securities, safety practices and certain other matters.

For the twelve months ended September 30, 1999, CTG Resources' operating revenues on a consolidated basis were approximately $286,749,000, of which approximately $262,060,000 were derived from gas operations and $24,689,000 were from other operations. Consolidated assets of CTG Resources and its subsidiaries at September 30, 1999 were approximately $297,957,000 in gas utility property, plant and equipment, and approximately $168,304,000 in other corporate assets.

CTG Resources' nonutility subsidiaries include:

CNG Realty Corp., owns the Operating and Administrative Center located on a seven-acre site in downtown Hartford, Connecticut. The Energy Network, Inc. (''TEN'') which, through its wholly owned subsidiary, The Hartford Steam Company, provides district heating and cooling services to a number of large buildings in Hartford, Connecticut.

TEN Transmission Company, a wholly owned subsidiary of TEN, owns a 4.87% interest in Iroquois Gas Transmission System Limited Partnership, which operates a natural gas pipeline transporting Canadian natural gas into New York, Massachusetts and Connecticut.

Downtown Cogeneration Associates Limited Partnership, TEN's partially owned subsidiary, owns and operates a cogeneration facility in Hartford, Connecticut.

ENI Gas Services, Inc., and TEN Services, Inc., both wholly owned subsidiaries of TEN, together own 100% of KBC Energy Services, a partnership. TEN's other unregulated operating divisions offer energy equipment rentals, property rentals and financing services and own a 3,000 square foot building in Hartford, Connecticut.

Berkshire Energy and Its Subsidiaries

Berkshire Energy owns The Berkshire Gas Company (''Berkshire Gas''), a public utility company as defined by the Act. Berkshire Gas operates as a natural gas public utility distribution company. Berkshire Gas sells and distributes natural gas to approximately 34,000 retail customers in 19 communities in western Massachusetts. Berkshire Gas operates a natural gas distribution system comprising 694 miles of natural gas distribution mains. Berkshire Gas is subject to regulation by the Massachusetts Department of Telecommunications and Energy. Berkshire Gas is a ''natural gas company'' [14] with respect to certain sales for resale of natural gas. Berkshire Gas has secured a ''blanket certificate'' for these transactions from the FERC.

For the twelve months ended September 30, 1999, Berkshire Energy's operating revenues on a consolidated basis were approximately $49,283,000, of which approximately $45,453,000 were derived from natural gas operation. Consolidated assets of Berkshire Energy and its subsidiaries as of September 30, 1999 were approximately $77,457,000 in natural gas utility property, plant and equipment, and approximately $31,453,000 in other corporate assets.

The nonutility subsidiaries of Berkshire Energy are Berkshire Propane, Inc. (''Berkshire Propane'') and Berkshire Service Solutions, Inc. (formerly Berkshire Energy Marketing, Inc.) (''Service Solutions''). Berkshire Propane is a retail propane company providing service to more than 6,000 customers in 100 communities across a 5,000 square mile area in western Massachusetts, eastern New York, and southern Vermont. Service Solutions provides one-stop natural gas services to commercial and industrial customers. Service Solutions entered into a strategic alliance with Energy East Solutions, LLC.

The Applicants contend that the combination of NYSEG's electric system and CMP Group's electric operations will result in a single, integrated electric utility system (the ''new Energy East Electric System''). The Applicants further contend that the combination of Energy East's current gas system (NYSEG's gas operations, Connecticut Energy and Maine Gas Co.) with the gas operations of CMP Group, CTG Resources and Berkshire will result in a single, integrated gas utility system (the ''new Energy East Gas System''). The companies request the Commission authorize the mergers and find that the new Energy East Electric System is the primary integrated public utility system and the new Energy East Gas System is a permissible additional system.

For the Commission by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–10566 Filed 4–27–00; 8:45 am]

BILLING CODE 8010–01–M

[14] See section 2(a)(6) of the Natural Gas Act, 15 U.S.C. 717(a)(6).

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Submit comments on or before June 27, 2000.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimate is accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Bettie Baca, Counselor to the Administrator/Public Liaison, Office of Advisory Council, Small Business

Administration, 409 3rd Street, S.W. Suite 7450.

FOR FURTHER INFORMATION CONTACT: Bettie Baca, Counselor to the Administrator/Public Liaison, 202–401–8276 or Curtis B. Rich, Management Analyst, 202–205–7030.

SUPPLEMENTARY INFORMATION:

Title: ''Advisory Committee Membership—Nominee Information.''

Form No: 898.

Description of Respondents: Candidates for Advisory Councils.

Annual Responses: 700.

Annual Burden: 93.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 00–10556 Filed 4–27–00; 8:45 am]

BILLING CODE 8025–01–P

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1995, as amended by Public Law 104–13; Proposed Collection; Comment Request

AGENCY: Tennessee Valley Authority.

ACTION: Proposed collection; comment request.

SUMMARY: The proposed information collection described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). The Tennessee Valley Authority is soliciting public comments on this proposed collection as provided by 5 CFR Section 1320.8(d)(1). Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer: Wilma H. McCauley, Tennessee Valley Authority, 1101 Market Street (WR 4Q), Chattanooga, TN 37402–2801; (423) 751–2523.

Comments should be sent to the Agency Clearance Officer no later than June 27, 2000.

SUPPLEMENTARY INFORMATION:

Type of Request: Regular submission, proposal to reinstate, with minor revisions, a previously approved collection for which approval has expired (OMB control number 3316–0009).

Title of Information Collection: Salary Survey for Salary Policy Bargaining Unit Employees.

Frequency of Use: Annually.

Type of affected Public: State or local governments, Federal agencies, non-profit institutions, businesses, or other for-profit.

Small Businesses or Organizations Affected: No.

Federal Budget Functional Category Code: 999.

Estimated Number of Annual Responses: 45.

Estimated Total Annual Burden Hours: 180.

Estimated Average Burden Hours Per Response: 4.

Need For and Use of Information: TVA conducts an annual salary survey for employee compensation and benefits as a basis for labor negotiations in determining prevailing rates of pay and benefits for represented salary policy employees. TVA surveys firms, and Federal, State, and local governments whose employees perform work similar to that of TVA's salary policy employees.

Jacklyn J. Stephenson,

Senior Manager, Enterprise Operations, Information Services.

[FR Doc. 00–10628 Filed 4–27–00; 8:45 am]

BILLING CODE 8120–08–P

TENNESSEE VALLEY AUTHORITY

Meeting of the Regional Resource Stewardship Council

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Notice of meeting.

SUMMARY: The Regional Resource Stewardship Council (Regional Council) will hold a meeting to consider various matters. Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2, (FACA).

The meeting agenda includes the following:

1. Establishing priorities
2. River operations/public lands management
3. Public comments
4. Regional Council subcommittees

The meeting is open to the public. Members of the public who wish to make oral public comments may do so during the Public comments portion of the agenda. Up to one hour will be allotted for the Public comments with participation available on a first-come, first-served basis. Each speaker will have from 2–5 minutes to address the Council depending on the number who register at the door. Written comments are also invited and may be mailed to the Regional Resource Stewardship Council, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 11A, Knoxville, Tennessee 37902–1499, or faxed to (865) 632–3146.

DATES: The meeting will be held on May 25, 2000, from 8 a.m. to 4 p.m., CDT.

ADDRESSES: The meeting will be held in Huntsville, Alabama, at the Hilton, 401 Williams Avenue, Huntsville, Alabama 35801, and will be open to the public. Anyone needing special access or accommodations should let the contact below know at least a week in advance.

FOR FURTHER INFORMATION CONTACT: Sandra L. Hill, 400 West Summit Hill Drive, WT 11A, Knoxville, Tennessee 37902–1499, (865) 632–2333.

Dated: April 21, 2000.

Kathryn J. Jackson,

Executive Vice President, River System Operations & Environment, Tennessee Valley Authority.

[FR Doc. 00–10623 Filed 4–27–00; 8:45 am]

BILLING CODE 8120–08–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2000–6780]

Information Collection Under Review by the Office of Management and Budget (OMB): 2115–0622, 2115–0525, 2115–0548 and 2115–0586

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 four 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 May 30, 2000.

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 NW., 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–2000–6780 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 SW., Washington, DC, between 10 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, Office of Information Management, 202–267–2326, for questions on this document; Dorothy Walker, Chief, Documentary Services Division, U.S. Department of Transportation, 202–366–9330, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Regulatory History

This request constitutes the 30-day notice required by OMB. The Coast Guard has already published (65 FR 6437 (February 9, 2000)) 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–2000–6780. 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

1. *Title:* Security of Passenger Vessels and Passenger Terminals.

OMB Control Number: 2115–0622.

Type of Request: Extension of currently approved collection.

Affected Public: Certain owners of passenger vessels and passenger terminals.

Form(s): N/A.

Abstract: The purpose of the rules on the security of passenger vessels and passenger terminals is to deter, or mitigate the results of, terrorism and other unlawful acts against such vessels and terminals. The rules should reduce the likelihood of such acts and should reduce the damage to property and injury to persons, if such acts occur.

Annual Estimated Burden Hours: The estimated burden is 1,811 hours annually.

2. *Title:* Plan/Drawing Approval and Records for Safety Valves—46 CFR Part 162.

OMB Control Number: 2115–0525.

Type of Request: Extension of a currently approved collection.

Affected Public: Equipment manufacturers.

Forms: N/A.

Abstract: Requirements for submission of plans and drawings and test reports for safety equipment and materials are necessary so the Coast Guard can determine whether items meet minimum levels of safety and performance and whether they serve to identify the approved items.

Annual Estimated Burden Hours: The estimated burden is 58 hours annually.

3. *Title:* Vital System Automation—46 CFR parts 52, 56, 58, 61, 62, 110, 111, and 113.

OMB Control Number: 2115–0548.

Type of Request: Extension of a currently approved collection.

Affected Public: Vessel designers, shipyards, manufacturers, and vessel owners.

Forms: N/A.

Abstract: This collection pertains to the vital system automation on commercial vessels that is necessary to protect personnel and property on board U.S.-flag vessels.

Annual Estimated Burden Hours: The estimated burden is 57,375 hours annually.

4. *Title:* Marine Occupational Health and Safety Standards for Benzene—46 CFR part 197, subpart C.

OMB Control Number: 2115–0586.

Type of Request: Extension of a currently approved collection.

Affected Public: Vessel owners and operators.

Forms: N/A.

Abstract: To protect marine workers from exposure to toxic Benzene vapor, the Coast Guard implemented 46 CFR part 197, subpart C.

Annual Estimated Burden Hours: The estimated burden is 59,775 hours annually.

Dated: April 17, 2000.

Daniel F. Sheehan,

Director of Information and Technology.

[FR Doc. 00–10606 Filed 4–27–00; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Commercial Space Transportation Advisory Committee—Open Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Commercial Space Transportation Advisory Committee Open Meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 2), notice is hereby given of a meeting of the Commercial Space Transportation Advisory Committee (COMSTAC). The meeting will take place on Wednesday, May 31, 2000, from 8 a.m. to 1 p.m. at the Federal Aviation Administration Headquarters Building, 800 Independence Avenue SW, Washington, DC, in the Bessie Coleman Conference Center (second floor). This will be the thirty-first meeting of the COMSTAC.

The agenda for the meeting will include reports from the COMSTAC Working Groups; a legislative update on Congressional activities involving commercial space transportation; an activities report from FAA's Associate Administrator for Commercial Space Transportation (formerly the Office of Commercial Space Transportation [60 FR 62762, December 7, 1995]); a briefing on the Defense Science Review Board by Mr. Edward Aldridge, President, The Aerospace Corporation; and two special presentations. The meeting is open to the public; however, space is limited.

Meetings of the Technology and Innovation, Reusable Launch Vehicle, Risk Management, and Launch Operations and Support Working Groups will be held on Tuesday, May 30, 2000. For specific information concerning the times and locations of these meetings, contact the Contact Person listed below.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should inform the Contact Person listed below in advance of the meeting.

FOR FURTHER INFORMATION CONTACT: Brenda Parker (AST–200), Office of the Associate Administrator for Commercial Space Transportation (AST), 800 Independence Avenue SW, Room 331, Washington, DC 20591, telephone (202) 267–8308; E-mail brenda.parker@faa.dot.gov.

Issued in Washington, DC, April 20, 2000.

Patricia G. Smith,

Associate Administrator for Commercial Space Transportation.

[FR Doc. 00–10545 Filed 4–27–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly notice of PFC Approvals and Disapprovals. In March 2000, there were 11 applications approved. Additionally, 20 approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: City of Santa Barbara, California.

Application Number: 00–02–C–00–SBA.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $5,512,330.

Earliest Charge Effective Date: January 1, 2002.

Estimated Charge Expiration Date: May 1, 2007.

Class of Air Carriers not Required to Collect PFC's: Unscheduled Part 135 air taxi operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Santa Barbara Municipal Airport.

Brief Description of Projects Approved for Collection and Use:

Rehabilitation of taxiways A, F, and G.
Master plan update.
Install airline terminal ramp lighting.
Procure aircraft rescue and firefighting (ARFF) vehicle.
Upgrade airfield electrical system.
Design for upgrade and expansion of airline terminal access road.
Design for upgrade and expansion of airline terminal building.

Brief Description of Projects Withdrawn: Rehabilitate runway 7/25.

Determination: This project was withdrawn by the public agency by letter dated December 15, 1999. Therefore, the FAA did not rule on this project in this decision.

Upgrade and expand airline terminal ramp.

Determination: This project was withdrawn by the public agency by letter dated December 15, 1999. Therefore, the FAA did not rule on this project in this decision.

Decision Date: March 1, 2000.

FOR FURTHER INFORMATION CONTACT: Kevin Flynn, Western Pacific Region Airports Division, (310) 725–3632.

Public Agency: Gainesville-Alachua County Regional Airport Authority, Gainesville, Florida.

Application Number: 00–01–C–00–GNV.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $679,084.

Earliest Charge Effective Date: July 1, 2000.

Estimated Charge Expiration Date: February 1, 2002.

Class of Air Carriers not Required to Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Airport layout plan update.
PFC administrative fees.
Airfield safety project—runway 24 protection zone.
Taxiway A extension.
Construct T-hanger taxiway.
Security upgrades.
Access road reconstruction.
Runway vacuum sweeper.
ARFF equipment.
Security equipment.
Airfield guidance signs.
Terminal expansion and renovation—phase 1a.
Terminal expansion and renovation—phase 1b.
Passenger lift device.

Brief Description of Projects Approved in Part for Collection and Use: Construction of service road.

Determination: Partially approved. The approved amount was reduced from the requested amount because the requested amount was inadvertently recorded incorrectly in the PFC application.

Runway and taxiway rehabilitation.

Determination: Partially approved. The public agency did not provide information on justification for the drainage and compass calibration pad components of this project. Therefore, those components are not PFC eligible. The approved amount was reduced from the amount requested to account for those components determined ineligible.

Land acquisition.

Determination: Partially approved. The approved amount was reduced from the requested amount because the requested amount was inadvertently recorded incorrectly in the PFC application.

Brief Description of Project Disapproved: Terminal hold room expansion.

Determination: Disapproved. The FAA has determined that due to the declining number of enplanements at Gainesville Regional Airport (GNV) over the past 10 years, an absence of adequate information to signal a reversal of the current enplanement trend, and an absence of adequate information to show that the existing terminal area space does not sufficiently accommodate current demand, expansion of the terminal hold room is not justified. Therefore, this project does not meet the requirements of § 158.15, and is disapproved. In making this determination, the FAA examined the project using the guidelines contained in paragraph 69b of FAA Advisory Circular 150/5360–13, Design Guidelines for Airport Terminal Facilities.

Decision Date: March 2, 2000.

FOR FURTHER INFORMATION CONTACT: Richard Owen, Orlando Airports District Office, (401) 812–6331, ext. 19.

Public Agency: Charter County of Wayne, Detroit, Michigan.

Application Number: 00–04–C–00–DTW.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $203,207,000.

Earliest Charge Effective Date: October 1, 2029.

Estimated Charge Expiration Date: October 1, 2031.

Class of Air Carriers not Required To Collect PFC's:

All air carriers or foreign air carriers which enplane fewer than 500 passengers per year at Detroit Metropolitan Wayne County Airport (DTW).

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at DTW.

Brief Description of Projects Approved for Collection and Use:

Runway 21C/3C keel section replacement.
Runway 4/22 design and construction.
Rebuild outfall structures at ponds 3 and 4.
Runway 21C remote primary deicing.
Grade/pave taxiway K islands.

Decision Date: March 10, 2000.

FOR FURTHER INFORMATION CONTACT: Robert L. Conrad, Detroit Airports District Office, (734) 487–7295.

Public Agency: Yakima Air Terminal Board, Yakima, Washington

Application Number: 00–05–C–00–YKM.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $480,000.

Earliest Charge Effective Date: June 1, 2000.

Estimated Charge Expiration Date: August 1, 2002.

Class of Air Carriers not Required To Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Yakima Air Terminal-McAllister Field.

Brief Description of Projects Approved for Collection and Use:

Update airport layout plan.
Install visual navigation aids.
Purchase radio equipment.
Taxiway B rehabilitation.

Brief Description Of Project Approved for Collection Only: Construct west perimeter access/ARFF road.

Decision Date: March 13, 2000.

FOR FURTHER INFORMATION CONTACT: Suzanne Lee-Pang, Seattle Airports District Office, (425) 227–2654.

Public Agency: Port of Oakland, Oakland, California.

Application Number: 00–09–C–00–OAK.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $38,409,000.

Earliest Charge Effective Date: July 1, 2000.

Estimated Charge Expiration Date: February 1, 2003.

Class of Air Carriers not Required To Collect PFC's: (1) Air taxi/commercial operators exclusively filing FAA Form 1800–31; (2) commuters or small certificated air carriers filing DOT Form 298–C T1 or E1.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that each approved class accounts for less than 1 percent of the total annual enplanements at Metropolitan Oakland International Airport.

Brief Description of Projects Approved for Collection and Use:

Electronic key security system.
Telecommunication infrastructure program.
Improve sewer system for terminal 1.
Taxiway T reconstruction.
Airfield lighting improvement program.
Airfield master plan.
Runway 11/29 conduit and lighting project.
Purchase new ARFF vehicle.
Emergency Operations Center in ARFF building.
Taxiway C pavement improvements.
Overlay runway 9L/27R.
Install taxiway edge lights on taxiways K, L, M, N, P, and Q.
Install lighting on ramp.

Brief Description of Projects Approved for Collection Only:

Water pollution control facility.
Ground run-up enclosure.

Brief Description of Project Disapproved: Airport radio system.

Determination: Disapproved. The FAA has determined that this radio system is not needed to meet airport safety or security requirements in accordance with paragraph 560 of FAA Order 5100.38A, Airport Improvement Program Handbook (October 24, 1989). Rather, this radio system appears to be intended to meet airport operational needs. Therefore, this project does not meet the requirements of § 158.15(b)(1).

Decision Date: March 17, 2000.

FOR FURTHER INFORMATION CONTACT: Marlys Vandervelde, San Francisco Airports District Office, (650) 876–2806.

Public Agency: State of Connecticut, Department of Transportation, Bureau of Aviation and Ports, Windsor Locks, Connecticut.

Application Number: 00–10–C–00–BDL.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $4,358,000.

Charge Effective Date: July 1, 2000.

Estimated Charge Expiration Date: January 1, 2001.

Class of Air Carriers Not Required To Collect PFC's: On-demand air taxi commercial operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Bradley International Airport.

Brief Description of Projects Approved for Collection and Use:

Acquire snow removal equipment.
Upgrade surface monitoring system.

Brief Description of Project Approved for Collection Only: Construction and installation of instrument landing system (CAT II/III) for runway 24.

Decision Date: March 17, 2000.

FOR FURTHER INFORMATION CONTACT: Priscilla Scott, New England Region Airports Division, (781) 238–7614.

Public Agency: Municipal Airport Authority, Fargo, North Dakota.

Application Number: 00–04–U–00–FAR.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $850,000.

Charge Effective Date: January 1, 1997.

Estimated Charge Expiration Date: September 1, 2002.

Class of Air Carriers Not Required To Collect PFC's: No change from previous decision.

Brief Description of Projects Approved for Collection and Use: Install box culvert in County drain 10.

Decision Date: March 20, 2000.

FOR FURTHER INFORMATION CONTACT: Irene R. Porter, Bismarck Airports District Office, (701) 250–4385.

Public Agency: Susquehanna Area Regional Airport Authority, Middletown, Pennsylvania.

Application Number: 00–03–C–00–MDT.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $3,715,249.

Earliest Charge Effective Date: July 1, 2000.

Estimated Charge Expiration Date: May 1, 2002.

Class of Air Carriers Not Required To Collect PFC's: Nonscheduled/on-demand air carriers.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Harrisburg International Airport.

Brief Description of Projects Approved for Collection and Use:

Two loading bridge replacements.
PFC application development.

Brief Description of Project Approved for Collection Only:

Relocate terminal loop road.
Enplaned/deplaned drive expansion.

Decision Date: March 20, 2000.

FOR FURTHER INFORMATION CONTACT: Roxane Wren, Harrisburg Airports District Office, (717) 730–2830.

Public Agency: Sacramento County Department of Airports, Sacramento, California.

Application Number: 00–06–C–00–SMF.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved In This Decision: $115,700,000.

Earliest Charge Effective Date: August 1, 2006.

Estimated Charge Expiration Date: November 1, 2013.

Class of Air Carriers Not Required to Collect PFC's: None.

Brief Description of Project Approved for Collection and Use: Terminal A construction including ticketing, baggage claim, 12 aircraft gates, and associated building infrastructure.

Decision Date: March 27, 2000.

FOR FURTHER INFORMATION CONTACT: Marlys Vandervelde, San Francisco Airports District Office, (650) 876–2806.

Public Agency: Columbus Airport Commission, Columbus, Georgia.

Application Number: 00–03–C–00–CSG.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $1,251,387.

Earliest Charge Effective Date: August 1, 2000.

Estimated Charge Expiration Date: November 1, 2004.

Class of Air Carriers Not Required to Collect PFC's: Air carriers enplaning less than 1 percent of total enplaned passengers at Columbus Metropolitan Airport (CSG).

Determination: Disapproved. Based on information contained in the public agency's supplement to the application, the FAA has determined that the public agency did not specifically designate a class of carriers that account for less than 1 percent of CSG's total annual enplanements.

Brief Description of Projects Approved for Collection and Use:

North terminal area access road rehabilitation.
Obstruction approach clearing.
Passenger lift device.
Taxiway D rehabilitation.
Runway 5–23 rehabilitation.
Runway renumbering and signage.
ARFF vehicle.
Taxiway A and terminal apron rehabilitation.
Master plan update.
Taxiway C relocation.

Decision Date: March 28, 2000.

FOR FURTHER INFORMATION CONTACT: Daniel Gaetan, Atlanta Airports District Office, (404) 305–7146.

Public Agency: Rapid City Regional Airport, Rapid City, South Dakota.

Application Number: 00–02–C–00–RAP.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $1,791,732.

Earliest Charge Effective Date: June 1, 2000.

Estimated Charge Expiration Date: September 1, 2003.

Class of Air Carriers not Required to Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on the information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Rapid City Regional Airport.

Brief Description of Projects Approved for Collection and Use:

Friction measuring device.
Security access control system installation.
Extend runway 14 safety area and relocate road C232.
Correct instrument landing system critical area for runway 32.
ARFF heating, ventilating, and air conditioning improvements.
Airfield regulators.
Snow removal equipment storage facility.
Covered passenger boarding walkway acquisition.
Computerized airfield lighting controls.
Air carrier terminal building emergency power system/uniterruptible power supply.
General aviation taxiways rehabilitation.
General aviation airport entrance road rehabilitation.
Asphalt paving projects—alpha and alpha 3 taxiways.
Airport entrance road rehabilitation.
High intensity runway lighting.
ARFF acquisition.
Passenger loading bridge (jetway) acquisition.
Flight information display system.
Snow blower acquisition.
Snow removal equipment—plow/truck/spreader.
Snow removal equipment—plow/truck/spreader.
Snow removal equipment—loader with ramp bucket/plow.
Runway 14/32 rehabilitation.
Air carrier terminal apron rehabilitation.
Runway 05/23 rehabilitation design.

Decision Date: March 29, 2000.

FOR FURTHER INFORMATION CONTACT: Irene R. Porter, Bismarck Airports District Office, (701) 250–4385.

Amendment No. City, State	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
93–03–I–05–SPI, Springfield, IL	02/29/00	$3,941,493	$3,938,493	05/01/07	05/01/07
97–08–C–01–SPI, Springfield, IL	02/29/00	NA	NA	05/01/07	05/01/07
94–01–C–02–APF, Naples, FL	03/02/00	735,000	713,000	11/01/99	10/01/99
92–01–C–01–EYW, Key West, FL	03/08/00	945,937	941,709	02/01/95	10/01/94
92–01–C–02–MTH, Marathon, FL	03/08/00	398,836	390,001	06/01/98	05/01/98
97–02–C–01–FAT, Fresno, CA	03/10/00	58,303,992	54,531,000	07/01/28	07/01/30
92–01–C–01–IDA, Idaho Falls, ID	03/13/00	1,500,000	1,473,899	02/01/98	02/01/98
94–01–C–01–PIA, Peoria, IL	03/13/00	4,083,195	2,885,171	09/01/09	02/01/08
92–01–I–06–PHL, Philadelphia, PA	03/13/00	104,050,000	102,673,924	07/01/11	07/01/11
93–02–U–01–PHL, Philadelphia, PA	03/13/00	NA	NA	07/01/11	07/01/11
95–04–U–02–PHL, Philadelphia, PA	03/13/00	NA	NA	07/01/11	07/01/11
98–06–C–03–PHL, Philadelphia, PA	03/13/00	29,650,000	28,560,410	07/01/11	07/01/11
92–01–I–03–ESC, Escanaba, MI	03/15/00	149,319	150,721	10/01/00	10/01/00
95–02–U–01–ESC, Escanaba, MI	03/15/00	NA	NA	10/01/00	10/01/00
95–01–C–01–BFD, Lewis Run, PA	03/17/00	572,259	285,366	06/01/08	05/01/03
96–02–C–02–AOO, Altoona, PA	03/20/00	271,674	251,674	12/01/99	12/01/99
93–01–C–03–TPA, Tampa, FL	03/22/00	97,132,614	133,682,614	04/01/01	07/01/02

Amendment No. City, State	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
94–02–U–02–TPA, Tampa, FL	03/22/00	NA	NA	04/01/01	07/01/02
95–01–C–02–HTS, Huntington, WV	03/23/00	99,932	368,432	04/01/00	10/01/01
94–01–C–01–CID, Cedar Rapids, IA	03/29/00	6,330,000	6,874,479	07/01/00	12/01/00

Dated: Issued in Washington, DC on April 17, 2000.

Eric Gabler,

Manager, Passenger Facility Charge Branch.

[FR Doc. 00–10546 Filed 4–27–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement Prince George's, County, MD

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed multi-modal project in Prince George's County, Maryland.

FOR FURTHER INFORMATION CONTACT: Ms. Pamela Stephenson, Environmental Protection Specialist, Federal Highway Administration, The Rotunda-Suite 220, 711 West 40th Street, Baltimore Maryland 21211. Telephone: (410) 962–4342.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Maryland State Highway Administration, will prepare an Environmental Impact Statement (EIS) on a proposal to improve MD 210 in Prince George's County, Maryland. This project will consider a balanced and full range of Multi-Modal solutions, including intersection improvements, High Occupancy Vehicle (HOV) lanes, transit enhancement, and interchanges. The limits of the project are from MD 228 (Berry Road) to the Capital Beltway (I–95/I–495) a distance of approximately 10.2 miles.

MD 210 provides an essential connection between the Washington, D.C. metropolitan area, and residential communities in southern Prince George's and northern Charles Counties, accommodating both local and long distance trips within the corridor. The MD 210 corridor within the study limits currently experience severe traffic congestion during morning and evening peak periods. Many commuters currently divert to county and local roadways to avoid traffic congestion alone mainline MD 210. The local roadway network in this area is not designed to handle the high volumes of through traffic being diverted from MD 210. The resulting congestion on the local roadway network compromises safety and contributes to the overall congestion in the MD 210 corridor.

The expected growth in local traffic from planned development in southern Prince George's and Charles Counties will further aggravate existing conditions and will result in travel demand for exceeding the capacity of the existing transportation system, increasing congestion, travel times and accidents rates within the study area. This project will evaluate improvements to MD 210, which will address safety problems and accommodate existing and projected travel demand, provide the desired capacity and decrease travel delays and congestion.

The alternatives under consideration include (1) no-build, (2) intersection improvements, (3) widening to provide a fourth general—use lane, (4) widening to provide a two-lane reversible HOV facility in the median, and (5) construction of interchanges at six locations from Kirby Hill Road to Old Fort Road South. It has been determined that no single strategy could adequately address the need for this project. Therefore, a combination of the alternatives discussed above, along with multi-modal enhancements, such as Park & Ride facilities and improvements in the existing transit service, will be considered.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, private organizations, and to citizens who have previously expressed or are known to have an interest in this project. A Public Hearing is tentatively scheduled for Fall, 2000. Public notice will be given of the time and place of this hearing.

The Draft EIS will be available for public and agency review and comment prior to the Public Hearing. Public notice will be given of the availability of the Draft EIS for review. A Formal scoping meeting was held for this project on August 15, 1997.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, a focus group comprised of local residents, business owners, elected officials, county representatives and SHA team members was formed in early 1997. The group has met regularly with a total of fourteen meetings to date. The group's primary mission is to assist in the development of possible solution for the traffic congestion and safety concerns along the MD 210 corridor. As part of the ongoing alternatives development process, SHA is also maintaining extensive coordination with Prince George's County, Metropolitan Washington Council of Governments (MWCOG), Washington Metropolitan Area Transit Authority (WMATA) and Maryland Mass Transit Administration regarding the development of this project.

Comments or questions concerning this proposed action and EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulation implementing Executive Order 12372 regarding intergovernmental consultation of Federal programs and activities apply to this program)

Pamela Stephenson,

Environmental Protection Specialist, Baltimore, Maryland.

[FR Doc. 00–10615 Filed 4–27–00; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), 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 review and comment. 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 information collection was published on November 30, 1999 (64 FR 66961).

DATES: Comments must be submitted on or before May 30, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Ashby, (202) 358–7039, Office of Enforcement and Compliance, Federal Motor Carrier Safety Administration, 400 7th Street, SW., Washington, DC 20590–0001. Office hours are from 7:30 a.m. to 4 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Financial Responsibility for Motor Carriers of Passengers and Motor Carriers of Property.

OMB Number: 2126–0008.

Type of Request: Renewal of currently-approved information collections.

Abstract: Upon OMB approval for renewal of information collections, the FMCSA is requesting to combine two information collections into one as titled above. The 60-day **Federal Register** notice was published prior to OMB's assignment of new approval numbers to accommodate the FMCSA. Therefore, the Notice referenced the two collections under their former Federal Highway Administration (FHWA) OMB approval numbers as 2125–0074 and 2125–0518. They have subsequently been renumbered as 2126–0005 and 2126–0008. FMCSA is requesting that a combined collection maintain OMB Approval No. 2126–0008 and that 2126–0005 be canceled. The two collections, which differ only in regulated audiences, cover similar requirements for motor carriers to document their minimum levels of financial responsibility. Combining these two collections will not result in increased burdens.

The Secretary of Transportation is responsible for regulations which establish minimal levels of financial responsibility for (1) motor carriers of property to cover public liability, property damage, and environmental restoration and (2) for-hire motor carriers of passengers to cover public liability and property damage. The Endorsement for Motor Carrier Policies of Insurance for Public Liability (Form MCS–90/90B) and the Motor Carrier Public Liability Surety Bond (Form MCS–82/82B) contain the minimum amount of information necessary to document that these levels have been obtained and are in effect. The information within these documents is used by the FMCSA and the public to verify that a motor carrier of property or passengers has obtained and has in effect the required minimum levels of financial responsibility.

Respondents: Insurance and surety companies of motor carriers of property (Form MCS–90 and Form MCS–82) and motor carriers of passengers (Form MCS–90B and Form MCS–82B).

Average Burden per Response: Two minutes to complete the Endorsement for Motor Carrier Policies of Insurance for Public Liability or the Motor Carrier Public Liability Surety Bond; one minute to file the Motor Carrier Public Liability Surety Bond; one minute to have either document on board the vehicle (foreign-domiciled motor carriers only).

Estimated Total Annual Burden: 5,285 hours.

Frequency: Upon creation, change, or replacement of an insurance policy or surety bond.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: DOT 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 automated collection techniques or other forms of information technology. A comment to OMB is most effective if OMB receives it within 30 days of publication of this Notice.

Issued on: April 20, 2000.

Brian M. McLaughlin,

Director Office of Policy, Plans, & Regulations, Federal Motor Carrier Safety Administration.

[FR Doc. 00–10547 Filed 4–27–00; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petitions for Waiver of Compliance; Date and Location of Public Hearings

The National Railroad Passenger Corporation (Amtrak), Maryland Mass Transit Administration (MTA), and San Diego Trolley, Inc. (SDTI) each seek a waiver of compliance from 49 CFR 238.203(d)(2) to allow the continued temporary usage of certain railroad passenger equipment that does not comply with FRA's requirements for static end strength contained in 49 CFR 238.203(a)(1). Amtrak, MTA, and SDTI have petitioned FRA for ''grandfathering'' approval of this passenger equipment pursuant to 49 CFR 238.203(d), which allows the temporary usage of railroad passenger equipment not conforming to FRA's static end strength requirements to continue while a petition for grandfathering approval is being processed, but not later than May 8, 2000, unless FRA has approved the petition. Amtrak, MTA, and SDTI seek to extend beyond the May 8, 2000 date the period during which passenger equipment that is the subject of the grandfathering petitions may operate, until a date that is 30 days after the date on which FRA acts finally on their grandfathering petitions. SDTI also seeks a waiver from the requirement to file a grandfathering petition before November 8, 1999. FRA announces that it will hold a public hearing on each of these waiver requests, as discussed in more detail below by railroad.

National Railroad Passenger Corporation (Amtrak)

[Docket No. FRA–2000–7199]

By public notice published on April 11, 2000 (65 FR 19427), FRA announced the receipt of a petition from Amtrak for a waiver of compliance from the May 8, 2000 date specified in 49 CFR 238.203(d)(2) for cessation of the temporary usage of non-compliant railroad passenger equipment that is the subject of a grandfathering petition filed with FRA, absent FRA approval of the petition by that date. This waiver petition proceeding is identified as Docket No. FRA–2000–7199. On October 18, 1999, Amtrak had filed a grandfathering petition with FRA in which it requested approval to continue using five trainsets that do not meet the static end strength requirements contained in 49 CFR 238.203(a)(1). (This grandfathering petition proceeding is identified as Docket No. FRA–1999–6404.) In the April 11, 2000 notice, FRA invited comments from interested parties on Amtrak's waiver request, and explained that any interested party requesting a public hearing on this request must do so, in writing, by April 20, 2000.

On April 20, 2000, FRA received a request from Bombardier, Inc., for a public hearing in connection with Amtrak's waiver request in Docket No. FRA–2000–7199. Bombardier stated that a public hearing is essential on the basis that the waiver request, as currently

docketed, lacks factual support for a determination that continued operation of the Talgo passenger equipment beyond May 8, 2000, is consistent with railroad safety. Bombardier also stated that a public hearing is essential to address FRA's decision to consider this general waiver request in a newly-docketed proceeding.

In accordance with 49 CFR 211.25, FRA has decided to hold a public hearing in Docket No. FRA–2000–7199 on Amtrak's request to extend the May 8, 2000 date specified in 49 CFR 238.203(d) to a date 30 days after FRA acts finally on Amtrak's grandfathering petition. A public hearing is hereby set for 9:00 a.m. on Wednesday, May 3, 2000, at the Federal Railroad Administration, 7th floor, conference room 2, 1120 Vermont Ave., NW, Washington, DC 20590. Interested parties are invited to present oral statements at the hearing. The hearing will be an informal one and will be conducted in accordance with FRA's Rules of Practice (49 CFR 211.25) by a representative designated by FRA. The hearing will be a non-adversarial proceeding; therefore, there will be no cross-examination of persons presenting statements. The FRA representative will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons wishing to make a brief rebuttal will be given the opportunity to do so in the same order in which initial statements were made. Additional procedures, as necessary for the conduct of the hearing, will be announced at the hearing.

FRA makes clear that the hearing scheduled for May 3, 2000 is not a hearing on the merits of Amtrak's grandfathering petition, identified as Docket No. FRA–1999–6404.

Maryland Mass Transit Administration

[Docket No. FRA–2000–7286]

FRA announces receipt of a petition from MTA for a waiver of compliance from the May 8, 2000 date specified in 49 CFR 238.203(d)(2) for cessation of the temporary usage of non-compliant railroad passenger equipment that is the subject of a grandfathering petition filed with FRA, absent FRA approval of the petition by that date. This waiver petition proceeding is identified as Docket No. FRA–2000–7286. On November 5, 1999, MTA had filed a grandfathering petition with FRA in which it requested approval to continue using its light rail vehicles on the Central Light Rail Line, which do not meet the static end strength requirements contained in 49 CFR 238.203(a)(1). (This grandfathering petition proceeding is identified as Docket No. FRA–2000–7054; see 65 FR 14336; Mar. 16, 2000.)

MTA states that extending the May 8, 2000 date is consistent with the public interest on the basis that the equipment that is the subject of the grandfathering petition is currently in use in an operation that guarantees the temporal separation of passenger service from limited freight service that operates on the same line, and because cessation of use of the equipment would cause enormous disruption in the Baltimore area due to the heavy and increasing reliance by the public on the light rail service.

Interested parties are invited to participate in this proceeding (Docket No. FRA–2000–7286) by submitting written views, data, or comments. FRA announces that, in accordance with 49 CFR 211.25, it will hold a public hearing on Docket No. FRA–2000–7286 concerning MTA's request to extend the May 8, 2000 date specified in 49 CFR 238.203(d) to a date 30 days after FRA acts finally on MTA's grandfather petition. A public hearing is hereby set for 9:00 a.m. on Wednesday, May 3, 2000, at the Federal Railroad Administration, 7th floor, conference room 2, 1120 Vermont Ave., NW, Washington, DC 20590. Interested parties are invited to present oral statements at the hearing. The hearing will be an informal one and will be conducted in accordance with FRA's Rules of Practice (49 CFR 211.25) by a representative designated by FRA. The hearing will be a non-adversarial proceeding; therefore, there will be no cross-examination of persons presenting statements. The FRA representative will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons wishing to make a brief rebuttal will be given the opportunity to do so in the same order in which initial statements were made. Additional procedures, as necessary for the conduct of the hearing, will be announced at the hearing.

Written comments should identify Docket No. FRA–2000–7286 and must be submitted to the Docket Clerk, DOT Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW, Washington, DC 20590. Communications received by May 3, 2000 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning this proceeding are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's web site at *http://dms.dot.gov*.

FRA makes clear that the hearing scheduled for May 3, 2000 is not a hearing on the merits of MTA's grandfathering petition, identified as Docket No. FRA–2000–7054.

San Diego Trolley, Inc.

[Docket No. FRA–2000–7274]

FRA announces the receipt of a petition from SDTI for a waiver of compliance from the May 8, 2000 date specified in 49 CFR 238.203(d)(2) for cessation of the temporary usage of non-compliant railroad passenger equipment that is the subject of a grandfathering petition filed with FRA, absent FRA approval of the petition by that date. SDTI's petition also seeks a waiver of compliance from the November 8, 1999 date specified in 49 CFR 238.203(d)(2) before which a grandfathering petition is required to be filed with FRA. This waiver petition proceeding is identified as Docket No. FRA–2000–7274.

On March 22, 2000, SDTI filed a grandfathering petition with FRA in which it requested approval to continue using its light rail vehicles which do not meet the static end strength requirements contained in 49 CFR 238.203(a)(1). This grandfathering petition proceeding is identified as Docket No. FRA–2000–7137, and FRA is separately publishing notice in the **Federal Register** of the receipt of this grandfathering petition in accordance with 49 CFR 238.203(f).

SDTI believes that its waiver requests in Docket No. FRA–2000–7274 are in the public interest and consistent with railroad safety, citing the temporal separation of the SDTI's light rail transit operations from freight rail operations on the SDTI system, and existence of an approved system safety program. SDTI believes that allowing the continued operation of its light rail vehicles on its system past the May 8, 2000 date will not jeopardize rail safety.

Interested parties are invited to participate in this proceeding (Docket No. FRA–2000–7274) by submitting written views, data, or comments. FRA announces that, in accordance with 49 CFR 211.25, it will hold a public hearing on Docket No. FRA–2000–7274 concerning SDTI's request to extend the May 8, 2000 date specified in 49 CFR 238.203(d) to a date 30 days after FRA acts finally on SDTI's grandfathering petition, as well as on SDTI's request to waive compliance with the date by which a grandfathering petition is required to be filed with FRA. A public

hearing is hereby set for 9:00 a.m. on Wednesday, May 3, 2000, at the Federal Railroad Administration, 7th floor, conference room 2, 1120 Vermont Ave., NW, Washington, DC 20590. Interested parties are invited to present oral statements at the hearing. The hearing will be an informal one and will be conducted in accordance with FRA's Rules of Practice (49 CFR 211.25) by a representative designated by FRA. The hearing will be a non-adversarial proceeding; therefore, there will be no cross-examination of persons presenting statements. The FRA representative will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons wishing to make a brief rebuttal will be given the opportunity to do so in the same order in which initial statements were made. Additional procedures, as necessary for the conduct of the hearing, will be announced at the hearing.

Written comments should identify Docket No. FRA–2000–7274 and must be submitted to the Docket Clerk, DOT Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW, Washington, DC 20590. Communications received by May 3, 2000, will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning this proceeding are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's web site at *http://dms.dot.gov*.

FRA makes clear that the hearing scheduled for May 3, 2000 is not a hearing on the merits of SDTI's grandfathering petition, identified as Docket No. FRA–2000–7137.

Issued in Washington, DC, on April 25, 2000.

S. Mark Lindsey,

Acting Deputy Administrator, Federal Railroad Administration.

[FR Doc. 00–10706 Filed 4–27–00; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2000–7137]

Petition for Grandfathering of Non-Compliant Equipment; San Diego Trolley, Inc.

In accordance with 49 CFR 238.203(f), notice is hereby given that San Diego Trolley, Inc. (SDTI) has petitioned the Federal Railroad Administration (FRA) for grandfathering of non-compliant railroad passenger equipment for use on SDTI's light rail transit system.

Section 238.203 of title 49 of the Code of Federal Regulations addresses static end strength requirements for passenger rail equipment. Paragraph (a)(1) provides that all passenger equipment (subject to limited exceptions) shall resist a minimum static end load of 800,000 pounds applied on the line of draft without permanent deformation of the body structure. Paragraph (d)(2) provides that ''[a]ny passenger equipment placed in service on a rail line or lines before November 8, 1999 that does not comply with the requirements of paragraph (a)(1) may continue to be operated on that particular line or (those particular lines) if the operator of the equipment files a petition seeking grandfathering approval under paragraph (d)(3) before November 8, 1999. Such usage may continue while the petition is being processed, but in no event later than May 8, 2000, unless the petition is approved.''

SDTI requests that all conventional light rail vehicles operating on the Blue Line and Orange Line be grandfathered to permit usage pursuant to 49 CFR 238.203(d). The applicant states that the Blue Line operates in the cities of San Diego, National City, Chula Vista, and an unincorporated area of San Diego County and extends for 25.2 miles. The Orange Line operates through the City of San Diego, Lemon Grove, La Mesa, El Cajon and Santee and extends for 21.6 miles.

Interested parties are invited to participate in this proceeding by submitting written views, data or comments. FRA does not anticipate scheduling a public hearing in connection with this proceeding, however, if any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning this proceeding should be identified with Docket Number FRA–2000–7137 and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590–0001. Communications received within 30 days of publication of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered to the extent possible. SDTI's petition and all written communications concerning this proceeding are available for examination during regular business hours (9:00 a.m. to 5:00 p.m.) at the DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 Seventh, SW, Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

Elsewhere in today's **Federal Register**, FRA is publishing notice of the receipt of a petition from SDTI for a waiver of compliance from the May 8, 2000 date specified in 49 CFR 238.203(d)(2) for cessation of the temporary usage of non-compliant railroad passenger equipment that is the subject of a grandfathering petition filed with FRA, absent FRA approval of the petition by that date. SDTI's petition also seeks a waiver of compliance from the date by which a grandfathering petition is required to be filed with FRA. This waiver petition proceeding is identified as Docket No. FRA–2000–7274. FRA will hold a public hearing on Docket No. FRA–2000–7274 on May 3, 2000, as detailed in the separate **Federal Register** notice.

Issued in Washington, DC on April 25, 2000.

S. Mark Lindsey,

Acting Deputy Administrator, Federal Railroad Administration.

[FR Doc. 00–10705 Filed 4–27–00; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Denial of Motor Vehicle Defect Petition, DP00–002

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

ACTION: Denial of petition for a defect investigation.

SUMMARY: This notice sets forth the reasons for the denial of a petition submitted to NHTSA under 49 U.S.C. 30162, requesting that the agency commence a proceeding to determine the existence of a defect related to motor

vehicle safety. The petition is hereinafter identified as DP00–002.

FOR FURTHER INFORMATION CONTACT: Dr. George Chiang, Office of Defects Investigation (ODI), NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Telephone: (202) 366–5206.

SUPPLEMENTARY INFORMATION: Mr. Edward C. Kerr of Martens & Associates, Ltd. in Buffalo Grove, IL, submitted a petition to NHTSA by letter dated January 18, 2000, requesting that a new investigation be initiated or Engineering Analysis EA99–027 be extended in its scope to determine whether to issue an order concerning the notification and remedy of a defect in model year 1991 and later DamlerChrysler corporation (former Chrysler Corporation) vehicles equipped with an ignition switch assembly characterized by having a lighted plastic ring around the key cylinder assembly (subject vehicles). The petitioner alleges that the subject vehicles' ignition switch assembly allows particles/debris to fall inside, which could interfere with the switch contact operation. This may cause electrical anomalies resulting in overheating and fire. The fires, the petitioner alleges, can occur without warning in both moving and parked vehicles.

ODI requested and obtained from DaimlerChrysler Corporation a listing of the subject vehicle models and populations. ODI also conducted a search of consumer complaints reported to NHTSA alleging that a thermal event (fire, smoke, melt, burn, overheat, etc.) occurred in the steering column and/or ignition switch areas of the subject vehicles. Further, ODI calculated the exposure complaint rate, *i.e.,* the number of complaints per 100,000 vehicles per year, for each model and model year of the subject vehicles, and found that: (1) For a given subject vehicle model year, the exposure complaint rates vary significantly across all the subject vehicle models, (2) for a given subject vehicle model, the exposure complaint rates vary significantly across the subject vehicle model years, and (3) the exposure complaint rate was zero (no complaint reported) for many model/model year subject vehicles. Therefore, contrary to the petitioner's claim, the subject vehicles do not appear to have a common ignition switch related problem which would cause a fire. (See Attachments 1 through 3).

In Attachment 3, it is noted that the model year 1995 Dodge spirit has the highest exposure complaint rate. However, the rate represents only three complaints received over a span of three years. Also, there have been no complaints received in nearly 2 years. Further, no similar complaints have been received on the model year 1995 Plymouth Acclaim which is built on the same body platform as the model year 1995 Dodge Spirit. Due to the small number of complaints and lack of recent complaints, no investigation has been opened on these vehicles concerning thermal events in the steering column and/or ignition switch areas.

It is also noted that the model year 1994 and 1995 Dodge Ram Pickups have a higher number of complaints (compared with other DaimlerChrysler vehicles shown in Attachment 2) and have the second and third highest exposure complaint rates. These vehicles currently are the subject of an ODI investigation, EA99–027. At this time, that investigation is focused on allegations that the ignition switch wiring harness overheats when operating the blower motor, resulting in smoke, melting of the surrounding plastic, or fire. A copy of this petition has been included in that investigation file.

In view of the foregoing, it is unlikely that NHTSA would issue an order for the notification and remedy of the alleged safety-related defect as defined by the petition in the subject vehicles at the conclusion of the investigation requested in the petition. Therefore, in view of the need to allocate and prioritize NHTSA's limited resources to best accomplish the agency's safety mission, the petition is denied.

Authority: 49 U.S.C. 30162(d); delegations of authority at CFR 1.50 and 501.8.

Kenneth N. Weinstein,

Associate Administrator for Safety Assurance.

ATTACHMENT 1.—POPULATIONS OF MODEL YEAR 1991 AND LATER MODEL CHRYSLER PRODUCT LINE VEHICLES EQUIPPED WITH AN IGNITION SWITCH ASSEMBLY CHARACTERIZED BY HAVING A LIGHTED PLASTIC RING AROUND THE KEY CYLINDER ASSEMBLY

Vehicle make	Vehicle line	MY 91	MY 92	MY 93	MY 94	MY 95	MY 96	MY 97	MY 98	MY 99	MY 2000
Chrysler	Acclaim	95,314	99,420	70,914	71,590	23,768					
Dodge	Spirit	114,905	66,905	76,509	68,382	24,566					
Chrysler	Lebaron	57,596	54,486	59,282	63,122	35,859					
Dodge	Dynasty	112,460	85,239	58,404							
Chrysler	New Yorker	14,354	17,237	20,855							
Chrysler	Imperial	51,185	41,486	33,587							
Dodge	Daytona	17,523	10,941	9,070							
Plymouth	Sundance	57,298	65,554	74,612	65,477						
Dodge	Shadow	82,633	79,409	102,428	89,460						
Dodge	Viper		238	915	2,409	1,430	1,815	1,556	1,072	1,048	484
Plymouth	Prowler							404.00	n/a	3,690	1,374
Plymouth	Neon					n/a	n/a	n/a	n/a	n/a	n/a
Dodge	Neon					n/a	n/a	n/a	n/a	n/a	n/a
Plymouth	Breeze						46,725	70,710	n/a	n/a	n/a
Dodge	Stratus					47,978	100,010	97,745	n/a	n/a	n/a
Chrysler	Cirrus					62,014	43,743	28,112	n/a	n/a	n/a
Chrysler	Sebring Convertible.							56,030	50,869	46,772	29,466
Dodge	Intrepid			70,160	130,603	152,579	146,826	152,314	n/a	n/a	n/a
Eagle	Vision			28,749	22,119	25,157	12,849	5,897	n/a	n/a	n/a
Chrysler	Concorde, LHS, NY, 300M.			49,530	171,090	102,707	89,730	88,132	n/a	n/a	n/a
Plymouth	Voyager	145,684	189,013	211,156	224,558	166,401	183,899	150,163	156,508	150,194	72,364
Dodge	Caravan	184,878	235,958	272,489	283,956	217,736	348,978	292,046	296,787	309,492	183,958
Chrysler	Town and Country.	2,244	13,205	26,059	37,884	12,897	107,400	79,444	76,694	68,330	61,399

ATTACHMENT 1.—POPULATIONS OF MODEL YEAR 1991 AND LATER MODEL CHRYSLER PRODUCT LINE VEHICLES EQUIPPED WITH AN IGNITION SWITCH ASSEMBLY CHARACTERIZED BY HAVING A LIGHTED PLASTIC RING AROUND THE KEY CYLINDER ASSEMBLY—Continued

Vehicle make	Vehicle line	MY 91	MY 92	MY 93	MY 94	MY 95	MY 96	MY 97	MY 98	MY 99	MY 2000
Dodge	Ram Wagon	56,901	69,239	31,736	129,230	75,108	85,887	98,829	n/a	n/a	n/a
Dodge	Dakota	73,162	125,714	131,611	102,750	117,991	98,200	128,785	152,496	134,192	n/a
Dodge	Ram Pickup	88,769	74,944	76,241	188,097	267,241	362,880	375,061	410,815	406,057	n/a
Dodge	Durango								123,099	204,194	n/a
Jeep	Commanche	n/a	n/a								
Jeep	Wrangler	n/a	n/a	n/a	n/a	n/a	n/a	127,295	91,392	85,794	54,246
Jeep	Cherokee	n/a	n/a	n/a	n/a	n/a	187,345	n/a	n/a	n/a	n/a
Jeep	Grand Cherokee.			224,359	227,602	265,848	284,641	262,133	251,758	288,757	173,042
	Total	1,154,906	1,228,988	1,628,666	1,878,329	1,599,280	2,100,928	2,014,654	1,611,490	1,698,520	576,333
	Grand total										15,492,094

'n/a'—model/model year vehicle not equipped with an ignition switch characterized by having a lighted plastic ring around the key cylinder assembly.
Empty cell block—model/model year vehicle not produced.

ATTACHMENT 2.—NUMBER OF CONSUMER COMPLAINTS RECEIVED BY NHTSA AS OF MARCH 2, 2000, ALLEGING A THERMAL EVENT OCCURRED IN THE STEERING COLUMN AND/OR IGNITION SWITCH AREAS

Vehicle make	Vehicle line	MY 91	MY 92	MY 93	MY 94	MY 95	MY 96	MY 97	MY 98	MY 99	MY 2000
Plymouth	Acclaim	3	4	1	0	0					
Dodge	Spirit	3	3	5	1	3					
Chrysler	Lebaron	0	3	0	1	0					
Dodge	Dynasty	1	0	0							
Chrysler	New Yorker	0	0	0							
Chrysler	Imperial	0	0	0							
Dodge	Daytona	0	0	0							
Plymouth	Sundance	0	2	1	0						
Dodge	Shadow	0	0	0	0						
Dodge	Viper		0	0	0	0	0	0	0	0	0
Plymouth	Prowler							0	n/a	0	0
Plymouth	Neon					n/a	n/a	n/a	n/a	n/a	n/a
Dodge	Neon					n/a	n/a	n/a	n/a	n/a	n/a
Plymouth	Breeze						0	0	n/a	n/a	n/a
Dodge	Stratus					0	0	0	n/a	n/a	n/a
Chrysler	Cirrus					2	0	0	n/a	n/a	n/a
Chrysler	Sebring Convertible.							0	0	0	0
Dodge	Intrepid			0	0	0	0	0	n/a	n/a	n/a
Eagle	Vision			0	0	0	0	0	n/a	n/a	n/a
Chrysler	Concorde, LHS, NY, 300M.	0	0	1	2	0	0	0	n/a	n/a	n/a
Plymouth	Voyager	1	1	0	0	0	1	0	0	0	0
Dodge	Caravan	0	0	0	0	0	0	0	0	0	0
Chrysler	Town and Country.	0	0	0	0	0	0	0	0	0	0
Dodge	Ram Wagon	3	3	0	0	0	1	0	n/a	n/a	n/a
Dodge	Dakota	0	2	0	1	0	0	0	0	0	n/a
Dodge	Ram Pickup	1	2	0	20	18	1	0	0	0	n/a
Dodge	Durango								0	0	n/a
Jeep	Commanche	n/a	n/a								
Jeep	Wrangler	n/a	n/a	n/a	n/a	n/a	n/a	0	0	0	0
Jeep	Cherokee	n/a	n/a	n/a	n/a	n/a	2	n/a	n/a	n/a	n/a
Jeep	Grand Cherokee.			1	0	0	0	0	0	0	0

'n/a'—model/model year vehicle not equipped with an ignition switch characterized by having a lighted plastic ring around the key cylinder assembly.
Empty cell block—model/model year vehicle not produced.

ATTACHMENT 3.—EXPOSURE COMPLIANT RATE (THE NUMBER OF COMPLAINTS PER 100K VEHICLES PER YEAR) OF AN ALLEGED THERMAL EVENT OCCURRED IN THE STEERING COLUMN AND/OR IGNITION SWITCH AREAS

Vehicle make	Vehicle line	MY 91	MY 92	MY 93	MY 94	MY 95	MY 96	MY 97	MY 98	MY 99	MY 2000
Plymouth	Acclaim	.034	.048	.019	0.00	0.00					
Dodge	Spirit	0.28	0.54	0.89	0.23	2.29					
Chrysler	Lebaron	0.00	0.66	0.00	0.25	0.00					
Dodge	Dynasty	0.09	0.00	0.00							
Chrysler	New Yorker	0.00	0.00	0.00							
Chrysler	Imperial	0.00	0.00	0.00							
Dodge	Daytona	0.00	0.00	0.00							

ATTACHMENT 3.—EXPOSURE COMPLIANT RATE (THE NUMBER OF COMPLAINTS PER 100K VEHICLES PER YEAR) OF AN ALLEGED THERMAL EVENT OCCURRED IN THE STEERING COLUMN AND/OR IGNITION SWITCH AREAS—Continued

Vehicle make	Vehicle line	MY 91	MY 92	MY 93	MY 94	MY 95	MY 96	MY 97	MY 98	MY 99	MY 2000
Plymouth	Sundance	0.00	0.37	0.18	0.00						
Dodge	Shadow	0.00	0.00	0.00	0.00						
Dodge	Viper		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Plymouth	Prowler							0.00	n/a	0.00	0.00
Plymouth	Neon					n/a	n/a	n/a	n/a	n/a	n/a
Dodge	Neon					n/a	n/a	n/a	n/a	n/a	n/a
Plymouth	Breeze						0.00	0.00	n/a	n/a	n/a
Dodge	Stratus					0.00	0.00	0.00	n/a	n/a	n/a
Chrysler	Cirrus					0.60	0.00	0.00	n/a	n/a	n/a
Chrysler	Sebring Convertible.							0.00	0.00	0.00	0.00
Dodge	Intrepid			0.00	0.00	0.00	0.00	0.00	n/a	n/a	n/a
Eagle	Vision			0.00	0.00	0.00	0.00	0.00	n/a	n/a	n/a
Chrysler	Concorde, LHS, NY, 300M.	0.00	0.00	0.28	0.18	0.00	0.00	0.00	n/a	n/a	n/a
Plymouth	Voyager	0.07	0.06	0.00	0.00	0.00	0.12	0.00	0.00	0.00	0.00
Dodge	Caravan	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Chrysler	Town and Country.	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Dodge	Ram Wagon	0.56	0.52	0.00	0.00	0.00	0.27	0.00	n/a	n/a	n/a
Dodge	Dakota	0.00	0.19	0.00	0.15	0.00	0.00	0.00	0.00	0.00	n/a
Dodge	Ram Pickup	0.12	0.32	0.00	1.68	1.26	0.06	0.00	0.00	0.00	n/a
Dodge	Durango								0.00	0.00	n/a
Jeep	Commanche	n/a	n/a								
Jeep	Wrangler	n/a	n/a	n/a	n/a	n/a	n/a	0.00	0.00	0.00	0.00
Jeep	Cherokee	n/a	n/a	n/a	n/a	n/a	0.25	n/a	n/a	n/a	n/a
Jeep	Grand Cherokee.			0.06	0.00	0.00	0.00	0.00	0.00	0.00	0.00

'n/a'—model/model year vehicle not equipped with an ignition switch characterized by having a lighted plastic ring around the key cylinder assembly.
Empty cell block—model/model year vehicle not produced.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Denial of Motor Vehicle Defect Petition, DP99–004

AGENCY: National Highway Traffic Safety Administration (NHTSA); DOT.

ACTION: Denial of petition for a defect investigation.

SUMMARY: This notice describes the reasons for denying a petition (DP99–004) submitted to NHTSA under 49 U.S.C. 30162, requesting that the agency ''institute a new investigation into the cause or causes of sudden acceleration.''

FOR FURTHER INFORMATION CONTACT: Bob Young, Office of Defects Investigation (ODI), NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Telephone: 202–366–4806.

SUPPLEMENTARY INFORMATION: On July 19, 1999, attorney Sandy S. McMath, 711 West Third Street; Little Rock, AK 72201; petitioned the NHTSA requesting that it ''reopen its investigation into the phenomenon known as ''sudden acceleration.''' The petitioner contends the agency's comprehensive study to identify and evaluate factors which could potentially cause or contribute to the occurrence of Sudden Acceleration Incidents (SAI), conducted from October, 1987 through December, 1988, should be reopened because:

(1) To date, NHTSA has neglected to consider the mechanisms that can cause sudden acceleration by bypassing the control logic of the cruise control system and thus can induce sudden acceleration in a stationary vehicle;

(2) NHTSA has apparently failed to consider the data collected by Ford Motor Company in its investigation of 2,800 incidents of sudden acceleration during 1989–1992; and

(3) NHTSA has not addressed the fact that there is no true failsafe mechanism to overcome sudden acceleration.

NHTSA has reviewed the petitioner's information as it relates to the referenced study. The results of this review and our analysis of the petition's merit is set forth in the DP99–004 Petition Analysis Report, published in its entirety as an appendix to this notice.

For the reasons presented in the petition analysis report, there is no reasonable possibility that an order concerning the notification and remedy of a safety-related defect would be issued as a result of reopening the study. Therefore, in view of the need to allocate and prioritize NHTSA's limited resources to best accomplish the agency's safety mission, the petition is denied.

Authority: 49 U.S.C. 30162(d); delegations of authority at CFR 1.50 and 501.8.

Kenneth N. Weinstein,

Associate Administrator for Safety Assurance.

Appendix

Petition ANALYSIS—DP99–004

1.0 Introduction

On July 19, 1999 Mr. Sandy S. McMath (petitioner) petitioned the National Highway Traffic Safety Administration (NHTSA) requesting that it ''reopen its investigation [i.e., Study] into the phenomenon known as 'sudden acceleration [SA].''' Mr. McMath is a Little Rock, Arkansas lawyer representing the parents of two boys injured (one fatally) in an alleged sudden acceleration incident (SAI) occurring in Mountain Home, Arkansas on June 7, 1995. This incident is currently the subject of civil litigation. [1]

The petitioner contends the agency's comprehensive study, conducted to identify and evaluate factors which could potentially cause or contribute to the occurrence of SAI's, should be reopened because:

[1] Chapman v. Fett et al., Civ-97–144, C.C. of Baxter County, Arkansas. No trial date has been set yet.

(1) To date, NHTSA has neglected to consider the mechanisms that can cause sudden acceleration by bypassing the control logic of the cruise control system and thus can induce sudden acceleration in a stationary vehicle;

(2) NHTSA has apparently failed to consider the data collected by Ford Motor Company in its investigation of 2,800 incidents of sudden acceleration during 1989–1992; and

(3) NHTSA has not addressed the fact that there is no true failsafe mechanism to overcome sudden acceleration.

In analyzing the petitioner's allegations and preparing a response, we:

- Reviewed the petitioner's July 19, 1999 petition.
- Reviewed the two sets of exhibits, provided as an attachment to the petition. [2]
- Reviewed the Study's findings and discussed its methodology with the Transportation Systems Center (TSC) and Vehicle Research and Test Center (VRTC) personnel involved.
- Reviewed our consumer complaint database for sudden acceleration reports received through December 1, 1999.
- Reviewed vehicle manufacturer information provided to us during various sudden acceleration investigations.
- Reviewed various ODI safety defect investigations related to sudden acceleration.
- Gathered information related to electrical current, circuits, transistors, switches, and solenoids.
- Inspected various Ford vehicles to understand cruise control operation and the location and function of certain brake pedal-related cruise control dump valves and switches.
- Reviewed the transcript, video tape and other material related to a February 10, 1999 ''Dateline NBC'' broadcast concerning alleged cruise control failures as a cause of sudden acceleration incidents.
- Reviewed various transcripts and orders from the Manigault [3] and Jarvis [4] civil litigation cases.
- Reviewed a U.S. Supreme Court case concerning the admissibility of certain scientific evidence.[5]
- Analyzed the ''data collected by Ford Motor Company in its investigation of 2,800 incidents of sudden acceleration during 1989–1992.''
- Obtained vehicle production quantity information from Ford.
- Reviewed various Ford vehicle service manuals.
- Viewed a video tape, prepared by the plaintiffs in Manigault, allegedly demonstrating vehicle acceleration due to an induced cruise control malfunction.
- Reviewed a NHTSA paper concerning transmission shift-lock effectiveness at reducing occurrences of sudden acceleration.[6]
- Reviewed an essay concerning the role of human factors in sudden acceleration incidents.[7]
- Obtained, from Ford, vehicle specifications for a 1984 Mercury Grand Marquis, VIN 1MEBP95F6EZ612727. This vehicle was tested by VRTC on October 14, 1988 as part of the Study.
- Disassembled a Mechanical Vacuum Dump Valve (MVDV), Ford part number E9AZ–9C727–B, to learn more about its operation. This valve is sold by Ford as a service part for 1982–2000 Ford Crown Victoria, Mercury Grand Marquis, and Lincoln Town Car vehicles.
- In an effort to learn more about the petitioner's theory, ODI also gathered information concerning an alleged SAI occurring in Mountain Home, Arkansas on June 7, 1995 (the subject crash), generally, and the involved 1988 Lincoln Town Car (the subject vehicle), specifically. During this effort, ODI did the following:
- Obtained a copy of the Mountain Home, AK Police incident report concerning the subject crash and interviewed its author, Sergeant Jeff Lewis.
- Obtained a copy of the ''Dateline NBC'' (''Dateline'') video tape provided by Mr. McMath to Sergeant Lewis.
- Obtained, from Ford, subject vehicle (VIN 1LNBM81F9JY844065) specifications.
- Reviewed the subject vehicle's warranty service history.
- Reviewed the subject vehicle's title history.
- Interviewed the salesman who sold the subject vehicle to the involved owner/driver.[8]
- Obtained the subject vehicle's odometer statement verifying its mileage when sold to the Fetts.
- Interviewed the Ford dealership service manager and mechanic who inspected the subject vehicle the day after the alleged SAI.
- Obtained, from the National Oceanographic and Atmospheric Administration (NOAA), the Mountain Home weather observation report for June 7, 1995.
- Reviewed the docket, complaints, and various deposition transcripts from the Chapman civil litigation.
- Interviewed other owners of the subject vehicle.
- Interviewed mechanics who worked on the subject vehicle.
- Examined a cruise control electrical dump switch (EDS, p/n E9AZ–13480–A) for a 1988 Lincoln Town Car.
- Traveled to Mountain Home, Arkansas on December 2, 1999 and did the following:

—Obtained copies of the police photos.
—Inspected the crash site with Mountain Home Police Sergeant Nevin Barnes, the subject crash reconstructionist.
—Discussed the crash with a witness at the crash site.
—While at the crash site, measured the total distance traveled by the subject vehicle during the alleged SAI.
—Obtained copies of related news media reports.
—Met with the current owner of the subject vehicle.
—Inspected the subject vehicle.
—Test drove the subject vehicle.

The information gathered during this comprehensive effort does not support the petitioner's allegations. Consequently, his petition that ''NHTSA reopen its investigation into the phenomenon known as ''sudden acceleration''' is denied.

This petition denial will (1) discuss sudden acceleration and the Study, generally; (2) provide a general description of electrical circuit and cruise control operation, (3) assess each of the petitioner's three allegations, and (4) evaluate the alleged sudden acceleration incident occurring in Mountain Home, Arkansas on June 7, 1995.

2.0 The Issue of Sudden Acceleration

2.1 ''Sudden Acceleration (SA)''

The term ''sudden acceleration (SA)'' has been used (and misused) to describe vehicle events involving any unintended speed increase. However, the term properly refers to an ''unintended, unexpected, high-power accelerations from a *stationary position* [emphasis added] or a very low initial speed accompanied by an apparent loss of braking effectiveness.'' [9] The definition includes ''braking effectiveness'' because operators experiencing a SAI typically allege they were pressing on the brake pedal and the vehicle would not stop. ''Sudden acceleration'' does not describe unintended events which begin after vehicles have reached intended roadway speeds.

2.2 The NHTSA Study

On March 7, 1989, NHTSA released a Report, authored by John Pollard and E. Donald Sussman, titled ''An Examination of Sudden Acceleration,'' documenting the agency's efforts (the ''Study'') to determine what was causing a relatively large number of crashes in certain model vehicles due to apparent unintended (and substantial) engine power increase and simultaneous loss of braking effectiveness. Typically, these events began while the vehicle was stationary, shortly after the driver had first entered it. They frequently ended in a crash. While the phenomenon affected all automatic transmission-equipped cars sold in the U.S., some had notably higher occurrence rates, with the Audi 5000 eclipsing them all.[10] The issue of ''runaway''Audi 5000's had been the

[2] The second set of exhibits were provided by the petitioner, who characterized them as ''corrected.''

[3] *Manigault* v. *Ford Motor Co.,* Case No. 286862, Court of Common Pleas, Cuyahoga County, Ohio.

[4] *Jarvis* v. *Ford Motor Co.,* 92 Civ. 2900 (NRB), U.S. D.C., S.D. N.Y.

[5] *Daubert* v. *Merrell Dow Pharmaceuticals, Inc.,* 509 U.S. 579 (1993).

[6] U.S. Department of Transportation. National Highway Traffic Safety Administration, Office of Defects Investigation. ''The Effect of Countermeasures to Reduce the Incidence of Unintended Acceleration Accidents' by Wolfgang Reinhart. Paper (No. 94 S5 O 07) delivered to the Fourteenth International Technical Conference on Enhanced Safety of Vehicles, Munich, Germany, May 23–26, 1994. This conference was sponsored by the U.S. Department of Transportation.

[7] Schmidt, Richard A. ''Unintended Acceleration: A Review of Human Factors Contributions,'' Human Factors Society, Inc., 1989, 31(3), 345–364.

[8] The subject vehicle was owned by William and Marlene Fett. Mrs. Fett was the involved driver.

[9] John Pollard and E. Donald Sussman, *An Examination of Sudden Acceleration* (Cambridge, MA.: NHTSA, 1989, DOT-HS–807–367), v.

[10] The sudden acceleration report rate for 1978 through 1987 Audi 5000's was 586/100,000.

subject of NHTSA defect investigations and safety recalls, class action lawsuits, considerable media coverage,[11] and public controversy. Internationally, the phenomenon was investigated by other governments during roughly the same time period.[12]

To help resolve the issue and thoroughly explore topics not fully investigated previously, NHTSA Administrator Diane Steed ordered an independent review of SA in October, 1987 (the ''Study''). The Transportation Systems Center (TSC) of Cambridge, Massachusetts was commissioned by NHTSA to study SA and identify the factors which cause and/or contribute to its occurrence. Ten different make/model/year vehicles—all with cruise control—were selected for particular scrutiny. Included among these was a 1984 Mercury Grand Marquis. Not all of the vehicles had unusually high SAI rates; some were chosen based on their use of certain design approaches seen throughout the industry. In this way, the Study's sample was reasonably representative of the United States' automatic transmission-equipped vehicle population as a whole.

TSC collected literature, individual case documentation, and data for each of the selected vehicles. Many drivers involved in an alleged sudden acceleration incident were interviewed. TSC studied and tested the vehicles' fuel, cruise control, and braking systems.[13] The vehicles' driving controls were evaluated for both location within the cabin and operation. After gathering the information, TSC convened a panel (the ''Panel'') of independent experts in various disciplines [14] to review the data and make recommendations. The findings and conclusions were to be published in a final report (*i.e.,* Pollard and Sussman—Ed.).

NHTSA specifically directed that TSC and the Panel consider all potentially viable SAI causal hypotheses. Contributing factors were to be considered, as well. They were to develop tests for each of these hypotheses, through both engineering analyses and experimentation, wherever feasible. In developing various hypotheses, the following logical assumptions were used:

- SA could be the result of a single primary causal factor or could result from the action of a number of factors which contribute to or increase the likelihood of a SAI.
- Factors related to a SAI could include power-train design, brake system design, and vehicle ergonomics (particularly pedal configuration.).
- A SAI must involve a significant increase in engine power, which could be caused by a failure in an engine-control system or a pedal misapplication (inadvertent depression of the accelerator instead of, or in addition to, the brake).
- If the SAI begins with a vehicle-system malfunction, loss of control could occur through braking system failure or the driver's failure to press the brake with sufficient force and/or the driver inadvertently pressing on the accelerator.
- If the SAI is initiated by a pedal misapplication of which the driver is unaware, loss of control can occur.
- The location, orientation, and force-deflection (how far the pedals move for a given amount of force) characteristics of pedals can influence the probability that the driver will mistake the accelerator for the brake.
- If the cause of the SAI is an electro-mechanical or mechanical anomaly, there should be evidence of the failure.
- If the SAI was caused by an intermittent electronic failure (such as short-circuits, electromagnetic and/or radio-frequency interference, etc), physical evidence may be very difficult to find, but the failure mode should be reproducible either through in-vehicle or laboratory bench tests.
- The vehicles studied may or may not share the same causal and contributing factors.

While applying these guiding principles, the Study covered:

- Engines and their controls (including cruise control systems), as well as transmissions, to determine whether and how they might produce unwanted power;
- The role of electromagnetic and radio-frequency interference (EMI/RFI) and other environmental variables in stimulating malfunctions in critical engine controls (including cruise control systems);
- Braking systems were examined in an attempt to determine how they could fail momentarily but spontaneously recover normal function; and
- The role of human factors and ergonomic control design considerations which might lead to pedal misapplications.

At the conclusion of TSC's effort, comprising thousands of person-hours gathering data; comprehensively testing vehicles including their systems and equipment; interviewing owners and drivers; and inspecting crash scenes and the vehicles involved; a report was released with the following conclusion: ''For a sudden acceleration incident in which there is no evidence of throttle sticking or cruise control malfunction, the inescapable conclusion is that these definitely involve the driver inadvertently pressing the accelerator instead of, or in addition to, the brake pedal.'' [15]

3.0 Electrical Circuits & Cruise Control

3.1 Electrical ''Power''

An electrical circuit may be defined generally as a system or part of a system of conducting parts and their interconnectors through which an electrical current is intended to flow.[16] Electrical devices located within a circuit can only operate when the circuit is closed (i.e., the loop is ''continuous'') allowing electrical current to flow from its source, through the device, and back to the source. Switches are used to control whether the circuit is open (the device is off) or closed (the device is on). Switches may be mechanical (*e.g.,* a wall mounted light switch) or electronic. The later includes transistors which respond to signals from other electronic components. Typically, switches are located in the positive (non-grounded) side of the circuit. ''Ground-switched'' or ''low side switched'' circuits refer to those where voltage (+) is always available at the device and the switch is located on the ground side of the circuit.

Power exists only when circuits are closed (by a switch) thereby allowing electrical current to ''flow.'' Typically, if an electrical device is operating even though its circuit is open (the switch is off), a ''fault'' bypassing the switch exists. These ''faults'' are sometimes generically referred to as ''short circuits'' or ''shorts.''

Even if an electrical circuit is closed, electrical devices only operate when sufficient power is available. In electrical engineering, ''power'' is defined as P = EI where P = Power in watts, E = Electro-motive force (emf) in volts, and I = Current in amperes. All electrical devices require a specified amount of ''power'' to operate properly. In the absence of adequate power, electric motors, for example, may ''run'' but will not be able to achieve their design speed. Other devices, such as solenoids, will not perform their function if there is insufficient power available.

3.2 Automotive Electronics

Motor vehicle electrical circuit and component operation conforms with the general description provided in the previous section. Until the early 1970's, there was very little use of electronics in motor vehicles. Prior to that time, automobile ''electronics'' comprised mostly auto radios, turn signals, and a few ignition systems. Then, with the advent of government-mandated fuel economy and emission regulations—as well as certain safety-requirements—the use of electronics became more widespread and

[11] Both print and electronic media reported on the phenomenon. Perhaps the most notable media event occurred on November 23, 1986 when CBS News' ''60 Minutes'' broadcast a segment entitled ''Out of Control,'' focusing on SA and the Audi 5000. The piece included a demonstration of an Audi 5000, extensively modified by a plaintiff's consultant. In an effort to demonstrate how, theoretically, Audi's were suddenly, and inadvertently, accelerating, he had drilled a hole in the vehicle's transmission and then, with the flip of a switch injected compressed air into it. Thus pressurized, the transmission linkage would open the throttle. In the 60 Minutes segment, produced by Allan Maraynes, the switch is positioned out of camera range and the accelerator is shown going to the floor on its own. Other than the modified Audi 5000 (which had been demonstrated to ODI engineers months before the broadcast), NHTSA has never found any production vehicle, of any type, with this sort of configuration.

[12] Transport Canada issued a report entitled ''Investigation of Sudden Acceleration Incidents'' in December 1988, concluding driver error caused the phenomenon. The Japanese Ministry of Transport released their report, ''An Investigation on Sudden Starting and/or Acceleration of Vehicles with Automatic Transmissions,'' in April 1989, which concluded that there was no common mechanical cause for sudden acceleration.

[13] In some instances, the testing was performed by NHTSA's Vehicle Research and Test Center (VRTC).

[14] The curriculum vitae of all the panelists is included in Appendix A to the Report. The panel was highly credentialed, including Dr. John B. Haywood, professor of Mechanical Engineering at M.I.T. and Director of its Sloan Automotive Laboratory, and Dr. Phillip B. Sampson, Hunt Professor of Psychology, Tufts University.

[15] Pollard and Sussman, 49.

[16] McGraw-Hill, Encyclopedia of Electronics and Computers, 1988, 128.

most all were of ''solid-state'' design.[17] Solid-state electrical devices use transistors to, among other functions, control current without resorting to heated filaments, vacuum gaps, or moving parts (e.g., relays). Most of the cruise control systems in use since the early 1980's use solid-state circuitry.

3.3 Cruise Control Operation

Cruise controls are the only automotive devices, other than the driver's feet, which can substantially affect engine power. However, unlike ''flooring'' the accelerator, which rapidly opens the throttle fully (wide-open throttle, or ''WOT''), most cruise controls (including those in Ford vehicles) require a few seconds to open the throttle, and most systems (including Ford's) are mechanically limited to only open the throttle approximately 80% of WOT. While this is a relatively large throttle opening, which may produce substantial amounts of engine power, rarely is the power produced enough to leave tire skid marks on dry pavement while accelerating from a standing start.

The following will focus primarily on certain ground-switched, electro-vacuum cruise controls because the petitioner's theory involves these types of systems.

A typical ground-switched, electro-vacuum cruise control is designed to operate as follows:

When drivers reach a speed they want to maintain with the cruise control, they press the ''on'' and then the ''set'' button. Pressing and then releasing the ''on'' button simply prepares the cruise control system to receive a signal from the ''set'' button (like pressing a VCR's ''on'' button prior to pressing ''play''). When the set button (a ''switch'') is pressed, a cruise control electrical circuit is closed. In some vehicles (including some built by Ford, GM, and Volvo), the cruise control system is ''ground-switched'' and pressing the button completes the circuit to ground. Only if: (1) The system is turned on and there is sufficient power to activate it; (2) the vehicle is traveling above a pre-determined minimum speed (usually 25 to 30 mph); and (3) the driver's foot is not pressing the brake pedal; will the cruise control then engage to maintain the desired speed by holding the throttle open an appropriate amount. The throttle's position is modulated by a vacuum servo—a bellows-like device. Typically, there are two electro-magnetic valves (known as ''solenoids'') which maintain a vacuum within the servo. Vacuum is provided to the servo by the ''vac'' solenoid. The ''vent'' solenoid—as its name implies'depletes servo vacuum. As long as the three conditions described previously are met, and when operating as intended, the solenoids activate only when the ''set'' button is pressed, closing the circuit.[18] When the solenoids' circuit is closed, electrical power—sufficient to activate the solenoids'causes the ''vac'' solenoid to open and the ''vent'' solenoid to close thereby maintaining vacuum within the servo sufficient to hold the throttle open only enough to maintain vehicle ''set speed.'' Other than through an electrical fault affecting the solenoids, the only way vacuum is maintained within the servo—thus holding the throttle open—is by pressing the ''set'' or ''resume'' buttons (again, assuming all three pre-conditions are met).

To ''turn off'' the cruise control (i.e., release servo vacuum), the driver either presses the ''off'' button which erases the speed memory in the cruise control module (''amplifier'') and opens the vent solenoid, or steps on the brake pedal. Applying the brake does two things: first it sends an electrical signal from an electronic dump switch (EDS) through the amplifier to the vent and vac solenoids which open and close (respectively) depleting servo vacuum. This electrical signal is normally sent to the cruise control system whenever the brake pedal is initially depressed about 1/16 inch. Second, there is also a mechanical vacuum dump valve (MVDV) that opens every time the pedal is pressed (usually at least 1/8 inch but rarely more than 3/4 inches). The MVDV is a mechanical device designed to completely deplete servo vacuum should an electrical fault occur in the solenoid system that would prevent the EDS from functioning properly. Both the EDS and MVDV are designed to activate well before the brake pedal has been depressed enough to effectively engage the brakes. According to the Report (page 8–9) ''In virtually all recent designs for factory-designed cruise controls [including Ford's], where digital circuitry is now the norm, two or more component failures are required to cause an unintended throttle opening.'' Faults affecting cruise control operation, and consequent vehicle movement from a stationary position while the brakes are applied, must involve simultaneous electrical (the solenoids) and mechanical (the MVDV and brake system) failures.

4.0 The Petitioner's Allegations

The petitioner claims that (1) NHTSA has failed to consider cruise control-related failures that ''bypass'' the cruise control ''control logic'' thus inducing SA in stationary vehicles; (2) NHTSA has never considered SAI-related data gathered by the Ford Motor Company (Ford) involving ''2,800 incidents of sudden acceleration during 1989–1992;'' and (3) ''NHTSA has not addressed the fact that there is no true failsafe mechanism to overcome sudden acceleration.''[19]

This analysis will address each of these allegations in the order they were listed by the petitioner.

4.1 The Petitioner's First Allegation

The petitioner claims NHTSA should institute a new investigation into the cause or causes of sudden acceleration because it ''neglected to consider the mechanisms that can cause sudden acceleration by bypassing the control logic of the cruise control system'' and thus ''induce sudden acceleration in a stationary vehicle.''

4.1.1 The Cruise Control ''Bypass'' Theory

Since NHTSA completed its Study, SAIs and subsequent litigation have continued. Consultants for various plaintiffs have speculated that the SAI's were initiated by simultaneous, undetectable, electrical and mechanical failures of the cruise control system. This theory is based on their observation that some vehicles (including those produced in whole, or in part, by Volvo, Ford, GM, and Mercedes) are equipped with ground-switched cruise control systems and, consequently, the vent and vac solenoid circuits receive voltage whenever the vehicle's ignition is turned on. In their opinion, the SAI occurs when there is an unintended engine power increase due to a series of ground faults in the solenoid circuitry. According to the theory's proponents, these ground faults cause an inappropriate activation of the servo solenoids, opening the throttle.

The petitioner, presently representing the parents of two brothers injured in an alleged SAI,[20] has retained Samuel J. Sero, a plaintiff's consultant.[21] Mr. Sero has testified for plaintiffs in previous SAI lawsuits.[22] Mr. Sero, and others, have testified that vehicles are prone to SAI where, by design, voltage is present at the cruise control servo solenoid circuits whenever the ignition is turned on. They have theorized that the subject SAI may have occurred because the vehicle's cruise servo may have inadvertently activated due to randomly occurring faults. The petitioner outlines the theory as follows:

''Mr. Sero has determined that the source of uncontrolled accelerations in Ford vehicles is the fact that voltage is supplied to the servo the moment the ignition is turned on. Under this condition all that is necessary to induce wide-open throttle [WOT] is a completion of the circuit to the servo. This can be affected by several discrete [separate] events and conditions that are completely foreseeable: (a) The ground connection to the printed circuit board [cruise control electronic control mechanism, or amplifier] is opened or removed and either the vent wire or vacuum servo is grounded; or (b) both the vent [solenoid] wire and vacuum [solenoid wire] are grounded at the same time; or (c) a transient fault condition injects a signal across the output section of

[17] The consumer electronics industry likewise was transformed with the advent of transistors. Today, most every radio, computer, cellular telephone, television, etc. is of solid-state design.

[18] This also applies to circumstances where the ''resume'' button is pressed if the cruise control had previously been ''set'' and then deactivated by pressing the brake.

[19] Letter from Sandy S. McMath to NHTSA, July 19, 1999, 6.

[20] See Section 5.0 for more details about this incident.

[21] Mr. Sero worked for the Allegheny Power Company for twelve years as a planning engineer, a standards engineer, and a transmission lines engineer, investigating and maintaining the flow of electricity through the company's system. He is a licensed electrical engineer with a bachelor of science degree in electrical engineering from Carnegie Institute of Technology (now Carnegie Mellon University) in Pittsburgh. Mr. Sero has no professional experience in the auto industry and no human factors training. The theory propounded by Mr. Sero, and others, has never been published nor is there any literature in the automotive engineering field supporting it.

[22] See Manigault and Jarvis.

the electronic control unit inducing an effect similar to (a) or (b).'' [23]

Scenarios (a) and (b) involve multiple ''hard'' electrical faults while (c) relates to an injected signal generated by strong electromagnetic fields.

ODI notes that Mr. Sero's theory involves only one aspect of sudden acceleration, i.e., an unintended engine power increase. None of Mr. Sero's scenarios, on their own, would result in a SAI which, by definition, involve high power acceleration and an apparent loss of braking effectiveness.

Mr. Sero's theory, as it relates to SA, involves simultaneous, undetectable electrical and mechanical failures. He has taken exception to the use of the term ''theory'' to describe his hypothesis, claiming:

It's not a theory. It's a reality. It will happen. If they [the solenoid circuits] both complete a circuit to ground, you go to wide open throttle.'' [24]

There are two problems with Mr. Sero's claim: first, as we've described earlier, the servo is mechanically limited so that it will only open the throttle approximately 80% of ''wide open throttle;'' and, secondly, Mr. Sero's theory ignores two key elements of an alleged cruise-control related SAI—mechanical failures of both the MVDV and vehicle brake system. To conclude that his theory adequately explains a SAI, an assumption must be made that not only did a simultaneous electrical failure occur involving the servo solenoid ground circuits but mechanical failure of the MVDV and brake system occurred as well. Therefore, Mr. Sero's belief that inadvertent cruise control servo solenoid activation explains SAIs is, at best, theoretical, where ''theory'' is defined as ''a proposed explanation whose status is still conjectural, in contrast to well-established propositions that are regarded as reporting matters of actual fact.'' [25]

Mr. Sero goes on to claim these faults would be undetectable.[26] As of May 18, 1999 Mr. Sero himself had not been able to verify that the types of failures underlying his theory were actually occurring. While testifying as a plaintiff's witness in litigation involving the alleged sudden acceleration of a 1991 Ford Aerostar, the following exchange took place:

Q: Sir, you are holding yourself out as an expert on this theory and basing your testimony on your theory that this is what occurred, isn't that so?

Sero: Yes.

Q: And you have never been able to verify it?

Sero; So far, no.[27]

However, Mr. Sero has an explanation for this conundrum. During the same hearing, held to determine the relevance and reliability of his theory, [28] he was questioned by Judge Naomi Reice Buchwald.

Q: ''I'm just asking whether it's possible, if you had a mind-set to learn this information, to find physical evidence of the conditions that you are talking about.''

Sero: ''The only thing I can tell you, your honor, is that you may. In reality, you probably won't. You'll find loose grounds, they're easy to find. But the other conditions, I doubt that you will ever find them. Will they exist? They may, yeah. ....but if they're happening from contamination or moisture or gas, they would go away.'' [29]

To date, no one known to NHTSA (including the petitioner and Mr. Sero) has found any credible evidence that SAIs are occurring as a result of simultaneous, undetectable, electrical and mechanical failures, in any vehicle (including Fords).

4.1.2 What the NHTSA Study Found Regarding Simultaneous, Undetectable Failures.

The petitioner says, ''to date, NHTSA has neglected to consider the mechanisms that can cause sudden acceleration by bypassing the control logic of the cruise control system . . . '' [30] He goes on to claim that ''Mr. Sero's findings make it clear that NHTSA was mistaken and misinformed as to the nature of sudden acceleration.'' [31] However, a review of the Study demonstrates that this claim is without foundation. Clearly, the Study considered the possibility that viable cruise control malfunctions could cause a SAI. But it found no evidence that faults ''bypassing the control logic of the cruise control system'' were a viable explanation for SAI.

Under the petitioner's theory, a vehicle involved in a cruise control related SAI would have had to experience the following simultaneous failures: (1) at least two electrical failures of the vacuum servo solenoid system; (2) a mechanical failure of the MVDV, and (3) a mechanical failure of the brake system.[32] Moreover, according to Mr. Sero, a post-SAI vehicle inspection would find no physical evidence that any of these systems failed. Thus, Mr. Sero's theory is based on simultaneous electrical and mechanical faults, involving more than one element of the vehicle's control system, which would be undetectable after the incident has occurred.

Here's what the Study found regarding multiple cruise control malfunctions:

''Extensive laboratory testing of the operation of cruise controls under stress from temperature extremes, power supply variations, EMI/RFI and high-voltage discharges has demonstrated no failure modes of any relevance to SAI. Analysis of their circuitry shows that for nearly all controls designed in the past few years [''all'' in the case of Ford], two or more independent, intermittent failures would have to occur simultaneously to cause throttle opening in a way that would be difficult to detect after the incident. The occurrence of such simultaneous, undetectable failures is virtually impossible.'' [33]

Thus, Mr. Sero's theory was addressed, and rebutted, during NHTSA's Study.

4.1.3 ''Stand-alone'' vs. ''Integrated'' Cruise Control Systems

To examine Mr. Sero's theory further, ODI analyzed its data to compare the SAI rate for different Ford cruise control systems.

With the introduction of the Taurus/Sable models in December, 1985, Ford began using an ''integrated'' cruise control system. In such a system, the cruise control amplifier (a solid-state device containing the ''control logic'') was no longer a separate (''stand-alone'') component. Instead, its functions were incorporated (''integrated'') into the Electronic Engine Control module (EEC). This was done to simplify the system and reduce cost. It is noteworthy that the system was also designed so that the servo solenoids could not receive sufficient power for activation when the vehicle was stationary and the ignition was in the ''run'' position, even if faults in the ground-side circuitry occurred. Only when both the positive and negative (''ground'') circuits are closed is there enough power available to activate the solenoids in the integrated system unless it has been modified in some manner inconsistent with Ford's design.

Between 1986 and 1992, Ford built a number of model lines with integrated cruise control systems. After the 1992 model year, only the Taurus SHO was so equipped. Ford has stated that it returned to a stand-alone cruise control amplifier because it needed to use the limited EEC connector capacity for other functions such as electronically controlled automatic transmissions and additional, emissions-related inputs. Those models returning to the stand-alone system retained the earlier circuitry, which provided full electrical power to reach the servo solenoids when the vehicle was stationary with the ignition in ''run.'' Also, beginning in 1992, Ford began phasing in a fully electronic cruise control system, doing away with the vacuum servo completely. In some cases, then, certain identical models were initially equipped with stand-alone cruise controls; then were built with integrated systems; then returned to the stand-alone system; and finally were built without vacuum servos at all. These changes provide an excellent opportunity to assess Mr. Sero's theory. If the rate of SAIs for vehicles equipped with the stand-alone system were significantly greater than for those without, it would support the theory.

One such vehicle is the Lincoln Town Car, which has an added advantage (for purposes of assessing cruise control's role in SAI): every 1985 through 1996 Town Car was built with a cruise control system of one type or

[23] McMath letter, 1.

[24] Jarvis, May 18, 1999 Daubert Hearing Tr. 28.

[25] The Random House College Dictionary (New York: Random House, Inc.), 1362.

[26] For example, during ''Dateline NBC's'' February 10, 1999 broadcast, Mr. Sero claimed that cruise control electrical faults may occur ''if there is water in the wiring,'' and ''if water does play a role, proving it would almost be impossible.''

[27] Jarvis, Daubert Hearing Tr. 129.

[28] Judge Buchwald, in her October 27, 1999 Directed Verdict and Order, explains, ''The admission of Sero's . . . theories into evidence was based on plaintiff's representation that they would be connected by direct and circumstantial evidence to the incident at issue. As the discussion *infra* will demonstrate, that promise was illusory.''

[29] Jarvis, Daubert Hearing Tr. 66.

[30] McMath letter, 6.

[31] Ibid., 2.

[32] Most SAI-involved drivers claim the vehicle would not respond when the brakes were applied.

[33] Pollard and Sussman, viii.

another. Thus, rate variations could not be alleged to result from the ''mix'' of Town Cars with and without cruise controls. The following cruise control systems were used in the 1985 through 1996 Town Cars:

TABLE 1.—TOWN CAR CRUISE CONTROL TYPE BY MODEL YEAR

1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996
VacSA	VacSA	VacSA	VacEC	VacEC	VacEC	VacSA	NGSC	NGSC	NGSC	NGSC	NGSC

VacSA = Vacuum system with stand alone amplifier.
VacEC = Vacuum system with amplifier function in EEC.
NGSC = Electronic speed control—no vacuum.

Initially, the Town Car was equipped with the stand-alone system (''VacSA''). Then, with the 1988 model year, they were built with the integrated system (''VacEC''), i.e., there was insufficient power available to activate the solenoids when the vehicle was stationary even if the ignition was in ''run.'' For the 1991 model year, Ford returned to the stand-alone system (and, consequently, the solenoids received full electrical power whenever the ignition was in ''run''). For the 1992 model year, Ford changed engines from the 5.0 Liter V8 to the 4.6 Liter single overhead cam (SOHC) version. Beginning November 4, 1991, all 1992 Town Cars were built with a fully electronic cruise control system, eliminating the vacuum servo altogether and, as of November 14, 1991, all were built with shift-lock.[34] By comparing the 1985 through early 1992 model years, Town Car offers a unique opportunity to evaluate the effect vacuum controlled cruise controls have on SAI rates by allowing us to compare identical vehicles with one variable—i.e., whether or not the servo solenoids can receive full power any time the ignition is in ''run.''

ODI searched its complaint database for 1985 through 1991 model year (MY) Town Car complaints that have been categorized as ''sudden acceleration.'' If Mr. Sero's theory were valid, the SAI rate for Town Cars built with the integrated system (MY 1988 through 1990) should be significantly lower than for those with a ''stand-alone'' system. This is because there is insufficient power to activate the servo solenoids in this system even if ground faults occur while the vehicle is stationary. However, the rate is about the same for both the stand-alone and integrated systems: 13.7 (stand-alone) vs. 15.1 (integrated)—both very low rates, particularly compared to the 1978 through 1987 Audi 5000s, which had a SAI rate of 586/100K. The relatively constant SAI rate when comparing both Ford cruise control systems is a strong indicator that cruise control ground circuit faults are not contributing to SAIs.

4.2 The Petitioner's Second Allegation

The petitioner claims NHTSA ''apparently failed to consider the data collected by Ford Motor Company in its investigation of 2,800 incidents of sudden acceleration during 1989–1992.''[35]

4.2.1 The ''Updegrove Study,'' Shift-locks, and Driver Behavior

Beginning in early 1987, Ford's Service Engineering Office (organizationally located within its Parts and Service Division) began gathering information about incidents where an alleged unintended engine power increase occurred in Ford vehicles. Previously, this information had been gathered by Ford's district representatives (typically engineers). In 1989, Ford noted a substantial increase in the number of these incidents. In response, it organized a ''Special Projects Team,'' headed by Alan Updegrove, a Ford engineer. Ultimately, Ford gathered and analyzed information about 2,877 incidents (approximately), many from Hertz and Budget Rent-a-Car outlets. This effort has become known as the ''Updegrove Study'' (Updegrove).

Sixty percent of the incidents reviewed by Updegrove involved sudden acceleration (as defined in Section 2.1, previously). The team focused on determining whether the alleged unintended engine power increase could be verified by physical evidence. In December 1992, the project was discontinued without identifying a root cause, although there were indications that drivers were mistakenly pressing the gas pedal instead of the brake pedal (*e.g.,* ''pedal misapplication'').[36] In 1990, Ford began building some of its vehicles with shift-lock devices and by the 1992 model year all new Ford vehicles had them. With shift-lock, the automatic transmission may not be shifted out of ''Park'' without the driver simultaneously stepping on the brake. According to Mr. Updegrove, the SA rate for the shift-lock equipped vehicles was substantially lower than it was for those without shift-lock.[37] This trend provided credible evidence that pedal misapplications were the major cause of SAIs since shift-locks influence driver behavior alone.[38] Since SA first began to be studied, some individuals have doubted that driver error or pedal misapplication explains SAIs. For example, Mr. Sero has stated, ''Mysteriously, we have all these people who are slamming down the throttle pedals, but I can't buy it.''[39] However, compelling evidence exists supporting the pedal misapplicaiton finding.

In a 1989 study, Richard A. Schmidt reviewed evidence ''for a human factors explanation of the phenomenon of unintended acceleration, whereby at the start of a driving cycle an operator experiences full, unexpected acceleration for as long as 12 seconds with an apparently complete failure of the brake system, often leading to an accident.''[40] Schmidt then posed the following questions, echoing those who doubt SAIs result from unintended driver errors in pedal application:

''However, as logical and simple as this viewpoint [that SAIs are the result of a pedal error] may sound, a number of other aspects of this phenomenon at first glance make such simple human factors accounts difficult to believe. First, what is the source of such foot placement errors? Why would experienced drivers, often with hundreds of thousands of miles of experience throughout their lifetimes, suddenly make such errors, and what are the physiological and psychological processes that precipitate them? Second, even if the wrong pedal were contacted, why would the driver not perceive this error immediately? The brake and accelerator pedals are in different places with respect to the driver's body, and the dynamic ''feel'' of these two pedals is considerably different, make it difficult to understand how such an error would not be detected easily. Third—and perhaps most puzzling—why would the driver persist in pressing the wrong pedal for sufficient time that an accident could occur, in some cases for as long as 12 seconds? Usually ample time for corrective action (to turn off the ignition or shift to Neutral or Park) is available, and yet drivers typically report no attempts to take such action until

[34] ''Shift-lock'' will be explained in Section 4.2.1.

[35] McMath letter, 6.

[36] Ford Motor Company, Profs Field Bulletin No. 92182DB60005, June 30, 1992.

[37] June 22, 1999 deposition of Alan Updegrove in *Jarvis* v. *Ford*, Tr. 149.

[38] NHTSA data show that some alleged SAIs continue to occur, even in vehicles equipped with shift-locks, whether they had cruise control or not. Most of these involve events which began when the transmission was not being shifted, i.e., it was already in ''Drive'' or ''Reverse.'' In other cases, SAIs involved drivers who became confused and disoriented by the rapid, frightening events occurring during the incident. Consequently, their best recollections of the precise event sequence may be faulty. Finally, some involve vehicles where the shift-lock had been disabled. For example, ODI investigated a Minneapolis double-fatality crash in which a stationary 1997 Ford Econoline police van, without cruise control, suddenly accelerated into a parade crowd. The vehicle's shift-lock had been inadvertently disabled by the Minneapolis Public Works garage. For more information on this incident, refer to NHTSA Report MF99–002, dated 1/12/99, and Supplemental Report, MF99–002, dated 3/18/99.

[39] NBC News, ''Dateline NBC,'' Not So Fast, February 10, 1999.

[40] Schmidt, 345.

the accident occurs, bolstering their belief in a mechanical cause.''[41]

Schmidt concluded that pedal placement errors rarely involve ''conscious choice,'' and drivers involved in a sudden acceleration crash are therefore frequently not aware of their errors in foot placement.

Once unintended acceleration is initiated, a serious contributing factor is the failure to detect and correct the foot placement error, mainly because of lack of effective feedback from the well-learned, essentially automatic foot movements. The onset of the unintended acceleration may produce a startle reaction compounded by severe time stress, placing the individual in a state of hyper vigilance [panic] in which information-processing activities necessary to take effective action are seriously disrupted.''[42]

SAIs typically involve vehicles that are relatively unfamiliar to the driver[43] and occur much more frequently as driver age increases: there is a 100–600% over-involvement of drivers older than 60 years (normalized for miles driven per year) and under-involvement for drivers 15–40 years of age.[44] The petitioner's own case, currently in litigation, is consistent with this finding. There, the SAI involved a vehicle driven by a 61 year-old female which she and her husband had owned for 93 days.

4.2.2 Updegrove and NHTSA SAI Data

The aforementioned NHTSA studies and reports were conducted and published prior to the conclusion of the Updegrove effort. Thus, none of the Updegrove material was—or could have been—included in NHTSA's Study because it was concluded just as the Updegrove effort began. To assess whether the Updegrove study contains information undermining NHTSA's findings, ODI examined the Updegrove data.

We first reviewed the 472 SAI reports for the Ford Thunderbird/Mercury Cougar. We chose these models because, according to Ford, the 1989 Thunderbird/Cougar had a disproportionate number of SAI reports, which prompted the company to undertake the Updegrove investigation.[45]

With the 1990 model year, Ford began installing brake/start interlocks in the Thunderbird/Cougar models. Unlike ''shift-locks''—where the driver may not shift the automatic transmission out of ''Park'' without simultaneously pressing on the brake pedal—a brake/start interlock system requires that the driver simultaneously press on the brake pedal and rotate the ignition key to start the engine. If the brake pedal is not pressed, the starter will not engage. Brake/start interlocks do not affect the driver's ability to shift the transmission out of ''Park'' and consequently are not as effective at reducing SAIs as shift-locks, which do.

In analyzing Updegrove's data, ODI found it supports Ford's claim that its study was initiated because the sudden acceleration report rate increased for the 1989 MY Thunderbird/Cougar vehicles. The data also confirms that the brake/start interlock system installed in the 1990 MY Thunderbird/Cougar vehicles was not as effective at reducing the rate of SAI's as was the shift-lock system installed in the later model years.[46] Updegrove documented 466 SAI reports involving 1985–1991 Thunderbird/Cougar without shift-lock and 6 involving the subsequent model years equipped with the devices. This equates to a SAI report rate of 30.2 per 100,000 vehicles vs.1.8 per 100,000 vehicles, respectively.[47]

To verify the trend observed in the Updegrove data, ODI analyzed the sudden acceleration reports stored in its complaint database for the same model/model years (1985 through 1993).

ODI reviewed 243 SAI reports for the non-shift-lock equipped Thunderbird/Cougar and 14 reports for the 1991–1993 model years equipped with the device. The report rate for each is 17.3 and 2.9 per 100,000 vehicles, respectively. While the overall ODI data counts are lower than those identified by Updegrove (primarily because vehicle owners are more likely to report a vehicle problem to the manufacturer than to the U.S. Government), the ODI data confirm the trend observed during the Updegrove study—that shift-locks dramatically reduced the sudden acceleration report rate.

ODI also analyzed both Updegrove and ODI data for the Ford Aerostar because, according to Updegrove, ''we began to see the Aerostar numbers rising and in our discussion with both Hertz and Budget, they asked us to get involved with those.''[48] Updegrove documented a total of 519 SAI reports involving Aerostars, which were introduced by Ford in MY 1986.

The Updegrove data indicate that the addition of a shift-lock in MY 1992 dramatically reduced the number of Aerostar SAI reports—518 involving Aerostars without a shift-lock and one with the device. However, these data may be misleading because the Updegrove study was concluded in December, 1992, conceivably before any trends related to shift-lock-equipped Aerostars would fully develop. So, to verify the trend observed in Updegrove, ODI also analyzed its complaint database for sudden acceleration reports from Aerostar owners for model years 1986 through 1993, with the adjustment for exposure described in footnote 47.

There were 168 SAI reports for Aerostars without shift-lock and 7 SAI reports involving those with the device in the ODI complaint database. This results in a report rate of 16.6/100,000 vs. 1.7/100,000 Aerostars, respectively. This substantial rate decrease confirms that shift-lock devices are extremely effective at reducing the probability a SAI will occur. Shift-locks, however, cannot eliminate SAI altogether because they do not address all types of pedal-misapplications, including those where the incident was not immediately preceded by a transmission shift out of ''Park'' (see footnote 38—Ed.).

Finally, ODI examined the data from both its database and the Updegrove study for the Lincoln Town Car. We chose this model because the petitioner's letter refers to a SAI involving a 1988 Lincoln Town Car. Updegrove documents a total of 204 SAI reports concerning 1985–1993 Town Cars. ODI reviewed 123 SAI reports in its complaint database for the same model years.

The report frequency trends observed in both the Updegrove and ODI Town Car data are consistent with those discussed earlier—the SAI report rate is sharply reduced for vehicles equipped with shift-lock. Using the Updegrove data, the rate for Town Cars without shift-lock is about 26/100,000. Updegrove documented no SAIs involving Town Cars equipped with shift-lock; however, this is not determinative because Ford was just introducing shift-lock into these models as the Updegrove study was concluding. The ODI analysis does not have this shortcoming and reveals a SAI complaint rate of about 4.1/100,000 vs. 15/100,000 for Town Cars with and without shift-lock, respectively. The following table documents our findings:

TABLE 2.—UPDEGROVE/ODI SAI RATE COMPARISON FOR SELECTED VEHICLES WITH/WITHOUT SHIFT-LOCK

Models	No shift-lock (Ford)	No shift-lock (ODI)	Shift-lock (Ford)	Shift-lock (ODI)
T-Bird/Cougar	30.2/100,000	17.3/100,000	1.8/100,000	2.9/100,000
Aerostar	51.2/100,000	16.6/100,000	0.25/100,000	1.7/100,000
TownCar	26.3/100,000	14.8/100,000	0	4.1/100,000

[41] Ibid., 346–347.

[42] Ibid., 363.

[43] Perel, M. (1983). Vehicle Familiarity and Safety (Tech. Report DOT HS–806–509). Washington, DC: U.S. Department of Transportation.

[44] National Highway Traffic Safety Administration, Engineering Analysis Action Report, EA78–110, August 5, 1986, 11.

[45] Ford Motor Co., Alleged Unintended Acceleration Investigative Effort Summary, 1.

[46] For example, based on the Updegrove date, the SAI report rate for the 1989 Cougar/Thunderbird was 154/100,000 vehicles. The rate for the 1990 model year (with brake/start interlocks) was 54.6/100,000 vehicles and the rate for the 1991 model year (with shift-lock) was 10.8/100,000.

[47] The Updegrove data was not normalized for exposure time and some older models may have higher report counts because they have been on the road longer. To avoid this problem, the ODI data is limited to sudden acceleration reports received within a consistent 4-year ''window'' based on the model year being analyzed. For example, the 1989 MY report count is comprised of all SAI reports received by ODI between January 1, 1988 and December 31, 1991.

[48] Ibid.

In summarizing the Updegrove study's results, J.P. King (Manager, Ford Parts and Service Engineering Office) wrote:

''Overall, the results of the investigation confirm the suggested cause stated in the NHTSA study, published in January 1989 (''An Examination of Sudden Acceleration''). This report on the subject, identified operator pedal misapplication as the most likely cause of these events.'' [49]

Mr. King was referring to the NHTSA Report, which stated,

''For a sudden acceleration incident (SAI) in which there is no evidence of a vehicle malfunction, the inescapable conclusion is that the driver inadvertently pressed the accelerator instead of, or in addition to, the brake pedal.'' [50]

The suggestion that the Updegrove data undermines this finding is erroneous.

4.3 The Petitioner's Third Allegation

According to the petitioner, ''NHTSA has not addressed the fact that there is no true failsafe mechanism to overcome sudden acceleration.'' Before addressing this allegation, this document will discuss the brake pedal-activated cruise control disconnect system on Ford vehicles (since the petition focuses on them). The following relates only to those Fords with ground-switched, vacuum activated cruise controls.

4.3.1 The Mechanical Vacuum Dump Valve (MVDV)

Whenever the cruise control system is set to maintain a desired vehicle speed, it can be easily disengaged by pressing lightly on the brake pedal. When the brake pedal is pressed, two cruise control-related events occur: first, the electric dump switch (EDS)—positioned immediately adjacent to the brake pedal arm—closes, sending an electrical signal to the cruise control amplifier (stand-alone) or EEC (integrated), which activates the servo's vent solenoid. When this happens, the throttle is no longer influenced by the cruise control even if the brake pedal is subsequently released. Only by pressing the ''set'' or ''resume'' button again—assuming the system is ''on;'' the vehicle is traveling above the minimum set speed; and the brakes are not applied—will the cruise control reactivate to maintain vehicle speed. The EDS normally closes when the brake pedal is depressed as little as 1/16 inch. In the 1988 Town Car involved in the petitioner's litigation, the EDS closes when the brake pedal is depressed 1/16 inch, which occurs whenever 2 lb. of force is applied to the pedal, whether the brakes are ''boosted'' [51] or not. Second, to provide an independent means of isolating the servo from the throttle in the event of electrical failure (thus rendering the EDS inoperative), the vehicles are also equipped with an extremely simple mechanical pneumatic valve (mechanical vacuum dump valve, ''MVDV'') which, like the EDS, is located immediately adjacent to the brake pedal arm. The MVDV opens whenever the brake pedal is pressed at least 3/4 inch. In the aforementioned Town Car, this occurs at about 3.5 lb. with boosted brakes and 12 lb. without. All servo vacuum is immediately depleted at that point. By maintaining relatively little force on the brake pedal, the MVDV will continue to release the throttle independently of the vent solenoid. Only a mechanical failure of the MVDV or a pinched MVDV vacuum line would keep this from occurring. Either of these circumstances would not be self-correcting and would be easily detected during a vehicle inspection.

The MVDV is comprised of five parts. Its housing is a plastic cylinder with a nipple at one end. A spring-loaded plunger is positioned inside the housing. A rubber o-ring seals the plunger within the nipple whenever the brake pedal is not being depressed. In this way, the o-ring maintains vacuum within the servo unless the brake pedal is pressed. When the brake pedal is pressed, the plunger moves forward, the o-ring no longer seals the nipple, and servo vacuum is immediately depleted. If the o-ring fails and a vacuum leak results, the cruise control will not open the throttle at any time.

The MVDV is installed in the vehicle so that it is closed (i.e., maintaining servo vacuum) when the brake pedal is not depressed. Mechanics are instructed to adjust the MVDV so that there is a gap of .05 inch between its housing and the ''adapter'' [brake pedal arm—Ed.] [52] By design, the cruise control will not function if this gap is not maintained. Here's why: If the gap is substantially greater than .05 inch, the MVDV would always be open (regardless of brake pedal position). Thus, vacuum could not be maintained within the servo. If the gap is fractionally less than .05 inch, the MVDV would press on the brake pedal, activating the EDS.[53] The MVDV is securely mounted in a substantial bracket so that its adjustment is unaffected by normal vehicle operation and most crash forces. Any MVDV misadjustment would not be self-correcting and would be easily noted during a vehicle inspection.

In the following testimony, Mr. Sero confirms a vehicle will stop if the brakes and MVDV are functioning properly:

Q: ''So, if everything you said occurs, and the vehicle has a properly functioning brake system and a properly functioning dump valve, all they need to do to correct the condition is to put their foot on the brake, isn't that so?

Sero: To correct the condition? All——

Q: To stop the vehicle.

Sero: To stop the vehicle, yes.'' [54]

However, he has also claimed Ford MVDV's are prone to failure and describes one failure mode as:

''First of all, this is a threaded piece on the end. Plus, it's mounted in a bracket on the brake pedal. Brackets come loose and move, you won't engage the dump valve. If the dump valve itself is not threaded to the proper position, you won't engage the dump valve.'' [55]

This description is inconsistent with MVDV design and mounting and is not supported by any field data.

4.3.2 A Cruise Control ''Fail-safe?''

The petitioner has claimed that, ''NHTSA was misled into believing that the *electrical* [emphasis added] cruise control disengage mechanism activated by the brake pedal is always available to save the driver should a malfunction of the cruise control system induce sudden acceleration'' and then quotes from the Report:

''All cruise controls incorporate one or more fail-safe devices designed to disable the control whenever the brake pedal is depressed. Unlike the cruise control itself, these simple switches and valves are not subject to complex, intermittent failure modes which would permit the cruise control to remain engaged during the SA incident, but which would be difficult to recognize after the fact. Intermittent failure modes for such devices result in deactivation of the cruise control.'' [56]

However, the petitioner did not include the entire quote from the NHTSA Report (the omitted portion is in bold print):

''All cruise controls incorporate one or more fail-safe devices designed to disable the control whenever the brake pedal is depressed. Unlike the cruise control itself, these simple switches and valves are not subject to complex, intermittent failure modes which would permit the cruise control to remain engaged during the SA incident, but which would be difficult to recognize after the fact. Intermittent failure modes for such devices result in deactivation of the cruise control. In most factory-installed cruise controls [including those in Ford vehicles], redundant electrical and pneumatic [emphasis added] brake-pedal defeats are employed. Chapter 4 of Appendix H describes in detail the functioning of the cruise control in the Audi 5000, which is typical of all modern, micro-processor designs.'' [57]

The referenced ''pneumatic'' defeats, in Ford vehicles, are MVDV's. NHTSA recognized that there was a separate ''failsafe'' mechanism to disable the cruise control in the event the ''electrical'' defeats were inoperative due to random and isolated electrical failures. The agency has always recognized that random and isolated electrical failures could occur, but noted that the probability this could cause a SAI was extremely small.'' [58] However, apart from

[49] Ford Motor Company, Profs Field Bulletin No. 92182DB60005, June 30, 1992.

[50] Pollard and Sussman, 49.

[51] ''Boosted'' means power-assisted (i.e., ''power'') brakes.

[52] Ford Motor Co., 1988 Lincoln Town Car Shop Manual, 37–05–4.

[53] In fact, this gap is so critical to cruise control operation that Ford cautions mechanics as follows: ''CAUTION: Black dump valve housing in contact with adapter can cause stoplamps to activate with temperature change.'' Ibid.

[54] Jarvis v. Ford, Daubert Hearing Tr. 133.

[55] Ibid., 84.

[56] McMath letter, 4.

[57] Pollard and Sussman, page 9, third full paragraph.

[58] The Pollard and Sussman Report states, at page 9, ''While it is not extremely rare for an electronic part or solder joint to fail intermittently in a manner that is difficult to recognize or diagnose, the probability is extremely small for two or more parts or connections to fail simultaneously at exactly the right moment to cause an SAI, but then fail to do so during subsequent diagnostic tests.''

these general electrical failures, the NHTSA Report also addressed the potential role of the MVDV in SAIs by stating:

''Multiple simultaneous failures in [the cruise control system] would be required to produce SAIs from a stopped or low-speed condition. In addition to these [electrical] failures, a simultaneous mechanical failure in the vacuum breaker [MVDV] attached to the brake pedal would be required to prevent the driver from defeating the cruise control by braking. No evidence of such failures was found in vehicles exhibiting SAIs by TSC or ODI investigators.'' [59]

No evidence has been produced to date indicating that this finding, published in 1989, was erroneous.

It is an essential part of Mr. Sero's theory that the SAI-involved vehicles either are not equipped with a MVDV (not likely in vacuum activated cruise control systems) or, if they are, it failed. However, to date, Mr. Sero has found no evidence that a MVDV malfunction occurred in any of the SAI-involved vehicles that he inspected. [60]

The petitioner's claim that ''NHTSA has not addressed the fact that there is no true failsafe mechanism to overcome sudden acceleration'' is simply wrong. NHTSA explicitly noted that in the event of unintended throttle opening due to a cruise control malfunction, the MVDV is designed to immediately deplete cruise control servo vacuum, and thus release the throttle, if the driver applies the brakes even lightly'a reasonable scenario. However, the petitioner posits that this is unreasonable:

''By maintaining that the brake system and the devices activated by the brake pedal (the dump valve and the electrical cruise control shut-off) provide adequate failsafe protection, NHTSA in effect makes the driver the throttle's failsafe mechanism, since he or she is responsible for affirmatively taking corrective action to eliminate the peril.'' [61]

This position is echoed by his consultant (Mr. Sero) who testified that:

''The dump valve [MVDV] is not an inherently good safety mechanism. The reason it isn't is it depends on the operator pushing the brake pedal.'' [62]

Sero went even further by claiming that applying the brakes, in the event of a cruise control malfunction, will only stop the vehicle:

''If you know enough to keep your foot on the brake and keep doing it'' [63]

Thus, the petitioner and his consultant take the position that drivers are not responsible for the safe operation of their vehicle. This concept is contrary to the motor vehicle laws in each of the 50 states which hold the driver ultimately responsible for safe vehicle operation.

4.3.3 The VRTC Braking Tests

To evaluate vehicles' braking effectiveness in overcoming vehicle acceleration due to a potential cruise control malfunction, TSC contracted with the VRTC to conduct the series of braking tests documented in Appendix E of the NHTSA Report. In addition to demonstrating that vehicle brakes are capable of stopping such accelerations with relatively low brake pedal efforts, these tests also undermine the petitioner's claim that NHTSA never considered cruise control system failures that would ''entirely bypass the system's control logic.'' [64]

According to a Memorandum Report within Appendix E, the purpose of the test program was to ''determine vehicle performance (acceleration and stopping) with simulated cruise control failures'' including a ''direct short of the vacuum solenoid and regulator valve [sic] to ground'' [65] [emphasis added]—precisely the scenario envisioned by the petitioner's theory. According to VRTC, ''the primary purpose of this part of the test was to determine how rapidly the subject vehicles can accelerate from a stationary position if the cruise control system was to malfunction and begin to open the throttle as soon as the driver shifted the transmission into 'Drive.' ''[66] Ten vehicles—representing a broad spectrum of drive-line and cruise control configurations—were tested, including a 1984 Mercury Grand Marquis and 1985 Cadillac DeVille. Both the Mercury and Cadillac are equipped with vacuum servos and ground-switched solenoids. VRTC's use of the term ''vacuum solenoid and regulator valve,'' is a holdover from the Audi testing they had conducted earlier and should have read ''vent and vacuum solenoids.'' [67]

While preparing this petition response, ODI contacted the personnel involved in the subject testing and verified its purpose and methodology, particularly Test Series 6. This Series' primary purpose was to evaluate acceleration and braking performance if, for some reason, the cruise control servo inadvertently activates while a vehicle is stationary with its engine running. They accomplished this by modifying the cruise control system, isolating its servo from the controlling mechanism (e.g., an amplifier, for instance), and disabling the MVDV. Then, by flipping switches in a control box (part of their modifications), they could apply vacuum to the servo independently of the solenoids. In this way, they created a ''worst-case'' situation where every cruise control engagement threshold (i.e., the system is not ''on,'' minimum set speed, transmission selector position, and brake application, etc.) was intentionally bypassed. With vacuum applied in this way, the servo would open the throttle as far it could even though the vehicle was stationary. [68] After accelerating forward for two seconds, [69] the vehicle was stopped by applying the brakes with a variety of pedal forces. The throttle was not released until the vehicle had come to a stop. The total distance traveled, at each brake apply force, was then measured. In this way, the brakes' ability to stop the vehicle, should the throttle be held open by a malfunctioning cruise control system, was evaluated.

These tests revealed that brake pedal application forces of 60 lb.[70] would have stopped all but one of the ten tested cars in about 45 feet or less. The exception was the 5.0 liter Camaro Z–28, which had the highest power-to-weight ratio among those tested and required as much as 79 feet. Higher brake forces generally reduced these distances. Here are the test results as they appear in the Report: [71]

[59] Pollard and Sussman, Appendix H, ''Introduction and Summary,'' 1–4.

[60] For example, in Jarvis (Trial Tr. 948), Mr. Sero, when asked whether he had any evidence that the MVDV was improperly installed, calibrated, or operating, answered ''No.''

[61] McMath letter, 6.

[62] Jarvis v. Ford, Daubert Hearing Tr. 83.

[63] Ibid., 133. Later in the same hearing (Tr. 171), the Court asked Mr. Sero (who had again testified that the dump valve would only work if the driver continued to press the brake pedal), ''Well, why in heaven's name, if your car was shooting out from under you and you put your foot on the brake and it was effective, would you take your foot off the brake?'' [emphasis added]

[64] Ibid., 5.

[65] Pollard and Sussman, E–31.

[66] Ibid., E–32.

[67] Pollard and Sussman, on page 9, provide a clearer description of this testing by stating, ''the maximum accelerations produced by simulated cruise control failures, which were associated with faults that drove the highest possible current through the vacuum solenoids or actuators [emphasis added] were significantly less than those generated by drivers pressing their gas pedals to the floor.''

[68] The cruise control servo on Ford vehicles is mechanically limited so it can only open throttle about 80%. The servo cannot fully open the throttle (wide open throttle or WOT), as happens when flooring the accelerator.

[69] Pollard and Sussman, page 10, explain the delay as follows: ''because an unexpected increase in engine power may produce a slower-than-normal reaction time (normal braking reaction time is about one second), a series of tests was conducted in which braking was not initiated until two seconds after a simulated cruise control fault.''

[70] In a study by R.G. Mortimer, L. Segal, H. Dugoff, J.D. Campbell, C.M. Jorgeson, and R.W. Murphy entitled ''Brake Force Requirements: Driver-vehicle braking performance as a function of brake system design variables,'' it was found that 99% of all subjects (male and female) were able to generate brake pedal forces of at least 60 lbs.

[71] Pollard and Sussman, 11.

[72] Because of its mechanical cruise control, the Chrysler unit could not be connected to the electrically operated test recorder. However, worst-case faults for this unit were simulated by plugging the vacuum release ports and applying available manifold vacuum. The peak speeds achieved in two seconds were less than 5 mph, and the stopping distances after brake application were less than 5 feet. Thus the total distances traveled were substantially less than those of any of the other cars tested.

TABLE 3.1.2–2: TOTAL DISTANCE TRAVELED (FEET) BY VARIOUS VEHICLES AFTER SIMULATED WORST-CASE CRUISE CONTROL-INDUCED ACCELERATION LASTING TWO SECONDS, FOLLOWED BY BRAKE PEDAL APPLICATION. DATA SHOWN ARE THE HIGHEST VALUES MEASURED IN THE SERIES 6 TESTS DESCRIBED IN APPENDIX E. EXPERIMENTAL VARIATION ACCOUNTS FOR LONGER STOPS AT HIGHER PEDAL FORCES IN SOME RUNS.

Make	Total distance traveled (feet) for given brake-pedal Force		
	60#	100#	150#
Audi 5000, 1982	17.1	14.2	16.4
Audi 5000, 1984	18.6	13.9	12.5
Buick Electra, 1986	27.3	31.7	26.9
Cadillac DeVille, 1985	42.1	38.2	37.1
Chevrolet Camaro, 1984	78.8	74.4	50.1
Chrysler New Yorker [72]	N/A	N/A	N/A
Mercedes 300E, 1988	22.3	25.8	23.7
Mercury Marquis, 1984	31.5	32.5	29.7
Nissan 300ZX	45.7	*	*
Toyota Cressida, 1982	29.4	25.5	26.4

* Brake pedal forces greater than 60 pounds caused wheel lockup.

Based on this testing, the Report concludes:

''For SAIs where a cruise control failure has been alleged, but the brake system was found to be in good working order, and the vehicle traveled a substantially greater distance than those shown in Table 3.1.2–2, it must be concluded that either the brake pedal was not appropriately applied or that cruise control failure was not a factor in the SAI.'' [73]

4.3.4 Mr. Sero's Testing

Modifying a stationary vehicle's cruise control so that it may be energized and the throttle opened while the engine is running (as in the VRTC tests) is not unknown to Mr. Sero. In a segment entitled ''Not So Fast,'' broadcast by NBC News ''Dateline'' program on February 10, 1999,[74] portions of a video tape identified by ''Dateline'' as ''a demonstration, played in an Ohio court'' [75] were shown. The video tape, in its entirety, was recently obtained by ODI and placed in the public file for this petition. A little over ten minutes in length, it shows a MY 1987 Ford Crown Victoria (VIN 2FABP74F4HX183403, built on March 12, 1987 at the St. Thomas, Canada, assembly plant) which, according to the ''Dateline'' host, ''Sero [had] deliberately rewired, adding switches an assistant could flip to produce the two wiring problems.''

The video tape, including those portions shown by ''Dateline,'' shows the Crown Victoria being ''tested'' a number of times. All occur in the same section of a dead-end two lane road in Pennsylvania. At 5:40 into the video, the driver (''assistant'') can be heard describing the test procedure:

''What I'm going to do is, the car is stopped, the engine is off, and the gearshift is in Park. I'm going to put my foot on the brake, start the engine, drop the gearshift into drive, and when I release the brake, I'm going to throw a switch [installed as part of the test modifications] and this switch will automatically engage the cruise control so you would get maximum acceleration. My foot will always be off the accelerator. I will leave it on maximum acceleration until I reach the second cone and then I'll throw a switch to disengage the accelerator and I will brake to bring the vehicle to a stop.''

Earlier in the video (at 3:45) he says that ''throwing'' the switch will ''short-out the cruise control.''

There are a number of troubling aspects to the video-taped demonstration. First, according to the driver, when the switch is ''thrown,'' ''maximum acceleration'' will occur, presumably similar to what would happen if the accelerator pedal had been floored. However, at 6:32 the driver is clearly shown ''throwing'' the switch yet the engine speed does not increase immediately—as would happen if the gas pedal were pressed and held to the floor—but, instead, it builds gradually. The reason for this is never clarified in the video tape or by ''Dateline.'' The NHTSA Report, however, explains why this happens:

''The credibility of cruise control faults as an explanation for SAI is further reduced by the fact that in most designs, the actuator [servo] requires a few seconds to open the throttle fully and in some designs, can never reach or maintain the wide-open (WOT) condition.'' [76]

Second, the driver's claim that they are demonstrating ''maximum acceleration'' is misleading. ''Maximum acceleration'' only occurs at WOT. The cruise control servo is mechanically limited so the throttle will open no more than 80% of WOT, no matter if it's operating normally or has been modified to demonstrate certain failure modes (as in the VRTC and Sero tests).

Third, in most of the video taped test runs, the vehicle is accelerating for a period between 5.5 and 7 seconds before the brakes are applied. This delay time is completely inconsistent with real-world driver behavior where reaction times of less than 2 seconds are the norm. While viewing the video tape, ODI observed that, in the first two seconds after the switch had been ''thrown,'' the vehicle traveled less than a car length. Had the driver applied the brake at that moment, the total travel distance would have been much shorter—consistent with the VRTC testing results documented on page E–50 of the NHTSA Report.

Fourth, the video tape never clarifies whether the MVDV had been intentionally disabled. Based on the driver's stated operational sequence (''I will leave it on maximum acceleration until I reach the second cone and *then I'll throw a switch to disengage the accelerator and I will brake to bring the vehicle to a stop.''* [emphasis added]) it would appear it had not been. Otherwise, there would have been no need to ''disengage the accelerator'' before braking to a stop because the MVDV would have ''disengage[d] the accelerator'' when the brakes were applied. By not disabling the MVDV, the ''test'' gave the misleading impression that, should the electrical dump switch (EDS) fail, nothing could be done—short of turning off the engine—to isolate the throttle from the cruise control servo.[77]

The final, and most troubling, aspect of the video tape is that there are no tests demonstrating the vehicle will stop with relatively low brake pedal force even if the cruise control servo is holding the throttle open as far as it can (80% of WOT). Instead, ''Dateline'' used portions of a video-taped Ford test. This video tape, produced during the Manigault litigation, shows Ford testing a Crown Victoria/Grand Marquis with the brakes applied while the throttle is held at WOT. ''Dateline'' erroneously implies that the Ford test represents what would happen if the cruise control servo were holding the throttle open. Since the servo can only open the throttle 80% of WOT, the vehicle would have accelerated slower and stopped quicker with less pedal force (''pressure'') than ''Dateline'' implies, even assuming the MVDV did not disable the cruise control. Mr. Sero, and ''Dateline,'' never address this aspect of cruise control design. But, VRTC's testing did. The NHTSA Report shows, on page E–50, that a virtually identical vehicle (the 1984 Mercury Grand Marquis) stopped after traveling a total of 31.5 feet by pressing on the brake pedal with 60 lb. of force even though the servo was still holding the throttle open as far as it could. According to NHTSA's Report:

For most vehicles tested [including the 1984 Mercury Grand Marquis], the maximum accelerations produced by simulated cruise control failures . . . were significantly less than those generated by drivers pressing their gas pedals to the floor.'' [78]

The petitioner's allegation that ''NHTSA has not addressed the fact that there is no true failsafe mechanism to overcome sudden acceleration'' is simply wrong. The NHTSA

[73] Pollard and Sussman, 11.

[74] This segment focused on the issue of sudden acceleration and discussed the Sero theory at length. Its senior producer was Allan Maraynes, who had produced the ''60 Minutes'' Audi sudden acceleration story (Footnote 11) 13 years earlier.

[75] Manigualt v. Ford, Court of Common Pleas for Cuyahoga County, Ohio, case number 286862. Originally, the jury found Ford was not liable. In April, 1998, the jury's verdict was overturned by a lower court judge (but not the original trial judge). On June 17, 1999 the Ohio Eighth District Court of Appeals reversed the second judge's decision and mandated that the original verdict be enforced. Manigualt then appealed to the Ohio Supreme court which, on October 27, 1999, declined to hear the case.

[76] Pollard and Sussman, 9.

[77] ''Dateline'' discusses and shows a MVDV. However, they never demonstrate that the throttle will return to idle—even if the servo solenoids have been inadvertently activated—simply by pressing lightly on the brake pedal to open the MVDV.

[78] Pollard and Sussman, 9.

Study shows conclusively that, should a SAI be initiated by simultaneous electrical and mechanical cruise control failures (a failure mode which the Study found to be ''virtually impossible''), the brakes will still stop the vehicle with a relatively low brake pedal force, even if the MVDV were inoperative.

5.0 The Mountain Home SAI

In the petitioner's July 19, 1999 letter, he stated:

''I am the attorney for the family of two young boys who were in the path of a 1988 Lincoln Town Car that suddenly accelerated in a parking lot in Mountain Home, Arkansas on June 7, 1995. This event, that resulted in the death of one of the boys and the amputation of the other child's leg, occurred when the vehicle suddenly accelerated from a stationary position, despite the fact the driver had not touched the accelerator pedal. In conjunction with my preparation of this case, I retained a professional engineer, Samuel Sero of Pittsburgh, Pennsylvania, to determine the cause or causes of this tragic event.[79]

To learn more about the petitioner's allegations, ODI gathered information about the crash to determine whether it was consistent with Mr. Sero's theory. It was not.

On May 14, 1988, a 1988 Lincoln Town Car, VIN 1LNBM81F9JY844065, was built at Ford's Wixom, Michigan assembly plant. On May 25, 1988, it was delivered to the Los Angeles International Airport branch of Budget Rent-a-Car (BRC). Between May, 1988 and May, 1992, it accumulated approximately 51,000 miles during its use by four different owners (including BRC).[80] On May 8, 1992, it was purchased by Ms. Edith Theander for her personal use in, and around, Mountain Home, Arkansas. At the time, it had 51,279 miles registered on the odometer. According to Ms. Theander, she had all her service work done by Maplewood Garage and never had a problem with the cruise control. Maplewood Garage confirmed this and provided the following service history:

1. Check for P/S fluid leak—NPF on 3–4–93/mileage not on repair order;
2. Air conditioner service—re-charge on 6–28–93 @ 53,695 miles;
3. Oil change and transmission service on 2–3–94 @ 54,942 miles; and
4. Replace leaking power steering switch on 3–4–94 @ 54,992 miles.

On January 24, 1995, Ms. Theander traded in the Town Car at McDermott Pontiac-Buick-GMC in Mountain Home. The Town Car had now gone a total of 56,721 miles.

McDermott placed the car for sale and demonstrated it to prospective buyers. On March 7, 1995, William and Marlene Fett purchased the Town Car. At the time it had registered 57,099 miles.

Between March 7 and June 7, 1995, the Fetts experienced no cruise control related problems with the Town Car.[81]

On June 7, 1995 at about 8:00 PM in Mountain Home, Arkansas, 61 year-old Marlene Fett stopped at the Wal-Mart briefly. After returning to her parked car, she backed out of the parking space[82] and then stopped as though she was shifting into ''Drive.'' The car suddenly accelerated forward through the parking lot. Witnesses, startled by the sound of the high-revving engine and the vehicle's seemingly inappropriate parking lot speed, watched helplessly as the Town Car traveled about 160 feet before striking a group of vending machines along the right front wall of the store. It then struck a small carousel after traveling an additional 13 feet. After striking the carousel, it finally came to a stop after traveling another 45 feet (approximately).

Riding the carousel was Jonathan Chapman, age two years, nine months. His six month old brother, Nathaniel, was in a child safety seat nearby. Both were struck by the Town Car. As a result, Nathaniel was fatally injured and Jonathan's right foot later had to be amputated due to the severity of its injury.

According to the Mountain Home Police report, and confirmed by ODI in a subsequent interview with its author, Mrs. Fett said that ''either the accelerator on her vehicle stuck or her foot got wedged and stuck on the accelerator.'' According to the officer, Mrs. Fett was quite upset and could not clearly remember what had happened. Subsequently, while being deposed in this case on March 10, 1999, Mrs. Fett claimed that the vehicle continued to accelerate even though she ''was pushing the brake [pedal] as hard as [she] could.''[83]

Immediately after the crash, the car was impounded and towed to Norcross Ford in Mountain Home. The following day it was inspected by the Service Manager and a mechanic for any mechanical anomaly that could explain the occurrence. None was found.

Subsequently, the Chapmans retained attorney Sandy McMath (the petitioner). On June 27, 1997, the Chapmans filed suit. Initially, the named defendants were Marlene Fett and Wal-Mart, Inc. On March 16, 1998, the complaint was amended to include defendant Ford Motor Company. In April, 1999, the Fetts' automobile liability carrier, Farm Bureau Insurance, settled for $50,000.00 with the Chapmans.

The vehicle, which sustained damage to the left fender, doors, and quarter panel, was declared a total loss. The salvage was sold to Lynn's Auto, Inc. of Salem, Arkansas on June 19, 1995. On October 23, 1995, it was purchased by Garold Blair, also of Salem. Mr. Blair then repaired the vehicle himself by installing a used fender and straightening the bumpers, doors, and quarter panel. According to Mr. Blair, there was no damage to the interior (including the MVDV and mounting bracket) and no mechanical repairs were needed. He claims the vehicle—and its cruise control—has performed flawlessly during the 40,645 miles he and his wife have driven it. So well, in fact, that when Mr. McMath offered to buy the Town Car last summer, Mr. Blair refused to sell it.

ODI notes there are at least three aspects of the Mountain Home SAI that undermine the petitioner's theory that a cruise control malfunction was responsible for its occurrence. They are: total travel distance, cruise control dump valve operation, and cruise control type.

5.1 Total Travel Distance

The 1988 Town Car involved in the Mountain Home SAI is virtually identical, for purposes of comparing relative acceleration and braking performance, with the 1984 Mercury Grand Marquis evaluated in the VRTC testing documented in Appendix E of the Report. Both are ''Panther platform'' vehicles[84] equipped with a 302 cu.in. V8 engine. Both are rear wheel drive and have identical braking systems. The Mercury weighed about 3,760 lb. vs. 4,090 lb. for the Lincoln. Both have electro-vacuum cruise controls which cannot open the throttle more than 80% of WOT. Given these substantially similar specifications, it is reasonable to assume that VRTC's acceleration and braking data for the 1984 Mercury Grand Marquis apply to the 1988 Town Car.

While stationary, with the engine running, a worst-case cruise control failure was induced in the Grand Marquis. The vehicle then accelerated with the throttle at 80% of WOT. Two seconds after inducing the failure, the brake pedal was pressed with 60 pounds of force and held until the vehicle stopped. Throughout this sequence, the throttle remained open. For the Grand Marquis, the total distance traveled was 31.5 feet. This testing demonstrates that a driver would be able to stop a Ford Panther Platform vehicle in little more than 30 feet with relatively low brake pedal force, even if the throttle is held open by the cruise control servo.

In the June 7, 1995 incident, the 1988 Lincoln Town Car moved forward a total distance of more than 200 feet.

According to the NHTSA Report,

''For the numerous SAIs where cruise control failure has been alleged, but the braking system is found to be in good working order, and the vehicle traveled [a] substantially greater distance than [31.5 feet], it must be concluded that either the brake pedal was not appropriately applied or that cruise control failure was not a factor in the SAI.''

[79] McMath letter, 1.

[80] During this time, the subject Town Car would have been within the scope of the Updegrove study. The study contains no information related to this vehicle's VIN, indicating it had not been involved in a reported SAI between May 14, 1988 and November 23, 1992.

[81] Chapman v. Fett. Marlene Fett deposition Tr. 17–18 and William Fett deposition Tr. 27.

[82] Mrs. Fett claimed later, during her March 10, 1999 deposition, that she ''drove out'' of the parking space rather than backed out (Tr. 32, line 24). However, an eyewitness claims that Mrs. Fett backed out of the space and ''after she stopped, her car . . . took off like a rocket'' (R. Graves deposition Tr. 7).

[83] Chapman v. Fett. Marlene Fett deposition Tr. 38.

[84] Introduced in 1979 (and currently in production), the ''Panther Platform'' includes Ford Crown Victoria, Mercury Grand Marquis, and Lincoln Town Car models. All are equipped with a front-mounted V–8 engine and rear wheel drive.

5.2 Cruise Control Mechanical Vacuum Dump Valve (MVDV) Operation

As described earlier in Section 4.3.1, as soon as the brakes were applied, a functional MVDV would have immediately depleted servo vacuum and allowed the engine to return to idle in the event a cruise control electrical malfunction occurred. There is no evidence that the MVDV has ever malfunctioned during the subject vehicle's life. ODI examined the MVDV and its mounting bracket and found both to be undamaged and adjustment of the MVDV was found to be within Ford's recommended specification.

Mr. Sero has alleged that certain drivers are unable to exert enough force on the brake pedal to activate the MVDV.[85] This assertion is plainly wrong. For example, the subject Town Car's MVDV opens (vents) whenever the brake pedal is depressed ¾ inch, which occurs at about 3.5 lb. of force with the power brakes functioning and 12 lb. without. To put those pedal forces in perspective, ninety-nine percent of the adult population in the United States is able to exert at least 60 lb. of force on the brake pedal.

5.3 Cruise Control Type

Mr. Sero's theory is based on his observation that ''voltage is supplied to the servo the moment the ignition is turned on'' and ''under this condition, all that is necessary to induce wide open [sic] throttle is a completion of a circuit to the servo.'' [86] However, a failure consistent with the petitioner's multiple servo solenoid ground fault theory could not have contributed to the June 7, 1995 SAI in Mountain Home, Arkansas because the MY 1988 Town Car was equipped with an ''integrated'' cruise control system. As described in Section 4.1.3 of this document, in certain Ford vehicles beginning with MY 1986, the control-logic function has been integrated into the electronic engine control (EEC) module. Unlike Ford's ''stand-alone system,'' the integrated system does not allow full power to reach the servo solenoids unless appropriately signaled by the EEC even in the unlikely event that multiple servo solenoid ground faults occur—assuming the system's installation is consistent with Ford's design.

6.0 Conclusions

The petitioner, some plaintiff consultants, and a few in the news media have alleged that ''new'' information, developed since NHTSA's Study was conducted, justifies its reopening to ascertain the cause or causes of sudden acceleration. They view the Study's findings as flawed because it allegedly did not consider the possibility or consequences of cruise control failure modes involving inadvertent solenoid activation. However, the Study did consider these issues. Moreover, the petitioner's theory is contingent upon the occurrence of simultaneous, undetectable mechanical and electrical system failures. Absent these failures, no inadvertent servo solenoid activation could occur which would result in an unintended increase in engine power. The mere fact that some vehicles have been built with cruise control systems that may allow inadvertent servo solenoid activation does not sustain a conclusion that such an activation could lead to a SAI. Voluminous data indicates it does not. Indeed, the fact that the petitioner (and others) have never produced credible evidence that simultaneous, undetectable electrical and mechanical cruise control system failures have resulted in a single SAI—let alone frequently enough to justify a safety recall—supports the Study's original finding that ''the occurrence of such simultaneous, undetectable failures is virtually impossible.''

[85] Jarvis v. Ford, Daubert Hearing Tr. 85. ''You can't release it [the MVDV] because you can't move the [brake] pedal enough.''

[86] McMath letter, 1.

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[FR Doc. 00–10624 Filed 4–27–00; 8:45 am]

BILLING CODE 4510–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. MC–F–20966]

Global Passenger Services, L.L.C., *et al.*—Control—Davis Bus Lines, Inc., *et al.*

AGENCY: Surface Transportation Board.

ACTION: Notice tentatively approving finance transaction.

SUMMARY: Global Passenger Services, L.L.C. (Global), Student Transportation of America, Inc. (STA), and Travelways, Inc. (Travelways) (collectively, applicants), noncarriers, filed an application under 49 U.S.C. 14303 for Global to acquire indirect control and STA to acquire direct control of one motor passenger carrier, Davis Bus Lines, Inc. (Davis), and for Global to acquire indirect control and Travelways to acquire direct control of two motor passenger carriers, VIP Tours & Charters Sightseeing Corporation (VIP) and Coach America Corporation (CAC). Persons wishing to oppose the application must follow the rules at 49 CFR 1182.5 and 1182.8. The Board has tentatively approved the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments must be filed by June 12, 2000. Applicants may file a reply by June 27, 2000. If no comments are filed by June 12, 2000, this notice is effective on that date.

ADDRESSES: Send an original and 10 copies of any comments referring to STB Docket No. MC–F–20966 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 comments to applicants' representative: Mark J. Andrews, Barnes & Thornburg, 1401 Eye Street, N.W., Suite 500, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565–1600. [TDD for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: Global, a Delaware limited liability company, indirectly controls 16 motor passenger carriers and holds majority stock interest in STA and Travelways.[1] The direct control of the 16 motor passenger carriers is divided between STA and Travelways, both Delaware corporations. STA controls the Global affiliates that provide primarily school bus service and Travelways controls the affiliates that provide primarily leisure transportation and intercity airport shuttle services, which is not involved here. Davis[2] will be added to the STA-controlled affiliates and VIP[3] and CAC[4] will be added to the Travelways-controlled affiliates. According to applicants, the acquisition of control of these three additional motor passenger carriers will permit a modest expansion of Global's service and client base in two markets that it already serves—school bus transportation in Pennsylvania and leisure transportation in southern California—without reducing competition in either market.

Under 49 U.S.C. 14303(b), we must approve and authorize a transaction we find consistent with the public interest, taking into consideration at least: (1) The effect of the transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees.

Applicants have submitted the information required by 49 CFR 1182.2, including information to demonstrate that the proposed transaction is consistent with the public interest under 49 U.S.C. 14303(b). Specifically, applicants have shown that the proposed transaction will have a positive effect on the adequacy of transportation to the public and will result in no increase in fixed charges and no changes in employment. *See* 49 CFR 1182.2(a)(7). Additional information, including a copy of the application, may be obtained from applicants' representative.

On the basis of the application, we find that the proposed transaction is 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. *See* 49 CFR 1182.6(c). If no opposing comments are 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 either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The proposed acquisition of control is approved and authorized, subject to the 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 June 12, 2000, unless timely opposing comments are filed.

4. A copy of this notice will be served on: (1) the U.S. Department of Transportation, Federal Motor Carrier Safety Administration—HMCE–20, 400 Virginia Avenue, S.W., Suite 600, Washington, DC 20024; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, N.W., Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 400 7th Street, S.W., Washington, DC 20590.

Decided: April 20, 2000.

By the Board, Chairman Morgan, Vice Chairman Burkes, and Commissioner Clyburn.

Vernon A. Williams,

Secretary.

[FR Doc. 00–10526 Filed 4–27–00; 8:45 am]

BILLING CODE 4915–00–P

[1] *See Global Passenger Services, L.L.C., et al.—Control—Gongaware Tours, Inc., et al.*, STB Docket No. MC–F–20954 (STB served Sept. 16, 1999, corrected decision served Sept. 20, 1999); and *Global Passenger Services, L.L.C.—Control—Bortner Bus Company, et al.*, STB Docket No. MC–F–20924 (STB served July 17, 1998).

[2] Davis is a Pennsylvania corporation holding federally issued operating authority in MC–233595 to provide charter and special operations between points in the United States. It conducts limited charter and tour services which are incidental to its school transportation operation based in Pennsylvania, and which extend only to points in immediately adjacent States.

[3] VIP is a Delaware corporation holding federally issued operating authority in MC–277612 to provide charter and special operations and contract carrier services between points in the United States. The actual operations of VIP and its predecessor company involve primarily vacation charters and organized tours beginning and ending in southern California and extending to points in California and immediately adjacent States.

[4] CAC is a Delaware corporation holding federally issued operating authority in MC–330527 to provide charter and special operations between points in the United States. The operations of CAC and its predecessor company historically have resembled those of VIP.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–501 (Sub–No. 3X)]

Central of Tennessee Railway and Navigation Company, Incorporated—Discontinuance of Service Exemption—In Bastrop, Burnet, Lee, Llano, Travis and Williamson Counties, TX

On March 24, 2000[1], Central of Tennessee Railway and Navigation Company, Incorporated, d.b.a. The Longhorn Railway Company (Longhorn), filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903

[1] Petitioner's initial filing on March 24, 2000, lacked necessary zip code and station information. A complete petition was not obtained until April 24, 2000. Accordingly, we have treated that date as the actual filing date and the dates for issuance of a final decision and for the filing of any offers of financial assistance in this matter have been extended, respectively to August 12 and August 22, 2000.

to discontinue service over a rail line owned by Capital Metropolitan Transportation Authority (CMTA) extending between milepost 0.0 west of Giddings, TX, and milepost 154.07 at Llano, TX, including the Marble Falls Branch (6.43 miles), the Scobee Spur (3.3 miles), and the Burnett Spur (.93 miles), a distance of approximately 162 miles in Bastrop, Burnet, Lee, Llano, Travis and Williamson Counties, TX.[2]

The lines traverse U.S. Postal Service Zip Codes 78605, 78611, 78613, 78639, 78641, 78642, 78643, 78650, 78653, 78654, 78701, 78702, 78705, 78717, 78721, 78722, 78723, 78727, 78728, 78729, 78751, 78753, 78756, 78757, 78758, 78759, and 78959. The line includes the stations of Giddings, Hills, Paige, McDade, Butler, Stacks, Elgin, Manor, Milby, Decker, Smoot, Austin Depot, Austin Junction, Buttercrust, Abercrombie, Fromme, McNeil, Rutledge, Whitestone, Leander, Liberty Hill, Bertram, Summit, Burnet, Gandy, DeMarco, Sudduth, Fairland, Scobee, Kingsland.

The line does not contain federally granted rights-of-way. Any documentation in Longhorn's possession will be made available promptly to those requesting it.

Longhorn is proposing to discontinue all of its regulated rail operations. In this situation, the Board does not impose labor protection, except in specifically enumerated circumstances. *See Northampton and Bath R. Co.—Abandonment,* 354 I.C.C. 784, 785–86 (1978) (*Northampton*). Therefore, if the Board grants the petition for exemption, in the absence of a showing that one or more of the exceptions articulated in *Northampton* is present, no labor protective conditions would be imposed.

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by August 12, 2000.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,000 filing fee. *See* 49 CFR 1002.2(f)(25).

This proceeding is exempt from environmental reporting requirements under 49 CFR 1105.6(c) and from historic reporting requirements under 1105.8(b).

All filings in response to this notice must refer to STB Docket No. AB–501 (Sub-No. 3X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001; and (2) Thomas F. McFarland, Jr., McFarland and Herman, 20 North Wacker Dr., Suite 1330, Chicago, IL 60602–2902.

Persons seeking further information concerning abandonment and discontinuance procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at 1–800–877–8339.]

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: April 25, 2000.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

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BILLING CODE 4915–00–P

[2] According to petitioner, disputes between CMTA and it resulted in: (1) The filing by Longhorn of a petition for declaratory order alleging and requesting a finding that CMTA is violating its common carrier obligation; (2) termination by CMTA of its operating contract with Longhorn; and (3) the filing by CMTA on March 13, 2000, of a notice of intent to seek an adverse discontinuance of Longhorn's service. Also according to petitioner, however, the parties have recently settled their differences in regard to matters within the jurisdiction of the Board. In fact, in a decision served April 3, 2000, in *Central of Tennessee Railway & Navigation Company, Incorporated, d.b.a. The Longhorn Railway Company—Petition for Declaratory Order,* STB Finance Docket No. 33820, the Board granted Longhorn's request to withdraw the declaratory order petition with prejudice. Moreover, CMTA's notice of intent to seek adverse discontinuance of Longhorn's service is presumably moot and no application will be filed in light of petitioner's filing here. Finally, we note that in a notice served on April 4, 2000, in *Trans-Global Solutions, Inc., d.b.a. Austin Area Terminal Railroad—Operation Exemption—Capital Metropolitan Transportation Authority,* STB Finance Docket No. 33860, a new operator has been authorized to replace Longhorn on the line.

Federal Register

Friday,
April 28, 2000

Part II

Department of Energy

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

Energy Conservation Program for Consumer Products: Energy Conservation Standards for Water Heaters; Proposed Rule

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

[Docket Number EE–RM–97–900]

RIN 1904–AA76

Energy Conservation Program for Consumer Products: Energy Conservation Standards for Water Heaters

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Notice of proposed rulemaking and public workshop.

SUMMARY: The Energy Policy and Conservation Act, as amended, prescribes energy conservation standards for certain major household appliances, and requires the Department of Energy (DOE) to administer an energy conservation program for these products. In this notice we are proposing to amend the energy conservation standards for water heaters to make them more efficient and announce a public hearing.

DATES: Comments must be received on or before July 12, 2000. DOE is requesting a signed original, a computer disk (WordPerfect 8) and 10 copies of the written comments. The Department will also accept e-mailed comments, but you must also send a signed original. Oral views, data, and arguments may be presented at the public workshop (hearing) in Washington, DC, beginning at 9:00 a.m. on June 20, 2000.

The Department must receive requests to speak at the workshop and a copy of your statements no later than 4:00 p.m., June 6, 2000, and we request that you provide a computer diskette (WordPerfect 8) of each statement at that time. The DOE panel will read the statements in advance of the workshop and requests that speakers limit their oral presentations to a summary. Attendees will have an opportunity to ask questions.

ADDRESSES: Please submit written comments, oral statements, and requests to speak at the workshop to Brenda Edwards-Jones, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Energy Conservation Program for Consumer Products: Water Heaters, Docket Number EE–RM–97–900, 1000 Independence Avenue, SW, Rm 1J018, Washington, DC 20585–0121. You may send email to: brenda.edwards-jones@ee.doe.gov. The workshop will begin at 9:00 a.m., in Room 1E–245 at the U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC. You can find more information concerning public participation in this rulemaking proceeding in Section VI, ''Public Comment Procedures,'' of this notice of proposed rulemaking.

You may read copies of the public comments, the Technical Support Document for Energy Efficiency Standards for Consumer Products: Water Heaters (TSD) and the transcript of the public hearing and previous workshop transcripts at the DOE Freedom of Information (FOI) Reading Room, U.S. Department of Energy, Forrestal Building, Room 1E–190, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–3142, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. You may obtain copies of the TSD and analysis spreadsheets from the Office of Energy Efficiency and Renewable Energy's (EERE) web site at http://www.eren.doe.gov/buildings/codes_standards/applbrf/waterheater.htm.

FOR FURTHER INFORMATION CONTACT: Terry Logee, U.S. Department of Energy, EE–41, 1000 Independence Avenue, SW, Washington, DC 20585–0121, (202) 586–9127, email: terry.logee@ee.doe.gov or Francine Pinto, Esq., U.S. Department of Energy, Office of General Counsel, GC–72, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–7432, email: francine.pinto@hq.doe.gov or Eugene Margolis, Esq., GC–72, at the same address, (202) 586–9507, email: eugene.margolis@hq.doe.gov.

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Appendix A—Acronyms and Abbreviations

I. Summary of Proposed Rule

The Energy Policy and Conservation Act, as amended (hereinafter referred to as EPCA or the Act), specifies that any new or amended energy conservation standard the Department of Energy (DOE) prescribes shall be designed to ''achieve the maximum improvement in energy efficiency . . . which the Secretary determines is technologically feasible and economically justified.'' Section 325(o)(2)(A), 42 U.S.C. 6295(o)(2)(A). Furthermore, the amended standard must ''result in significant conservation of energy.'' Section 325(o)(2)(B)(3)(B), 42 U.S.C. 6295(o)(2)(B)(3)(B).

In accordance with the statutory criteria discussed in this notice, DOE is proposing to amend the water heater energy efficiency standards. The proposed standards represent performance consistent with:

- electric water heaters with heat traps, 2.5 inches of insulation and an insulated tank bottom;
- gas-fired water heaters with heat traps, flue baffles that achieve a 78% recovery efficiency (RE) and 2 inches of insulation;
- no change from the current standard for oil-fired water heaters.

The proposed standard, trial standard level three, is based on using HFC–245fa as a blowing agent in the insulation and saves an estimated 4.75 quads of energy over 27 years, a significant amount. This amount is more than the primary energy used for heating water in all U.S. buildings (residential, commercial and industrial) in 1997 (3.82 quads). The economic impacts on consumers (i.e., the average life-cycle cost (LCC) savings) are positive. We identified and conducted analyses on two subgroups of the population, senior-only and low income consumers, because of concern that these groups might potentially be affected differently by the standards than the rest of the population. Our analyses showed no difference.

The national net present value (NPV) of trial standard level three is $3.4 billion from 2003–2030. This is the estimated total value of future savings discounted to 1998 minus the estimated increased equipment costs also discounted to 1998. The water heater industry net present value (INPV) today is estimated to be $322 million. If we adopt trial standard level three, we expect manufacturers may lose 5 percent of the INPV, which is approximately $15 million. Other government actions that require the phase out of HCFC–141b and the prevention of ignition of flammable vapors by gas-fired water heaters will result in losses of an estimated $28 million in INPV. The cumulative effects of all government actions is an estimated loss of $43 million of INPV, or about 13 percent. However, the present value of future energy savings for the U.S. are projected to be $3.4 billion. These substantial energy savings exceed industry losses due to energy efficiency standards by 227 times or, due to all Federal actions, by 79 times. Additionally, based on our interviews with four of the five major manufacturers, we do not expect any plant closings or loss of employment because the manufacturers stated that they would stay in business. During the interviews, the manufacturers all stated that only trial standard level four (incorporating plastic tanks and side-arm heaters) would severely impact employment levels and require new facilities.

The proposed standard has significant environmental benefits, addressing global climate change and reducing air pollution. This proposed standard level would result in cumulative greenhouse gas emission reductions of 83 million metric tons (Mt) of carbon equivalent. Additionally, air pollution would be reduced by the elimination of 229 thousand metric tons of nitrous oxides (NO_X) from 2003–2030.

Trial standard level three has several other benefits. First, it maximizes the LCC savings to consumers, which means that total consumers' benefits are higher as a result of this standard level than any of the other standard levels analyzed. Second, this trial standard level causes similar cost increases between gas-fired and electric water heaters so the impacts in the market are fuel neutral.

Therefore, DOE has determined that the benefits to the nation outweigh the burdens and we conclude that trial standard level three is economically justified. Furthermore, DOE has determined that trial standard level three is technologically feasible. The design options incorporated in trial standard level three are commercially available on some models of electric and gas-fired heaters sold in the U.S.

II. Introduction

A. Authority

Part B of Title III of the Energy Policy and Conservation Act, Pub.L. 94–163, as amended by the National Energy Conservation Policy Act, Pub.L. 95–619, the National Appliance Energy Conservation Act, Pub.L. 100–12, the National Appliance Energy Conservation Amendments of 1988, Pub.L. 100–357, and the Energy Policy Act of 1992, Pub.L. 102–486, created the Energy Conservation Program for Consumer Products other than Automobiles. Water heaters are one of the consumer products subject to this program. Section 322(a)(4), 42 U.S.C. 6292(a)(4).

Under the Act, the program consists essentially of three parts: testing, labeling, and Federal energy conservation standards. The Department, with assistance from the National Institute of Standards and Technology (NIST), may amend or establish test procedures for each of the covered products. Section 323(b)(1)(A)–(B), 42 U.S.C. 6293(b)(1)(A)–(B). The test procedures measure the energy efficiency, energy use, or estimated annual operating cost of a covered product during a representative average use cycle or period of use. They must not be unduly burdensome to conduct. Section 323(b)(3), 42 U.S.C. 6293(b)(3). A test procedure is not required if DOE determines by rule that one cannot be developed. Section 323(d)(1), 42 U.S.C. 6293(d)(1). The water heater test procedures appear at Title 10 Code of Federal Regulations (CFR) part 430, subpart B, appendix E.

The Act prescribes an initial Federal energy conservation standard for each of the listed covered products, except television sets. The Department is authorized to amend these standards. Section 325, 42 U.S.C. 6295. Any new or amended standard must be designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. Section 325(o)(2)(A), 42 U.S.C. 6295(o)(2)(A). The Department's current review of standards is for water heaters. Section 325(e), 42 U.S.C. 6295(e).

Section 325(o)(2)(B)(i), 42 U.S.C. 6295(o)(2)(B)(i) provides that before DOE determines whether a standard is economically justified, it must first ask

for comments on a proposed standard. After reviewing comments on the proposal, DOE must determine that the benefits of the standard exceed its burdens, based, to the greatest extent practicable, on a weighing of the following seven factors:

(1) The economic impact of the standard on the manufacturers and the consumers of the products subject to the standard;

(2) The savings in operating costs throughout the estimated average life of the covered product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered products which are likely to result from the imposition of the standard;

(3) The total projected amount of energy or water savings likely to result directly from the imposition of the standard;

(4) Any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard;

(5) The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

(6) The need for national energy and water conservation; and

(7) Other factors the Secretary considers relevant.

In addition, Section 325(o)(2)(B)(iii), 42 U.S.C. 6295(o)(2)(b)(iii), establishes a rebuttable presumption of economic justification in instances where the Secretary determines that ''the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy, and as applicable, water, savings during the first year that the consumer will receive as a result of the standard, as calculated under the applicable test procedure . . .'' The rebuttable presumption test is an alternative path to establishing economic justification.

Section 327 of the Act, 42 U.S.C. 6297, addresses the effect of Federal rules on State laws or regulations concerning testing, labeling, and standards. Generally, all such State laws or regulations are superseded by the Act, unless specifically exempted in Section 327. The Department can grant a waiver of preemption in accordance with the procedures and other provisions of Section 327(d) of the Act. 42 U.S.C. 6297(d).

B. Background

1. Current Standards

The existing water heater efficiency standards have been in effect since 1991. Energy efficiency is measured in terms of an energy factor (EF), which measures overall water heater efficiency and is determined by the DOE test procedure. 10 CFR part 430, subpart B, appendix E. The water heater efficiency standards are as follows:

- electric, EF = 0.93—(0.00132 x rated volume)
- gas-fired, EF = 0.62—(0.0019 x rated volume)
- oil-fired, EF = 0.59—(0.0019 x rated volume)

where rated volume is the water storage capacity of a water heater in gallons, as specified by the manufacturer.

2. History of Previous Rulemakings

On September 28, 1990, DOE published an Advance Notice of Proposed Rulemaking (ANOPR) announcing the Department's intention to revise the existing water heater efficiency standard. (55 FR 39624). On March 4, 1994, DOE proposed a rule to revise the energy conservation standards for water heaters, as well as a variety of other consumer products. (59 FR 10464). On January 31, 1995, we published a determination that we would issue a revised notice of proposed rulemaking (NOPR) for water heaters. (60 FR 5880). This is the revised proposal for amending the energy efficiency standards for water heaters.

3. Process Improvement

The fiscal year (FY) 1996 appropriations legislation imposed a moratorium on proposed or final rules for appliance efficiency standards for FY 1996. Pub. L. 104–134. During the moratorium, the Department examined the appliance standards program and how it was working. Congress advised DOE to correct the standards-setting process and to bring together stakeholders (such as manufacturers and environmentalists) for assistance. Therefore, we consulted with energy efficiency groups, manufacturers, trade associations, state agencies, utilities and other interested parties to provide input to the process used to develop appliance efficiency standards. As a result, on July 15, 1996, the Department published a Final Rule: Procedures for Consideration of New or Revised Energy Conservation Standards for Consumer Products (referred to as the Process Rule) (61 FR 36974), codified at 10 CFR part 430, subpart C, appendix A.

The Process Rule states that for products, such as water heaters, for which DOE issued a NOPR prior to August 14, 1996, DOE will conduct a review to decide whether any of the analytical or procedural steps already completed should be repeated. (61 FR 36982). DOE completed this review and decided to use the Process Rule, to the extent possible, in the development of the revised water heater standards.

We developed an analytical framework for the water heater standards rulemaking for our stakeholders, which we presented during a water heater workshop on June 24, 1997. The analytical framework described the different analyses (e.g., LCC, payback and manufacturing impact analyses (MIA)) to be conducted, the method for conducting them, the use of new LCC and national energy savings (NES) spreadsheets, and the relationship between the various analyses.

4. Test Procedures

The DOE test procedure determines the water heater EF, which is a measure of overall water heater efficiency. Two other water heater performance characteristics determined by the DOE test procedures are the overall heat transfer coefficient (UA) and the recovery efficiency (RE) for gas and oil-fired water heaters. The UA is referred to as the standby heat loss coefficient of the storage tank. It is a measure of the amount of heat in British thermal units (Btus) lost from a water heater in one hour. The RE is defined as the ratio of energy delivered to the water to the energy content of the fuel consumed by the water heater.

The Act does not allow DOE to set energy standards for a product unless there is a test procedure. The Department published a test procedure on May 11, 1998, that revised the first-hour rating of storage-type water heaters, added a new rating for electric and gas-fired instantaneous water heaters and amended the definition of a heat pump water heater. (63 FR 25996). This revision did not change the test method for determining energy efficiency standards.

III. Analysis and Methodology

This section describes the analyses and methodologies to be used in this rulemaking. It includes a general introduction to each analysis section and provides a discussion of issues relative to the water heater rule (see Chapter 2 of the TSD).

A. Market and Technology Assessment

The market and technology assessment characterizes the relevant product markets and existing

technology options including prototype designs.

1. General

When initiating a standards rulemaking, the Department develops information on the present and past industry structure and market characteristics of the product(s) concerned. This activity consists of both quantitative and qualitative efforts to assess the industry and products based on publicly available information. Issues to be addressed include: (1) manufacturer market share and characteristics; (2) trends in the number of firms; (3) the financial situation of manufacturers; (4) existing non-regulatory efficiency improvement initiatives; and (5) trends in product characteristics and retail markets. The information collected serves as resource material to be used throughout the rulemaking.

2. Product Specific

There are five major manufacturers in the residential water heater market. We estimate they have the following market shares as of 1997: Bradford White 10%, American and AO Smith 16% each, Rheem 28% and State Industries 29%; all others add up to 1%. Annual residential water heater shipments (i.e., the total number of water heaters delivered to and installed in consumers' homes) have gradually increased from 7.4 million units in 1987 to 9.1 million units per year in 1997.

Financial information for most water heater manufacturers is not publicly available, with only one publicly traded water heater manufacturer in the United States. Information from the U.S. Census Bureau Current Industrial Reports for 1997 and other public sources shows industry shipments with a value of $1.3 billion for 9.1 million water heaters. Typical industry profits are 6 percent of revenues.

There is no current national non-regulatory water heater efficiency improvement program. However, DOE is considering an Energy Star® water heater program and currently is supporting a program to demonstrate a 50 gallon, 6,000 Btu input heat pump water heater and to develop a residential condensing gas-fired water heater. If successful, the DOE heat pump water heater program will eliminate the installation, service and some of the product utility issues that formed most of our basis for screening out heat pump water heaters. This DOE heat pump water heater is designed to be a ''drop-in'' replacement for a standard electric water heater. Therefore it requires only standard plumbing and wiring connections and it will fit in most electric water heater closets. However, it still will not fit under counters or in spaces less than four feet tall.

In addition, the Federal Energy Management Program's (FEMP) ''Buying Energy Efficient Products Program'' identifies the upper 25% energy efficient residential gas and electric water heaters. These levels are recommended to Federal agencies with the ultimate goal of moving the entire U.S. market toward higher energy efficiency. We are aware of a few gas and electric utility programs that encourage the use of higher efficiency water heaters, including consumer rebates or dealer incentive programs, financing, consumer education, and rental/guarantee programs that often include installation and maintenance costs. In the past decade, the number of these utility programs has diminished considerably due to restructuring of the electric and gas utility industries.

The water heater market is largely a replacement market, accounting for 80–85% of sales. The remaining 15–20% of sales are for new installations. Of the 9.1 million water heaters sold annually, we estimate plumbing wholesalers sell approximately 4.3 million, while retail outlets such as Sears, Wards, Home Depot, and Lowes sell the majority of the remaining 4.8 million. Characteristics of the replacement market include: (1) consumers typically replace the existing water heater with one of similar fuel and capacity; (2) consumers consider the ease of installation—it has to fit in the existing space; (3) consumers usually replace water heaters under emergency conditions when they fail; and (4) consumers typically ask for and follow the installers' recommendations.

Residential water heating uses about 2.6 quads per year of primary energy out of 19 quads (year 1997) for all residential buildings, at a cost of $26.4 billion. Where natural gas is available, 74% of households use gas to heat water and 24% heat with electric. Where gas is not available, 84% of households use electric water heaters and the remaining households use oil-fired water heaters or liquid petroleum gas (LPG).

B. Technological Feasibility

Under the guidelines in the Process Rule, DOE will eliminate from consideration, early in the process, any design options that present unacceptable problems with respect to technological feasibility, practicability to manufacture, install, and service, product utility or unavailability, or safety. In order to conduct the screening analysis, the Department gathers information regarding all current technology options and prototype designs. In consultation with interested parties, the Department develops a list of design options for consideration in the rulemaking. All technologically feasible design options are candidates in this initial assessment. We identified heat pump water heaters and gas condensing water heaters as the maximum technologically feasible designs based on measured EF's greater than 2.0 and 0.9, respectively.

The Department considers design options technologically feasible if they are already in use by the respective industry or research has progressed to the development of a working prototype. The Process Rule sets forth a definition of technological feasibility as follows: ''Technologies incorporated in commercial products or in working prototypes will be considered technologically feasible.'' 10 CFR 430, subpart C, appendix A(4)(a)(4)(i).

The Department has determined that all of the design options discussed in today's notice are technologically feasible as required by Section 325(o)(2)(A) of EPCA, as amended.

C. Screening Analysis

Screening identifies those design options the Department will consider in the engineering analysis. This includes all technologically feasible design options not eliminated in the screening analysis. The screening analysis provides a basis for eliminating certain problematic design options from further consideration early in the process. Initially, the candidate design options encompass all those technologies considered to be commercially available or in working prototypes. The Process Rule establishes the factors DOE uses for screening design options. The factors are as follows:

- Technological feasibility. DOE will only consider technologies that are incorporated in commercially available products or in working prototypes.
- Practicability to manufacture, install, and service. A technology must be able to be mass produced, installed and serviced on a scale that will serve the relevant market at the time of the effective date of the standard.
- Impacts on product utility to consumers. DOE must determine if any energy efficiency designs have significant adverse impacts on product utility, including impacts on significant subgroups of consumers, or if a product would become unavailable with performance characteristics that are substantially the same as products presently available in the U.S.

• Adverse impacts on health and/or safety. DOE will not consider any designs that have significant adverse impacts on health or safety.

10 CFR part 430, subpart C, appendix A(4)(a)(4) and (5)(b).

1. Product Classes

DOE divides water heaters into classes based on the type of fuel used to heat water: electricity, natural gas/LPG, and oil. Different energy efficiency standards will apply to different product classes. DOE defines residential storage water heaters in the following classes:

• An electric water heater has a storage capacity of 20–120 gallons and a heat input of 12 kilowatt (kW) or less.

• A gas-fired water heater has a storage capacity of 20–100 gallons and a heat input of 75,000 Btu per hour or less.

• An oil-fired water heater has a storage capacity of 50 gallons or less and a heat input of 105,000 Btu per hour or less.

2. Baseline Units

In order to analyze design options for energy efficiency improvements, the Department defines a baseline unit. For each product class, the baseline unit is one that meets the existing standard. We determined the following baseline units for each fuel type:

• The baseline electric water heater is a 50-gallon glass-lined steel tank with 1.5 inch polyurethane foam insulation and two 4,500 watt heater elements. The baseline EF is 0.86.

• The baseline gas water heater is a 40-gallon glass-lined steel tank with a nominal 4 inch center flue. The heat input rate is 40,000 Btu/hr with a 450 Btu/hr pilot light. The tank is insulated with 1 inch of polyurethane foam. The energy factor is 0.54 and the recovery efficiency is 76%.

• The baseline oil-fired water heater is a 32 gallon glass-lined steel tank insulated with 1 inch of polyurethane foam. The heat input rate is 90,000 Btu/hr and it has a center flue. It has an EF of 0.53 and the RE is 75%.

3. Screening of Design Options

In the water heater rulemaking analysis, DOE considered three categories of design options: designs that reduce standby losses, designs that improve combustion efficiency, and designs that improve system efficiency. For a complete description of these design options, see Chapter 4.2 in the TSD.

a. Design Options That Reduce Standby Losses

Some designs that reduce standby losses—heat traps and increased jacket insulation—are frequently applicable to all fuel types. A heat trap is a device that keeps hot water from circulating into a piping distribution system because of natural convection. Manufacturers insulate water heaters by filling the cavity between the jacket and the tank with polyurethane foam insulation. Most water heaters on the market today have at least 1 inch thick foam insulation, while some models have 2- or 3-inch thick insulation. An alternate way to reduce jacket heat losses is to use advanced insulation materials such as evacuated panels.

The following design options reduce standby losses, but usually are restricted to one type of fuel:

• Plastic water heater tanks reduce conducted heat. This design option is used with electric water heaters or with indirect water heating techniques.

• A manufacturer can insulate the bottom of the tank, but this design option can be used only with electric water heaters or with gas or oil-fired burners mounted beside the water tank and using a heat exchanger to transfer heat to the water.

• A damper installed either at the flue exit or in the vent pipe of gas water heaters minimizes off-cycle heat losses.

• The side-arm heater design avoids flue losses by using a small, separate heat exchanger to heat water and a small circulation pump on gas-fired water heaters.

• An electronic ignition device can replace a standing pilot ignition system in gas-fired water heaters.

b. Design Options That Improve Combustion Efficiency

DOE considered six design options that improve combustion efficiency. Four design options are applicable for gas-fired and three for oil-fired water heaters:

• First, increased heat exchange from a flue baffle, multiple flues, or submerged combustion improves heat transfer. The flue baffle is a twisted strip of metal inserted into the flue of a gas or oil-fired water heater that improves heat transfer to the flue. Increased heat exchanger surface area, usually from multiple flues, improves the heat transfer from the flue gas to the water. In submerged combustion or direct-fired combustion systems for gas-fired water heaters, water is heated by direct contact with the flue products.

• Second, a condensing gas-fired water heater condenses some of the water vapor in the flue gas and extracts more heat.

• Third, an inverted U-shaped flue increases recovery efficiency and reduces standby losses of oil-fired water heaters.

• Fourth, a thermophotovoltaic or thermoelectronic generator uses silicon photovoltaic cells (energized by heat or light from the burning fuel) to generate power to run a fan and operate the electronic ignition and controls on a gas-fired water heater. This is more efficient because it eliminates the standing pilot and does not require any connection to an outside electric power source.

• Fifth, the two-phase thermosiphon is a heat pipe that transfers heat from the gas burner to the storage tank.

• Sixth, the air-atomized burner (oil-fired only) uses a stream of air to atomize the oil. This improves combustion efficiency and results in less unburned fuel in the flue.

The heat pump is the only design option that improves the heating efficiency of an electric water heater. A heat pump water heater can double the EF of an electric water heater compared to a resistance type because it uses heat from the air within the house. This can cause beneficial dehumidification or unwanted overcooling. During those times when heat gains from normal household activities or from the environment are not large enough to keep the house comfortable, e.g., the winter, the house heating system must provide the makeup heat to the house.

c. Design Options That Improve System Efficiency

There are several system improvement applications:

• The timer design option limits the amount of time during the day when an electric water heater may be energized.

• The solar pre-heat technique uses solar collectors as pre-heaters for a standard electric or gas storage-type water heater.

• The drain water heat recovery system uses a heat exchanger to recover waste heat from the drain water.

• A tempering tank—an un-insulated storage tank installed in a conditioned space— raises the inlet water temperature to the ambient temperature.

• Dip-tubes that prevent the buildup of sediment on the bottom of the tank may reduce the degradation of efficiency and prolong the life of the water heater.

While system improvement features may save energy, they are typically a part of the water heater system, not the water heater. For example, the tempering tank is a separate tank that is

plumbed to the water heater. Each of these designs was eliminated in the screening analysis because none is defined as a water heater in the Act. Section 321(27), 42 U.S.C. 6291(27).

4. Results of Screening Analysis

In accordance with the Process Rule, the Department conducted a screening analysis and published the results in ''Technology Assessment and Screening Analysis,'' Appendix B: Supplement to the Water Heater Rulemaking Framework, January 1998. DOE notified stakeholders of the availability of this document in the **Federal Register** on January 14, 1998. (63 FR 2186).

We received many comments on the elimination of the heat pump water heater as a design option. Several stakeholders commented that DOE should consider all design options, including heat pump water heater designs. (American Gas Association (AGA), No. 28 at 4; Okaloosa, No. 29 at 1; Clearwater, No. 30 at 1; Mesa, No. 34 at 1; Barley, No. 32 at 1; 13 Letters from Various Gas Utilities, No. 31 at 1; and Laclede, No. 47 at 2).

DOE eliminated the heat pump water heater due to issues concerning the practicability to manufacture, install, and service on the scale necessary to serve the relevant market at the time of the effective date of the standard and product utility of these units. DOE eliminated heat pump water heaters after careful consideration of the current electric resistance and heat pump water heater markets and manufacturing technology, and after applying the factors to be considered in screening design options contained in the Process Rule. 10 CFR 430, subpart C, appendix A(4)(a)(4) and (5)(b). See Chapter 4.2.2.10 in the TSD for a discussion of the heat pump water heater screening analysis.

Several other stakeholders, including Gas Appliance Manufacturers Association (GAMA), Edison Electric Institute (EEI), Southern Company (SC), and Virginia Power (VP) supported DOE's decision to screen out heat pump water heaters. (GAMA, No. 51 at 4; EEI, No. 36 at 2; SC, No. 12 at 2 and No. 42 at 1; and VP, No. 45 at 3).

Similarly, the screening criteria were applied to condensing gas-fired water heaters. DOE eliminated gas condensing water heaters because we determined they are not technologically feasible. 10 CFR 430, subpart C, appendix A(4)(a)(4) and (5)(b). See Chapter 4.2.2.10 in the TSD for a discussion of the condensing gas-fired water heater screening analysis.

a. Heat Pump Water Heaters

Practicability to Manufacture. From meetings with the water heater industry, DOE has determined that water heater manufacturers would not have the lead time necessary to ramp up heat pump water heater production to present sales levels in the three-year time frame established by the NOPR. Since the late 1970s, sales of heat pump water heaters have not exceeded 10,000 per year (<0.33% of electric water heater sales, <0.17% of all water heater sales) and presently sales of residential heat pump water heaters are less than 4,000 residential water heaters a year in categories covered by the present rulemaking. None of the five major manufacturers of residential water heaters currently have a heat pump design in their residential product line, and only two (State and Rheem) have had a heat pump water heater in their product lines in the last 10 years.

LaClede Gas commented that DOE should not screen heat pump water heaters out as a design option because DOE is presently supporting the development of a residential heat pump water heater product. (LaClede, No. 25 at 3) The heat pump water heater design being researched by DOE is an integral heat pump water heater design which uses a small compressor with 40% less heating capacity than any used in existing heat pump water heater products (and has about 25% of the heating capacity of a typical electric resistance hot water heater). This should assist in installation in smaller spaces as it will physically use smaller components (particularly the compressor and evaporator/fan system), and will likely be quieter in operation. Present designs of the DOE heat pump re-inject condensate back into the air to be re-condensed in the evaporator. DOE believes this may simplify installation, at some expense to system capacity, efficiency and dehumidification of the residence.

The integral heat pump water heater design proposed by DOE uses a 50-gallon tank, but even the small compressor and heat exchanger used in that design adds approximately a foot in height to that tank. The attached 50-gallon storage tank is sized to provide ample water for a typical day's use in most residences. Smaller tank sizes are not being proposed, as the cost effectiveness of the heat pump decreases rapidly with smaller tank sizes and characteristic lower water usage. Presently, the smallest integral heat pump water heater design available in the U.S. is an 80-gallon unit. The design proposed by DOE would still need access to the same amount of household heat any heat pump water heater would require to serve the residence load; however, the lower heat extraction rate of the DOE unit may allow for installation in locations with smaller surrounding air volume than is required for existing designs.

The unit is being developed with input from DOE, Arthur D. Little, and Oak Ridge National Laboratory and has been designed from the outset to address many of the known market barriers facing the adoption of residential heat pump water heaters. The first barrier is the high cost of heat pump water heaters due to the heat pump motor, compressor and controls. A second barrier is the more complex (and more costly) installation for heat pump water heaters. There are size, air flow, filter replacement and condensate removal considerations. Third, poor reliability of many models has caused a lack of consumer confidence. Fourth, heat pump water heaters require more maintenance. Presently, no mass market service infrastructure exists.

Preliminary field tests of the DOE design are likely to start in the spring of 2000. Larger scale utility testing is slated for late 2000 to 2001. Accelerated reliability testing is also scheduled sometime after initial field testing has resulted in a more or less stable product. If field and reliability testing are positive, limited commercial production and sales are possible by 2003. Actual production and sales would be through an existing air-conditioning equipment manufacturer who would likely purchase storage tanks from an existing water heater manufacturer. Because of the issues that have plagued heat pump water heaters in the past, DOE is requiring its partners to introduce the product cautiously, correcting problems encountered during field testing and fully testing the corrections. A market study done by Arthur D. Little projected potential sales for the DOE design up to 300,000 units per year 10 years after commercial introduction, or 7.5% of present electric water heater sales. (ADL Report #46230 to DOE).

Although most manufacturers could develop, either alone or in partnership with others, a working heat pump water heater design in the next few years, there are significant difficulties in capitalizing and building heat pump water heater manufacturing facilities to provide for the present 4 million plus electric water heater sales annually.

Manufacturers of heat pump water heaters would need to design a completely new product and build new production facilities to supply the current electric water heater market.

This market has a market volume greater than that of all room air-conditioner shipments in the U.S. (1993 DOE Report, EE–0009). In a 1994 A. D. Little report, the estimated investment cost to convert to heat pump water heaters was $750 million. Given the current levels of profitability of the water heater industry and the limited capital resources, some manufacturers will not be able to finance these costs. (Dieckmann, Topping and Shorey, August 31, 1994, ADL Report to GAMA, ''Technical Analysis of the Proposed DOE Heat Pump Water Heater Energy Efficiency Standard'')

In addition, given the high initial cost for heat pump water heaters, poor reliability with past heat pump water heater designs, and anticipated impact on consumer utility, initial sales of electric water heaters after a heat pump water heater standard may be low as consumers look for other alternatives. With a government imposed time frame for shifting all production to heat pump water heaters and a shifting market size, it is unclear how the electric water heater industry could plan and secure investments to satisfy an unknown final market volume.

Considering these issues with regard to manufacturability and achieving sufficient production volume, DOE has concluded that the screening criterion of practicability to manufacture, on the scale necessary to serve the relevant market at the time of the effective date of the standard, will not be met.

Practicability to Install. Based on our analysis of current heat pump water heater designs and the DOE drop-in heat pump water heater prototype, we do not believe heat pump water heaters can be used as direct replacements for electric water heaters in many applications. There are many replacement water heater applications where present electric resistance water heaters are installed in small spaces, in attics and under counters. An example of such small spaces are the approximately 27% (10 million) of all electric water heaters installed in residences smaller than 1,000 ft^2 (average size: approximately 760 ft^2). In many of these installations, space restrictions would make it impossible to simply replace the existing electric resistance water heater with any of the existing heat pump water heater designs sold today. The DOE ''drop-in'' water heater is a candidate for some of these applications, but its current design does not address the problems of small spaces or small sizes.

Even the small (4,000–6,000 Btu/h) heat pump unit for the DOE ''drop-in'' water heater mounted on top of a tank will add approximately 8–12 inches on top of the tank for compressor, evaporator coils, and evaporator fan. Assuming no change in tank size from the electric resistance model, the extra height of the heat pump design will present installation problems where the existing water heater enclosure is height limited, such as many existing lowboy water heater installations.

GAMA reported that electric lowboy shipments account for about 18 percent of residential electric water heater shipments. (GAMA, No. 91 at 1). DOE appreciates the electric lowboy shipment information from GAMA.

About 18% of electric water heater sales are lowboy models. An integral heat pump water heater would not fit into these locations. Perhaps 50% of the lowboy sales would require an add-on heat pump unit. (The other 50% are for new construction.) Additionally, over one million standard sized electric water heaters per year are installed in residences of 1,000 ft^2 or less. Perhaps as many as half of these installations would also require an add-on heat pump unit. The lowboy and small residence replacements could equal 850,000 add-on heat pump water heaters per year. These add-on heat pump units require a space with at least 100 cubic feet per minute of warm air and wiring and plumbing connections (probably through one or more walls) for water pipes and a condensate drain. We would characterize this installation as ''difficult.'' Without an extensive survey, we are unable to determine how many of these difficult installations would be feasible, although costly, and how many would result in loss of product utility as discussed later in this section.

We have determined that almost a million households could be affected each year. Therefore, DOE eliminated heat pump water heaters as a design option from further consideration because of problems concerning practicability to install on the scale necessary to serve the relevant market at the time of the effective date of the standard.

Practicability to Service. We are also aware of the thousands of comments from interested consumers about heat pump water heaters in our 1994 NOPR. These comments cited lack of a good service infrastructure, noise, and reliability, among other factors. We have more recent comments from Northeast Utilities (NU) that significant (10%) reliability problems are still evident in some heat pump water heater designs. (NU, No. 4 at 1).

Two hundred sixteen comments to the 1994 rulemaking process (docket EE–RM–90–201) claimed that ''the infrastructure to service heat pump water heaters is not capable of handling a large quantity of heat pump water heater units.'' The issues faced in service and maintenance of heat pump water heaters have not changed since 1994. The present installation and service infrastructure for electric resistance water heaters consists, for the most part, of plumbers.

Heat pump water heaters are more complex in design and based on fundamentally different technology from electric resistance water heater designs. Because of this, they require a broader range of skills to service the units. Plumbers generally do not have training or background in repair of appliances like a failing heat pump water heater. Generally, this type of repair work is done by small appliance repair personnel who repair refrigerators, freezers, room air conditioners, and other ''white'' goods (e.g., washing machines). According to the Bureau of Labor and Statistics, of the approximately 71,000 home appliance repair workers in the U.S., two out of three work directly for department stores or household appliance stores. (1998–1999 Occupational Outlook handbook, U.S. Dept. of Commerce, BLS) These stores represent a small fraction of water heater sales but might be potential sales and service outlets for heat pump water heaters.

Presently, no mass-market servicing infrastructure for heat pump water heaters exists. While the air conditioning industry could provide servicing capabilities, only one company has any relationship with major water heater manufacturers or with plumbers who install water heaters. There is no precedent in the history of the U.S. major appliance industries to suggest that a new service and repair infrastructure could develop, on the scale of several million units per year, in a roughly three-year time frame.

Therefore, DOE eliminated heat pump water heaters as a design option from further consideration because of problems concerning practicability to service on the scale necessary to serve the relevant market at the time of the effective date of the standard.

Product Utility. Heat pumps need a certain amount of space for proper operation because a heat pump heats water by removing heat from the household air. Many heat pump water heaters currently available require a volume of at least 1,000 ft^3 of heated air to provide adequate heat exchange and minimize overcooling of the space, which can impact performance. Approximately 14% of all households

are smaller than 1000 ft^2 and presently use electric water heaters. The volume of heated air required for a heat pump is equal to 12% of the floor space of a 1,000 ft^2 home. Therefore, in smaller residences, current or prototype heat pump units would have to be located in the living space, or have vigorous (100 cubic feet per minute) air exchange within the living space. Such a location can lead to significant homeowner dissatisfaction due to loss of space occupied by the unit and related piping, as well as the potential for noise of the fan and compressor. This is particularly a concern in small, slab-on-grade housing, mobile/manufactured homes or apartments.

If there is no space to incorporate both the water tank and the refrigeration subsystem in the same location, a reduced tank size may have to be installed. This could cause a 20% to 25 % loss of tank volume on a standard 50 gallon water heater. Any substantial reduction in the tank size to accommodate the heat pump would reduce the first hour rating, since first hour rating depends on tank size and reheat capacity. The first hour rating is, ''an estimate of the maximum volume of ''hot'' water that a storage-type water heater can supply within an hour that begins with the water heater fully heated.'' (10 CFR 430, subpart B, appendix E). We interpret losses of first hour rating as a loss of product utility.

DOE believes heat pump water heaters should be eliminated from further consideration because there would be a loss of utility to a significant portion of the population (10 million households). Therefore, because of this significant adverse impact to significant subgroups of consumers, the Department has eliminated heat pump water heaters as a design option from further consideration.

In summary, DOE has eliminated residential heat pump water heaters as a design option for this rulemaking because they fail to meet two of the three screening criteria listed earlier—namely, they are impracticable to manufacture, install, and service and have adverse impacts on product utility. There is no foreseeable means for the technology to advance enough in the short term to allow heat pump water heaters to fill market needs and to continue to provide a reasonable level of consumer utility.

As a result of its screening analysis, DOE has determined that heat pump water heaters are not economically justified. This conclusion is based on the following factors: (1) a capital investment that is 2.3 times the current industry net present value; (2) adverse utility impacts on about 10 million households living in homes with less than 1,000 square feet; and (3) adverse impacts on low income and seniors-only households due to a price increase about 3 times the expected 2003 baseline price for electric water heaters.

b. Gas Condensing Water Heaters

Although several manufacturers offer gas condensing water heaters, these are only in commercial sizes. Results from a GRI sponsored field test showed no serious reliability or durability problems and confirmed technical feasibility. (ASHRAE Transactions, 1987, 93(2) p. 1485–1500.) However, DOE is not aware of any prototypes or commercially available residential condensing gas-fired water heaters. Therefore, we have eliminated this design option based on a lack of technological feasibility. We discuss the details in Chapter 4.2.2 of the TSD.

c. Other Water Heater Design Options

DOE has eliminated air-atomized oil burners, power vents, and increased heat exchanger surface areas. Based on comments, DOE eliminated air-atomized burners on the basis that they are not technologically feasible because the prototype has not been applied to water heaters. We eliminated power vents because they require special venting systems that cannot be installed in applications such as existing multifamily homes and some existing town homes and condos. However, the Department is aware of a new, low volume fan that may allow power venting of an oil-fired water heater unit with conventional negative draft vent systems. Test results of this technology are not available. We eliminated the increased heat exchanger surface areas (for gas-fired water heaters) because improved flue baffles can provide the same efficiency improvement and are preferred by manufacturers.

After considering the above, the following are the design options considered for the rulemaking (see Table 1).

TABLE 1.—DESIGN OPTIONS USED IN THE ANALYSIS

Design options—description	Gas	Electric	Oil
Heat traps	X	X	X
Plastic tank	(1) X	X	
Increased jacket insulation	X	X	X
Insulating the tank bottom (electric only)	.....	X	
Improved flue baffle/forced draft	X	.....	X
Increased heat exchanger surface area	X	.....	X
Flue damper (electro-mechanical)	X	.....	
Side-arm heater	X	.....	
Electronic (or interrupted) ignition	X	.....	X

[1] used only in conjunction with the side-arm heater option.

D. Engineering Analysis of Design Options

The engineering analysis determines the maximum technologically feasible energy efficiency level, calculates unit energy savings and payback, and estimates the retail price for each design option and combination of design options. It analyzes the design options identified as a result of the screening analysis. This section discusses DOE's analytical tools and the critical assumptions DOE used in the water heater engineering analyses. We also discuss two initiatives by other Federal agencies that impact the rulemaking analyses.

1. Other Federal Agencies' Initiatives

Two actions by other Federal agencies outside of the DOE efficiency standards process will affect our engineering analyses. First, the U.S. Environmental Protection Agency (EPA) is requiring a phase out of the blowing agent currently used by the water heater industry for foam insulation (HCFC–141b). Second, manufacturers have reached a voluntary agreement with the Consumer Product Safety Commission (CPSC), to produce gas-fired water heaters resistant to ignition of flammable vapors. The first will affect the efficiency of water

heaters, and the second will increase the price of gas-fired water heaters.

Most residential water heaters are insulated with polyurethane foam in the cavity between the tank and the jacket. Currently, water heater manufacturers use a hydrochlorofluorocarbon, HCFC–141b, as a blowing agent for this insulation. HCFC–141b is an ozone-depleting blowing agent and, as a result of the Montreal Protocol, the EPA has scheduled the phase-out of this blowing agent by January 1, 2003. Water heater manufacturers must use another blowing agent after that time.

A number of alternative blowing agents are available. The industry is considering HFC–245fa, HFC–356mfc, HFC–134b, cyclopentane and water blown foam. DOE decided to analyze two blowing agents—water-based and HFC–245fa. We based our decision on a number of criteria, including zero ozone depletion potential, low global warming potential, availability by 2003, and price. In our preliminary analysis, presented at the July 1999 Workshop, we only analyzed one of the alternatives—water blown insulation. Some stakeholders raised concerns about our failure to include HFC–245fa blown insulation in our preliminary analysis. Therefore, we added HFC–245fa blown insulation to our analysis.

We used HFC–245fa and water blown foam in our analysis. For cost information, Honeywell, the licensee to manufacture HFC–245fa in the U.S., provided estimates of HFC–245fa costs. For efficiency data, we used published laboratory measurements of physical parameters. In order to keep the baseline efficiency (those with HCFC–141b insulation) and the energy use characteristics of water heaters with HFC–245fa insulation the same, we modeled it with appropriately thicker insulation. We also increased the amount and cost of steel used for the water heater jacket in addition to the extra volume and cost of insulation. The analysis and test results using HFC–245fa and water blown foam to evaluate design options can be found in Chapter 3.4.1 of the TSD.

Many comments addressed the potential of other alternatives. GRI claimed other types of insulation may be preferable to HFC–245fa blown insulation. (GRI, No. 48 at 2). The Oregon Office of Energy (OOE) requested that DOE provide a succinct and complete summary of the alternative insulations and why they were not considered in the analysis. (OOE, No. 96 at 5).

In addition to the water/carbon dioxide (CO_2) and HFC–245fa blowing agents, there are cyclopentane, HFC–134a, and HFC–365mfc. All of these have zero ozone depletion potential and thus will meet the Montreal Protocol's requirements. Cyclopentane, widely used in Europe, is relatively inexpensive and highly flammable; U.S. manufacturers have been cautious about its use. HFC–134a is currently available, but its thermal resistance is lower than HFC–245fa. HFC–365mfc may be a good potential alternative blowing agent, but it also has a lower thermal resistance than HFC–245fa and its price is not available. Our decision to analyze both HFC–245fa and water/CO_2 blowing agents allowed us to cover the range of performance and costs of the suggested alternative blowing agents. We have more detailed information about alternative blowing agents in Chapter 3.4 of the TSD.

Although we have analyzed HFC–245fa as a blowing agent, there is continuing concern about its availability. Representatives from Honeywell, the licensee to manufacture the material in the U.S., stated at the July 1999 workshop that it would have a commercial size plant ready to produce HFC–245fa by mid-2002. (July 22, 1999 Water Heater Workshop Transcript, pg. 105). We received comments from several manufacturers, GAMA, an individual, and an insulation supplier about the availability of HFC–245fa and Honeywell's capacity to supply the market. GAMA and manufacturers are concerned that Honeywell is the only source for HFC–245fa. They are also concerned that manufacturers need samples of HFC–245fa soon as it will take about six to nine months to replace existing low pressure foaming equipment with high pressure equipment and shrinkage tests will take 250 days. (Stepan, No. 86 at 1; Bradford White, No. 89 at 2; Vaughn, No. 56 at 1; Rheem, No. 95 at 1; GAMA, No. 91 at 2; and Energy Market and Policy Analysis, Inc. (EMPA), No. 88 at 9).

Several comments suggested ways to deal with issues concerning the availability of HFC–245fa. The American Council for an Energy-Efficient Economy (ACEEE) suggested HCFC–141b could be stockpiled, the EPA could be petitioned to extend the phase out of HCFC–141b, or DOE could make the new standard conditional on the availability of HFC–245fa. (ACEEE, No. 93 at 7). SC and EEI suggested DOE delay implementation of the new water heater standard if HFC–245fa based insulation materials are not available. (SC, No. 42 at 2 and EEI, No. 39 at 2).

DOE is concerned about the relatively short time the manufacturers have to incorporate a new blowing agent into production and to perform the necessary tests to measure results using the new blowing agent. Since the choice of insulation blowing agent has a significant impact on energy savings and water heater cost, we request stakeholder comment on the cost and availability of HFC–245fa and water blown foam, and other alternative blowing agents. We also invite comments on approaches that would enhance the transition to a new blowing agent for manufacturers, including, but not limited to, the timing needed for the transition of HFC–245fa, water blown foam, or any other alternative blowing agent manufacturers suggest would be appropriate to use in implementing a new standard. Manufacturers are requested to submit supporting data for alternative blowing agents.

On September 13, 1999, we received updated information indicating that Honeywell had received EPA approval for production of HFC–245fa. Honeywell has since announced it would start building a commercial plant for producing HFC–245fa in Geismar, Louisiana. Based on Honeywell's announcement, we have decided to base our decision on insulation blown with HFC–245fa because such insulation is 42% more effective in reducing thermal losses than water blown insulation. Therefore, since our proposed standard uses HFC–245fa, this notice addresses the results based on HFC–245fa blown insulation. However, the Department has completed an identical analysis using water blown foam in order to anticipate the unlikely event that HFC–245fa does not become available.

The other action affecting this rulemaking is a CPSC initiative to make gas-fired water heaters resistant to ignition of flammable vapors. Most current designs for gas-fired water heaters rely on a standing pilot to ignite the main burner. If flammable vapors are in the air near a water heater, there is the possibility of unintended ignition. This is a potential safety problem because water heaters are often installed in garages and basements, where flammable liquids such as gasoline or paint thinners may be used. The CPSC staff recommended publication of an advance notice of proposed rulemaking for the development of a test procedure that would determine whether a particular gas-fired water heater design would ignite flammable vapors. However, before the notice was published, the water heater manufacturers agreed to voluntarily develop a test procedure and new gas burner designs.

The CPSC worked with GRI and the water heater industry to develop a test

procedure for gas-fired water heater designs that will resist ignition of flammable vapors. The American National Standards Institute (ANSI) Z21 Committee approved this test procedure in May 1999, but final approval by the full ANSI committee is still pending. Gas-fired water heaters designed to be resistant to the ignition of flammable vapors are now on the market. Manufacturers have agreed to begin marketing gas-fired water heaters resistant to ignition of flammable vapors by April 2001. DOE will consider those additional economic impacts on manufacturers of the transition to designs resistant to flammable vapors. The voluntary agreement between manufacturers and the CPSC will be implemented by April 1, 2001, which will be close to the effective date of this rule.

The impact of this initiative on the water heater rulemaking analyses is an increase in manufacturing cost. Based on discussions with the Water Heater Industry Joint Research and Development Consortium, DOE decided to add an extra $35 per unit of manufacturer cost for designs resistant to ignition of flammable vapors. In this analysis, the $35 is applied to the manufacturing cost of all design options for gas-fired water heaters, including the baseline design. EEI stated that the cost of $35 may be very conservative. (EEI, No. 39 at 5). We believe until flammable vapor ignition resistant designs are widely available in the market, and a market price is established, a manufacturer cost of $35 is reasonable. We discussed this during the manufacturing interviews, and several agreed with this cost estimate. Furthermore, the design does not require electricity for the water heater or modifications of the venting system. DOE also anticipates no changes in efficiency from flammable vapor ignition-resistant water heater designs. DOE will monitor this situation to verify these assumptions or to update the analysis, as designs meeting the ANSI standard become available.

2. Maximum Technologically Feasible Levels

Amendments to a standard are required to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. Section 325(o)(2)(A), 42 U.S.C. 6295(o)(2)(A). Furthermore, Section 325(p)(2) requires that the Secretary determine the maximum technologically feasible level (max tech) for each type (or class) of covered product and then, if the proposed standard is not designed to achieve the max tech levels, state the reasons that it will not meet those levels.

The Secretary has determined heat pump water heaters for electric, and gas condensing water heaters, are the max tech design options. This means the max tech level for electric is 1.7 EF and for gas is 0.91 EF. The max tech level for oil is 0.61 EF. However, as a result of our screening analysis, the max tech levels for electric and gas-fired water heaters have been eliminated. Therefore, the proposed standard for both electric and gas-fired water heaters will not achieve the max tech levels. The reasons for this decision are described in our discussion on screening, and in Chapter 4.2.2 of the TSD. Accordingly, the Department has satisfied the requirements of Section 325(p)(2), 42 U.S.C. 6295(p)(2).

Therefore, we combined the design option technologies that were not screened out into successively more efficient design options until we reached the highest efficiency levels for each product class. We combined design options by using our payback analysis. We define payback as the time required to recover the cost of efficiency improvements through energy savings. We started with the design option with the shortest payback and continued to add design options with the next shortest payback at each higher efficiency level. See Table 3 for design option combinations. The highest efficiency levels for this rulemaking are approximately 0.91 EF for 50-gallon electric water heaters, 0.71 EF for 40-gallon gas-fired water heaters, and 0.61 EF for 32-gallon oil-fired water heaters.

3. Methodology

Table 2 summarizes the information we used in the engineering analysis and the assumptions we made. We briefly discuss many of the assumptions in this section. For complete details about the engineering analysis, please see Chapter 8 in the TSD.

TABLE 2.—KEY ELEMENTS USED IN THE ENGINEERING ANALYSIS

Description	Elements
Product classes	Electric, gas (includes LPG) & oil.
Analysis approach	Design options.
Designs analyzed	Heat traps, thicker insulation, tank bottom insulation on electric, 78% & 80% RE on gas, 78% & 82% RE on oil, plastic tank on electric, side-arm heater, & IID on gas, interrupted ignition on oil.
Simulation models	WATSIM for electric, TANK for gas, WHAM for oil.
Basis for energy factor	DOE water heater test procedure, 64.3 gpd.
Baseline energy factor	Electric, 50 gallon =.86, gas, 40 gallon =.54, oil, 32 gallon =.53.
Cost data	Provided by GAMA and consultants and the Water Heater Consortium ($35, resistance to ignition of flammable vapors).
Price data	Water heater price database.
Insulation blowing agent	HFC–245fa (Water blown insulation analyzed in TSD).
Insulation cost	Existing—HCFC–141b blown—$1/lb from Honeywell. New—HFC–245fa blown—$1.32/lb, from Honeywell.
Insulation thicknesses	2 inch, 2.5 inch & 3 inch.
Warranty on baseline	6 years or less.
Markup	Average baseline price divided by average manufacturer baseline cost.
Installation costs	$160 for door jamb removal & replacement on 27% of all designs with 3-inch insulation. $114 for Type-B vent connectors in 25% of homes in northern states with 78% RE on gas-fired. $433 for chimney relining and Type-B vent connectors in 25% of homes in northern states with 80% RE on gas-fired.
Maintenance costs	None on electric, $14.73/yr for the side-arm heater for gas-fired and a $97.14 yearly maintenance contract for oil-fired.

a. Energy Savings Potential

Having determined the highest energy efficiency levels for each product in this rulemaking, the Department then estimates the energy savings potential of individual design options or combinations of design options. Table 3 shows the design option combinations for each fuel type at incremental levels of efficiency. (These do not represent trial standard levels.) We use simulation model calculations and manufacturer data to determine the efficiency levels corresponding to various design option combinations.

TABLE 3.—DESIGN OPTION COMBINATIONS

Design option level	Design option for electric water heaters	Design options for gas-fired water heaters	Design options for oil-fired water heaters
1	Heat traps	Heat traps	Heat traps.
2	Heat traps + tank bottom insulation.	Heat traps + flue baffles (78% RE)	Heat traps + 2 inch insulation.
3	Heat traps + tank bottom insulation + 2 inch insulation.	Heat traps + flue baffles (78% RE) + 2 inch Insulation.	Heat traps + 2.5 inch insulation.
4	Heat traps + tank bottom insulation + 2.5 inch insulation.	Heat traps + flue baffles (78% RE) + 2.5 inch insulation.	Heat traps + 3 inch insulation.
5	Heat traps + 2.5 inch insulation + plastic tank.	Heat traps + flue baffles (80% RE) + 2 inch insulation.	Heat traps + 3 inch insulation + flue baffles (78% RE).
6	Heat traps + 3 inch insulation + plastic tank.	Heat traps + flue baffles (80% RE) + 2.5 inch insulation.	Heat traps + 3 inch insulation + flue baffles (78% RE) + interrupted ignition.
7		Heat traps + flue baffles (80% RE) + 3 inch insulation.	Heat traps + 3 inch insulation + interrupted ignition + increased heat exchanger area (82% RE).
8		Heat traps + flue baffles (80% RE) + 3 inch insulation + side arm + electronic ignition + plastic tank.	

2003 Baseline Model. As discussed earlier, the Department defines a baseline unit in order to analyze options which increase energy efficiency over the baseline. Because DOE expects new energy-efficiency standards to take effect near the phase-out date (2003) of HCFC–141b, we had to create a baseline model for this analysis which uses foam insulation blown with an acceptable alternative blowing agent. After considering all possible insulation choices, the Department determined that the most likely alternatives to replace HCFC–141b appears to be water and HFC–245fa. Consequently, we performed a complete analysis using these two different blowing agents. After weighing the comparative benefits and costs of HFC–245fa and water blown foam and then taking into account Honeywell's announcement on the availability of HFC–245fa, we ultimately selected HFC–245fa as the insulation for our proposed trial standard levels.

To model the baseline electric water heater under existing efficiency standards with the alternative blowing agents, we increased the foam insulation thickness to 1.55 inches for HFC–245fa. To model the gas-fired water heater baseline for the alternative blowing agents, we increased the foam insulation thickness to 1.0 inch for HFC–245fa. To model the oil-fired water heater baseline for the alternative blowing agents, we assumed a foam insulation thickness of 1.01 inches for HFC–245fa. We made similar calculations for water blown foam so we could perform a comparative analysis throughout the TSD.

Computer Simulation Models. To analyze the energy efficiency of water heaters with various combinations of design options, DOE used computer simulation models for electric (WATSIM) and gas-fired (TANK) water heaters, and a spreadsheet model (WHAM) for oil-fired water heaters. AGA commented that it preferred modeling results because modeling allows the use of consistent assumptions across design options. (AGA, No. 49 at 1).

WATSIM Model for Electric Storage Water Heaters. WATSIM is a detailed electric water heater simulation program developed by Electric Power Research Institute (EPRI). (Report #TR–101702, 10/92). WATSIM contains two simulation algorithms: one for the detailed simulation of water heater tanks and the other for controlling water draw profiles. The output of WATSIM provides detailed temperature profiles of the water inside the water heater tank. We use these temperature profiles to determine the EF and other parameters of the water heater using the test DOE procedure calculations.

Our analysis began with a simulation of a baseline model (i.e., one that is currently marketed that achieves a minimum allowable efficiency of 0.86 EF). When simulating the typical existing electric water heater, WATSIM was able to achieve the minimum allowable efficiency of 0.86 EF by simulating a jacket thickness of 1.5 inches of HCFC–141b foam insulation. OOE, The Northwest Energy Efficiency Alliance (NEEA), The Northwest Power Planning Council (NWPPC), and ACEEE, did not support DOE's use of 1.5 inches of foam on electric water heaters to adjust the model results of EF 0.83 to reach the minimum EF of 0.86. (OOE, No. 44 at 3; NEEA, No. 53 at 2; NWPPC, No. 43 at 1; and ACEEE, No. 52 at 2). The commenters did not support this because the GAMA directory listed one model with 1 inch of insulation. Manufacturers indicated to DOE that 1.5 inches of foam insulation on electric water heaters is the norm to meet the minimum efficiency of 0.86 EF for a 50-gallon electric water heater. Therefore DOE chose to use 1.5 inches in its simulation.

Complete verification of the WATSIM program is not currently available to the public. The WATSIM user's manual states the model ''has been vigorously verified for use in tank and system design, equipment sizing, and individual or diversified demand analyses, as well as for energy consumption analysis.'' (EPRI, TR–101702, 10/92). The Department validated the WATSIM simulations by comparing them to NIST measurements. NIST tested four mid-efficiency 50-gallon commercially available electric water heaters and reported an average 0.89 EF. (Fanney, 1999 ASHRAE Summer Meeting). The Department compared the NIST EFs with WATSIM simulations of identical water heater models. The results agree within 0.01

EF. Subsequently, NIST tested five high efficiency electric water heaters and we validated the WATSIM model to the highest of the five test results, 0.91 EF. The WATSIM modeled results were within 0.002 EF of the NIST test results. These validations are in Chapter 8.2.4.1 of the TSD. Therefore, we believe WATSIM is accurate over the range of EFs considered in this rulemaking.

Based on our selected design options, the WATSIM model predicts a maximum of 0.91 EF for electric water heaters. Stakeholders raised concerns at the November 1998 Workshop that the GAMA directory lists 0.93 EF and higher EFs for electric water heaters. NEEA, NWPPC, VP, OOE, the National Resources Defense Council (NRDC), and ACEEE claim DOE should investigate and reconcile the differences between the EFs predicted by computer models and those listed in the GAMA directory. (NEEA, No. 53 at 1; NWPPC, No. 43 at 1; VP, No. 45 at 1; OOE, No. 44 at 1; NRDC, No. 46 at 1; and ACEEE, No. 52 at 1). ACEEE stated the difference between computer simulation and directory listings is about 0.03 efficiency points for electric water heaters. ACEEE stated DOE must explain what it intends to do to ensure that EF ratings are accurate. (ACEEE, No. 75 at 3). DOE is investigating the discrepancies in EF ratings between the GAMA directory and the WATSIM modeled results.

NIST measured one high efficiency electric water heater from each manufacturer and found an average 0.036 EF lower on test results than in the GAMA directory listing. DOE also received data from GAMA on its certification testing program for 1994 through 1998. We reviewed this data and found that for the 26 high efficiency electric water heaters measured, results averaged 0.02 EF lower than published EFs in the GAMA directory. The NIST and GAMA certification program test results were consistent with the WATSIM simulation program results. Therefore, DOE will base its analysis of electric water heater performance on WATSIM results.

Some stakeholders raised concerns about the test procedure. EEI and SC claimed there may be measurement problems when determining the electric water heater EF, since electric water heaters are close to their maximum potential thermodynamic efficiency levels. (EEI, No. 39 at 2 and SC, No. 42 at 2). Vaughn claimed the error factor in the test equipment is greater than the obtainable increase in energy efficiency. (Vaughn, No. 56 at 1). VP recommended DOE determine and report the confidence level of EF results from the water heater test procedure to ensure that the difference between the existing efficiency standard and any proposed standard is within the accuracy of the test procedure. (VP, No. 45 at 2). EPRI claimed that routine EF testing performed at testing laboratories is only within 3 percent accuracy. (EPRI, No. 41 at 1). DOE investigated this problem with Intertek Testing Services (ITS), NIST, and the manufacturers. ITS claimed that its test repeatability is within 0.5%. NIST has demonstrated accuracy better than 1 percent. NIST and ITS recently measured the EF on the same model of two electric water heaters. The results agreed within 0.008 EF. Based on these responses, DOE does not believe there is a problem in accurately measuring performance results that will adversely affect any manufacturers' ability to certify compliance with the proposed energy efficiency standard for electric, gas-fired, or oil-fired water heaters.

TANK Model for Gas-Fired Storage Water Heaters. TANK is a detailed gas-fired storage water heater computer simulation program developed by Battelle for GRI, (GRI–93/0186). TANK calculates energy flows throughout a water heater including water draws, flue heat losses, jacket heat losses, fittings heat losses, and combustion chamber heat losses. Unlike WATSIM outputs, TANK outputs include the EF, RE, and UA from the DOE test procedure.

To validate the analytical models comprising the TANK program, Battelle conducted actual water heater testing and monitoring. Battelle performed a set of tests to investigate the impacts of different flue baffle designs, increased insulation thickness, and different pilot light input rates on EFs. Battelle compared test results to the TANK model results. Battelle then tested gas water heaters under the assumptions of the DOE test procedure to validate the analytical predictions of TANK. Battelle reported the results in terms of EF, RE, UA, and total standby loss. Overall, the difference between the experimental values (measured) and the predicted values (simulated by TANK) is less than 0.01 EF for all of the above parameters.

With the TANK simulation model for gas-fired water heaters, we consulted with Battelle to develop characteristics similar to the Battelle baseline model with a nominal insulation thickness of 1 inch. GAMA comments stated that the manufacturers use a 450 Btu/hr pilot light on gas water heaters. (GAMA, No. 51 at 1). DOE used this new heat input rate for pilot lights on gas-fired water heaters. See Chapter 8.2 of the TSD for details about the simulation models and the baseline characteristics.

WHAM Energy Calculation for Oil-Fired Storage Water Heaters. We used a simplified spread-sheet model (WHAM) for our engineering analysis of oil-fired water heaters. WHAM is based on the 24-hour simulated use test portion of the DOE test procedure. The model calculates energy consumption from a water heater's RE, UA, and rated input (P_{on}). (Lutz, J., et al, 1998, ACEEE Summer Study on Energy Efficiency in Buildings, pp. 1.171–1.183). The model assumes the water temperature remains at the set point temperature throughout the tank. We also assume RE and UA are constant.

To validate WHAM, we compared the results of the WHAM equation to results of the WATSIM and TANK simulation models of residential electric and gas-fired storage water heaters with excellent agreement. WHAM and WATSIM results are within 3% or less and WHAM and TANK results are within 5% for normal operating conditions, tank sizes and design options.

b. Comments on Design Options

Tank Bottom Insulation. One design option considered for electric water heaters is insulation under the bottom of the tank, referred to as tank bottom insulation. EPRI and Bradford White commented that they do not observe the efficiency improvement from insulating the tank bottom that WATSIM predicts. (EPRI, No. 70 at 2 and Bradford White, No. 89 at 3). Based on DOE's computer simulation results, and loss mechanisms NIST observed by infrared photography, DOE believes the improvement in efficiency is real. The infrared photography shows much warmer regions at the base of water heaters and around piping penetrations than any other tank surfaces. (Fanney, Zarr and Ketay-Paprocki, 1999 American Society for Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Summer Meeting). We have also discussed this approach with a manufacturer who uses molded insulation under its tanks. This manufacturer believes water heater performance is improved but did not provide any test data to confirm the observation. Therefore, we will continue to use the WATSIM EF results in our analyses.

Insulation Effectiveness. Due to water heater tank geometry and the method of pouring liquid insulation into the jacket which then forms in place, the insulation effectiveness may not be consistent between the sides and top of the tank. Bradford White recommended DOE limit the foam cavities to 2.5 inches in electric, 1.5 inches in gas-

fired, and 1 inch in oil-fired water heaters. Bradford White stated the insulation effectiveness of foam does not double for 2 inches or triple for 3 inches due to variations in cell structure as the foam rises vertically and spreads horizontally in the jacket cavity. (Bradford White, No. 89 at 3). To account for this, we derated the effectiveness of HFC–245fa blown insulation by about 10%. This allowed us to assume a uniform thickness and constant insulation effectiveness on the sides and top of the tank in the simulation models.

Insulation Thickness. With water heaters, the thickness of the insulation cavity helps determine the diameter and height for a given tank volume. This is an important consideration in water heater product utility since some water heaters are installed in tight spaces and reduction of tank volume could reduce the first hour rating. SC and EEI claimed water heaters can become too wide to fit through residential interior doors if the insulation is too thick, and therefore the thickness of the insulation should be limited. (SC, No. 42 at 2 and EEI, No. 39 at 7). GAMA stated DOE should not consider insulation thicknesses beyond 3 inches because replacement units must be able to fit through doorways. (GAMA, No. 33 at 3). DOE agrees with the GAMA recommendation and has limited insulation thicknesses to 3.0 inches or less.

We also have comments from GAMA, Connecticut Natural Gas (CNG) and New England Gas Association (NEGA) that thicker insulation will raise installation costs, cause installation of multiple smaller units, or inconvenience consumers with a smaller sized, lower capacity unit. (GAMA, No. 91 at 1; CNG, No. 85 at 2; and NEGA, No. 90 at 3). GAMA and Bradford White claimed a 2.5 inch insulation thickness will increase the diameter and height of electric water heaters and product utility will be impaired, particularly for 20–50 gallon lowboys and tabletop models. (GAMA, No. 71 at 4 and Bradford White, No. 74 at 2). We reviewed the application of these water heaters in households in multi-family buildings, mobile homes and manufactured housing, and we estimate only a small percentage of households may be affected (see Chapter 3.4.4 in the TSD). Furthermore, we believe a 6 kW heating element should eliminate any lost first hour rating in those situations where a smaller capacity tank is required.

Flue Baffles. The flue baffle, the twisted strip of metal inserted into the flue of a gas or oil-fired water heater, is the most commonly used method to improve heat transfer, thereby improving RE. RE is the percentage of energy transferred to the hot water compared to input energy. It takes into account the amount of energy lost through the flue and other parts of the water heater.

There are many design options available to increase RE. Because of the low cost, the Department has assumed in its analysis the flue baffle alone would be the most cost effective method for increasing RE up to 80%. GAMA stated recovery efficiencies higher than 78% cannot be attained by modifying the flue baffle only. (GAMA, No 71 at 3). ACEEE claimed there are other technologies that can be combined with flue baffles to achieve 80% RE in gas-fired water heaters. (ACEEE, No. 93 at 6). However, several manufacturers and consultants told DOE they could reach 80% RE by modifying flue baffles alone. For the July 1999 workshop, DOE assumed flue baffles could be modified to increase RE to 78% or 80% from the current baseline of 76%. We will analyze 78% and 80% RE based on modifying flue baffles as design options.

Bradford White claimed the flue baffle improvement to increase the recovery efficiency in oil products is possible, but only with a specific patented approach. (Bradford White, No. 74 at 3). DOE's analysis assumes several designs are possible, such as multi-flues, internally finned flues or a finned combustion chamber. We used the patented Bock Turboflue as a proxy to determine the performance of the increased heat exchanger area on oil-fired water heaters and reduced the performance to be conservative, since we were not confident a non-proprietary design would achieve the same level of performance. To estimate the costs of the increased heat exchanger area design, we examined other approaches for providing increased heat exchanger area that are not proprietary, and we have estimated retooling and materials costs based on the use of these other approaches. We used this design to complete the list of energy factors and costs for oil-fired water heaters since this is the maximum technologically feasible level for oil-fired water heaters.

Venting for Gas-fired Water Heaters. Most water heaters sold today are for the replacement market, where an existing vent system is in use. Improving the flue baffle can significantly increase the RE of a water heater, which in turn can reduce the temperature of the flue gases leaving the water heater. A reduction in temperature of the flue gases can increase the likelihood of condensation. Due to excessive moisture condensing from the flue gases, use of increased RE gas-fired water heaters with existing venting systems not designed for increased RE gas-fired water heaters can lead to excessive corrosion and failure of the vent system in certain climates. Studies conducted by GRI/Battelle have shown corrosion can occur when a vent wall becomes wet. While it is not uncommon for a vent to be wet immediately after the appliance starts, the appliance must heat the vent system and dry the walls before turning off. If the vent does not dry, corrosion may occur during a long period of wetness.

While we have discussed RE for water heaters, typically appliances are characterized for venting purposes by flue-loss efficiency. Flue-loss efficiency measures how much of the input heat does *not* go up the flue. The DOE test procedure for rating residential water heaters does not measure flue-loss efficiency; it measures RE instead. Therefore, RE was used in this analysis for measuring the impact on the flue vent system, but in order to estimate the impact of increasing the RE of a water heater, a relationship between RE and flue loss efficiency was needed. Flue loss efficiency is not always directly proportional to RE, but flue loss efficiency is typically 2–4% higher than RE.

RE of more than 80% is associated with flue-loss efficiencies exceeding 84%, resulting in excessive condensation within the vent system, which can lead to corrosion and a reduced vent system life. To ensure that condensation does not occur in the flue, only design options that increase RE to a maximum of 80% were selected for analysis. However, the Department recognizes that potential venting problems may occur in the 78–80% RE range and could require Type-B vent connectors and chimney relining. A Type-B vent connector is a double wall vent, with an aluminum inner wall and a galvanized steel outer wall. The special double wall construction keeps flue gases hot while inside the vent, providing a strong draft and minimizing condensation. Additionally, the aluminum inner wall is more corrosion resistant to condensation that may occur in the vent.

A number of comments supported a maximum RE level of 80% for an improved flue baffle design option. (ACEEE, No. 52 at 4; OOE, No. 64 at 1–4; ACEEE, No. 75 at 2; and OOE, No. 76 at 1). Additionally, ACEEE claimed, based on Table 3 in the GRI study (GRI–95/0198), the lowest flue-loss efficiency for homes with Type-B vent connectors and masonry chimneys is 84.5% and therefore no chimney relining should be needed for 80% RE. (ACEEE, No. 93 at

5). OOE claimed there are no inherent safety issues associated with REs of up to 80%. (OOE, No. 96 at 4).

Other comments raised concerns with a maximum level of 80% RE. LaClede Gas and GAMA stated DOE should not exceed a 76% RE in order to maintain an adequate margin of safety. (LaClede, No. 69 at 6 and GAMA, No. 71 at 3). CNG and NEGA claimed setting a standard level at 78% RE could lead to condensation and chimney degradation. (CNG, No. 85 at 1 and NEGA, No. 90 at 2). Bradford White said 78% is the maximum RE to avoid corrosion in the vent, but 77% is more realistic. (Bradford White, No. 74 at 2–3 and No. 89 at 2).

The Department is very concerned about public safety for venting of gas-fired water heaters. We appreciate the analysis by OOE and GRI. We also discussed venting concerns with state experts and chimney installers. As a result of these discussions and comments, as well as the GRI study (GRI–94/0193), we believe there are no technological barriers to using either 78% or 80% RE gas-fired water heaters in a replacement installation. Furthermore, in most replacement applications, vent systems and chimney reliners are available on the market to meet the venting requirements for water heaters with 78% or 80% RE. In new construction, installers can follow manufacturers recommendations so there are no problems with either a 78% or 80% RE.

Heat Traps. In its analysis for the July 1999 workshop, DOE used WATSIM and TANK default values for heat trap performance. Manufacturers claimed they could not achieve performance for heat traps when installed on actual water heaters. In its comments on heat traps, GAMA claimed DOE should use a 0.01 EF increase. (GAMA, No. 71 at 5). Bradford White provided heat trap data for oil-fired, gas-fired, and electric water heaters. (Bradford White, No. 74 at 1). ACEEE stated DOE should only change the heat trap effectiveness based on independent test data. (ACEEE, No. 93 at 8). DOE has averaged the GAMA and Bradford White heat trap data. This has not affected gas-fired water heaters' heat trap results, but it has reduced heat trap performance on electric water heaters by 0.005 EF. Based on the above, heat traps are estimated to result in improvements of 0.012 EF for electric, 0.09 EF for gas-fired, and 0.006 EF for oil-fired. These are the improvement values used in the analysis.

c. Manufacturing Costs

After determining the design option combinations, the Department also had to determine the cost to manufacturers and consumers to achieve increased efficiency. In the 1997 Rulemaking Framework Workshop, DOE and stakeholders discussed three methods used to generate the manufacturing costs for the engineering analysis. These methods included: (1) The design-option approach, reporting the incremental costs of adding design options to a baseline model; (2) the efficiency-level approach, reporting relative costs of achieving energy efficiency improvements; and (3) the cost-assessment approach, which requires a ''bottom-up'' manufacturing cost assessment based on a detailed bill of materials.

In written comments, GAMA recommended DOE use the design option approach in its economic analyses because ''there are only a few identifiable discrete efficiency improvement measures possible for residential water heaters.'' (GAMA, No. 5 at 4). There were no other comments. At the water heater standards rulemaking workshop in June 1997, GAMA suggested it could collect and aggregate manufacturer costs on the design options of interest to DOE for this rulemaking. DOE accepted that offer and agreed to use the GAMA manufacturing cost data.

The use of a design-option approach provides useful information, such as the identification of potential technological paths manufacturers could use to achieve increased energy efficiency. It also allows the use of engineering models to simulate the energy consumption of different design configurations under various user profiles and applications. However, the Department recognizes that the manufacturer cost information derived in the design-option approach may not reflect the variability in design strategies and cost structures that can exist among manufacturers. Therefore, the Department derived additional manufacturing cost estimates from other approaches based on consultant's estimates, component manufacturers' prices, and occasionally from other interested parties. DOE had two retired water heater manufacturing engineers as consultants provide cost estimates and peer review our analysis results. We describe these costs in the TSD in Chapter 8.3.3 for electric, Chapter 8.4.3 for gas-fired and Chapter 8.5.3 for oil-fired water heaters.

GAMA provided most of the manufacturer costs with the exception of all oil-fired water heaters, the tank bottom insulation, and the plastic tank costs for electric and side-arm heater costs for gas-fired water heaters, which our consultants provided. GAMA based its cost estimates on the production of a 50-gallon electric or 40-gallon gas-fired water heater. GAMA separated the costs into variable (material, labor, transportation, overhead) and fixed (capital, product design) costs on a per-unit basis and provided a distribution of fixed, variable, and total manufacturing costs for several design options. We used GAMA's cost data and consultant data to determine the water heater manufacturer costs for all combinations of design options. OOE claimed GAMA's manufacturing costs for gas water heaters are too high. (OOE, No. 44 at 7). DOE could not get independent cost data directly from individual manufacturers, so we are unable to determine if the manufacturing costs for gas-fired water heaters are too high. We believe the data best represents the costs of all water heater manufacturers, as well as the incremental costs between design options.

GAMA based its existing baseline model cost estimates on an electric water heater with 1.5 inches of foamed jacket insulation using HCFC–141b as a blowing agent. The existing baseline is the starting point to construct the 2003 baseline cost, to determine markup, to develop incremental costs for heat traps and to build up incremental costs for a unit thickness of new insulation. For gas-fired water heaters, GAMA based its existing baseline model cost estimates on 1 inch of foamed jacket insulation using HCFC–141b as a blowing agent. To develop costs for thicker insulation, we estimated the material costs for the additional foam and blowing agent as well as the cost for additional sheet metal. We used Honeywell's estimate of $4 per pound for the material costs of the HFC–245fa blowing agent and Honeywell's estimate of 15% blowing agent in a standard insulation mixture. Since the blowing agent is only 15% of the final foam insulation, total insulation cost is $1.32 per pound for HFC–245fa compared to $1 per pound for HCFC–141b. We also assumed a value of $35 additional incremental manufacturing cost ($15 variable costs and $20 fixed cost) for designs to resist flammable vapor ignition in gas-fired water heaters. We discuss the cost assumptions for each design option below.

Heat Traps. GAMA provided manufacturer costs for electric and gas water heaters with heat traps. GAMA did not provide costs for the heat trap component. Vaughn stated the costs for heat traps should be the same for gas and electric water heaters. (Vaughn, No. 56 at 2). Vaughn is correct. Based on component costs from the heat trap

manufacturer, we know heat trap costs are the same for gas and electric. However, we did not use the component costs because we needed to include labor, overhead, and other costs. Therefore, we continue to use the combined water heater plus heat trap costs.

Increased Jacket Insulation. GAMA provided variable and fixed cost data for jacket insulation increases based on HCFC–141b blown insulation from a baseline level of 1.5 inches on electric and 1 inch on gas-fired water heaters to a thickness of 2 inches only. Since HCFC–141b will be phased out in 2003, we had to develop costs for alternative insulation. Our consultant developed the cost of the 2003 baseline by adding incremental costs for HFC–245fa and sheet metal to the HCFC–141b baseline provided by GAMA. Our consultant used the same approach, adding the incremental costs for HFC–245fa and sheet metal to the GAMA data, for the 2 inch insulation thickness. Then, our consultant developed cost ratios from the incremental cost differences for 2.5 and 3 inch insulation thicknesses for the HFC–245fa blowing agent. We multiplied GAMA's incremental costs for 2 inches of insulation by these ratios to generate cost data in 2.5 inches and 3 inches of insulation. For cost information see Chapter 6.4 in the TSD.

Increased insulation creates a larger water heater than those typically installed today. Many replacement installations require the water heater to match the dimensions of the one it is replacing. One approach that addresses this issue was suggested in comments and discussed at the July 23, 1999 workshop, is to reduce the inner tank diameter slightly. Manufacturing a smaller inner tank diameter would require retooling for many manufacturers. Bradford White claimed retooling for different diameters of tanks cost $100,000 for each diameter. (Bradford White, No. 89 at 2). We agree with Bradford White on the retooling costs. From discussions with GAMA, we determined that the GAMA data accounts for any retooling cost associated with the trial standard levels, including any potential design changes to the inner tank diameter.

Insulating the Tank Bottom. ACEEE claimed GAMA's $40 cost for bottom insulation on electric water heaters is excessive. (ACEEE, No. 52 at 6). Based on discussions with manufacturers who use similar techniques, and our consultants' estimates, we determined the cost to be between $2 and $4. After the July 1999 workshop, GAMA and Bradford White claimed DOE should increase the $2–4 cost for tank bottom insulation because it has to be molded. (GAMA, No. 71 at 5 and Bradford White, No. 74 at 2). Based on our consultant's analysis and discussions with manufacturers who use tank bottom insulation, we believe the $2–4 cost is reasonable, so we did not change these costs after the July 1999 workshop. See Chapter 6.4 of the TSD for more details.

Plastic Tank. Our consultant provided the manufacturer costs for a plastic tank electric water heater design. See Chapter 6.4 of the TSD. Although GAMA did not provide cost information, GAMA believed the cost of the plastic tank option has been significantly underestimated. (GAMA, No. 51 at 3). Since GAMA did not provide any data to substantiate its statement, DOE has not changed its cost estimate.

Improved Flue Baffle. GAMA provided manufacturer costs for the improved flue baffle design. Originally, the costs were based on a flue baffle design that increased the RE to 78.5%. After the November 1998 workshop, we decided to use flue baffles that achieve 78% and 80% RE because we believed 80% RE was feasible although it entailed more risk of venting system condensation. Our consultant estimated that the manufacturing costs for tooling a flue baffle to achieve a 78% or 80% RE are identical. There is no change in material cost for a flue baffle achieving 78% or 80% RE.

OOE claimed as long as a conventional furnace shares the flue with a water heater, there should be no need for relining the flue regardless of the water heater efficiency. ACEEE estimated 1% of homes will need Type-B vent connectors and 17% will need flue relining. (ACEEE, No. 93 at 4–5). NEGA stated many New England consumers would have to install flue liners and Type-B vents at a cost of $800 if higher flue-loss efficiency gas-fired water heaters are mandated. (NEGA, No. 90 at 3). DOE estimates that at 78% RE, about 10% of the households with gas-fired water heaters in homes with over 5,000 heating degree days need Type-B vent connectors; at 80% RE, about 25% of these homes need Type-B vent connectors and chimney relining. DOE based its estimates on GRI data (GRI 91/0298) modified for: gas-fired water heaters in new homes (since 1994) that use different venting systems; and the current National Fuel Gas Code (NFGC), which requires replacement furnaces with higher efficiencies to have better vents in existing installations. Since 1992, the DOE furnace energy efficiency standards placed gas furnaces in a new category of the NFGC and consequently requires better vent systems in new construction. DOE also determined that Type-B vent connectors and chimney relining, which might be needed in the New England states, cost an average of $508.

OOE claimed the GRI report shows water heaters located in a conditioned space have no special venting requirements and no requirement or cost for a Type-B vent connector. OOE claimed Type-B connectors should be used when water heaters are installed in unheated spaces. Therefore, there is no additional vent connector or flue relining cost associated with higher water heater efficiencies. (OOE, No. 44 at 5). OOE claimed there is no need for Type-B venting or relining of chimneys for a water heater with an 80% RE that would not also be required for one with a 76% RE. (OOE, No. 96 at 2). In order to be conservative and provide a margin of safety, DOE assumed up to 25% of homes in cold climates with gas-fired water heaters may need vent connectors or relining of chimneys for 80% RE. We included this assumption in both the LCC and NPV analyses. It effectively increases consumer costs.

Electro-Mechanical Flue Damper. GAMA provided manufacturer costs to include an electro-mechanical flue damper and electronic ignition with a gas-fired water heater. We used these costs in the analysis.

Side-Arm Heater and Plastic Tank. Our consultant provided manufacturer costs for the side-arm heater for a gas-fired water heater design because GAMA received a response from only one manufacturer and could not provide this information for confidential reasons. We considered costs for six types of side-arm heater designs: 76%, 78%, and 80% RE designs using a metal tank and electronic ignition, and 76%, 78%, and 80% RE designs using a plastic tank and electronic ignition. Based on our analysis, we determined the cost increase of the 78% or 80% RE designs were the same and were equal to the cost of the improved flue baffle design option. This means heat exchanger costs for side-arm heaters with 78% or 80% RE are equal. GAMA disagreed with DOE's cost estimate for the side-arm heater design option; however it did not provide any specific information. (GAMA, No. 51 at 3). Therefore, we are using our cost estimate, absent any other information. Furthermore, GAMA did not comment on this issue at our July 1999 workshop.

Oil-Fired Water Heaters. GAMA did not receive information from enough manufacturers to allow it to aggregate cost data for oil-fired water heaters. Therefore, DOE relied completely on its consultants' cost data for each design

option considered for the oil-fired water heater analysis. See Chapter 6.4.3 of the TSD for details.

Bradford White suggested DOE only increase the performance of oil-fired water heaters by applying heat traps because the burner is usually not supplied with the tank and would therefore need a conversion kit. Bradford White also stated DOE's cost estimates for a conversion kit are too low. (Bradford White, No. 89 at 3). DOE considered two trial standard levels using only heat traps for oil-fired water heaters. However, the oil burner manufacturer, who supplies most of the water heater oil burners, provided our cost estimates for the conversion kit.

d. Installation Costs

The installation cost is the cost to the consumer of installing the water heater and is separate from the retail price. The cost of installation covers all labor and material costs associated with the simple replacement of an existing water heater. Delivery, removal, and permit fees are also included.

We established the installation costs of baseline 50-gallon electric, 40-gallon gas-fired, and 32-gallon oil-fired water heaters from the same sources as the retail price data. DOE assumed only the 3-inch insulation thickness would increase installation costs for gas-fired and electric water heaters installed within a conditioned space based on stakeholder comments and discussions at the manufacturer interviews. Four design options increased the cost of installing a gas-fired water heater. They are the improved flue baffle, electronic ignition, electro-mechanical flue damper, and side-arm heater.

In comments, ACEEE and VP claimed installation costs differ in new construction and in existing homes. (ACEEE, No. 23 at 2 and No. 52 at 6; and VP, No. 45 at 2). GAMA suggested DOE's analysis of revised water heater standards should be based on installed costs of replacement water heaters only. (GAMA, No. 51 at 3–4). DOE used the same installation costs for both markets. We based these costs on replacement costs because there are no cost installation data for new construction. New construction costs are combined with the plumbing and venting costs and we could not separate out the water heater installation costs.

Installation Cost for 3 Inch Thick Insulation. Thicker insulation creates a larger water heater than the typical unit sold today. VP claimed we should account for the impact of increasing unit size on installation ease and cost in replacement applications. (VP, No. 45 at 3). Rheem and SC claimed customers should not have to knock out walls and ceilings or relocate a water heater during replacement. (Rheem, No. 95 at 1 and SC, No. 84 at 2).

From the Residential Energy Consumption Survey (RECS) 1993 public use data, 54% of water heaters are located in a conditioned space. We assumed at least 50% of those homes would need the closet or an attic door removed to facilitate water heater replacement installation for 3 inch thick insulation. We estimated this cost at $160 using responses from water heater installers and the 1996 Craftsman National Construction Estimator. This installation cost is for the removal and replacement of door jambs for 50% of all water heaters located in a conditioned space. We assumed oil-fired water heaters are not installed in conditioned spaces and therefore this cost is not applicable to oil-fired water heaters.

We also do not believe people should have to knock out ceilings or walls to replace a water heater. Therefore, we investigated the impact of reducing tank volume by 20% on the first hour rating. The first hour rating is a measure of how much usable hot water can be supplied by a water heater in one hour starting from a fully heated tank. It is determined by the DOE test procedure. We believe that increasing the heating element from 4.5–6 kW can adequately compensate for the 10 gallons of storage volume lost by a 20% reduction in a 50-gallon electric water heater. We also believe that a similar increase in gas burner input rate can achieve the same effect with gas-fired water heaters.

Venting Costs. If people replace their gas-fired water heater located in a conditioned space with one which has a higher RE, then there may be additional installation costs. In an attempt to account for these costs, DOE assumed a Type-B vent connector is installed when replacing an existing gas-fired water heater located in a conditioned space with a water heater with an RE of 78%, in 25% of homes in climate regions exceeding 5,000 heating degree days. Note that heating degree days are the number of degrees the average temperature is below 65°F. For water heaters with flue baffles that achieve 80% RE, we assumed a Type-B vent connector is installed and a masonry chimney is relined when replacing an existing gas-fired water heater located in a conditioned space in 25% of homes in climate regions exceeding 5,000 heating degree days. In comments, Bradford White, LaClede and CNG stated we must add more installation cost to gas-fired and oil-fired water heaters for larger diameters and heights, pressure and temperature relief valves, relining masonry chimneys and for condensate removal. (Bradford White, No. 74 at 3; LaClede, No. 69 at 6; and CNG, No. 85 at 2).

DOE believes we have accounted for the installation costs associated with higher RE gas-fired water heaters. We used installers' estimates to calculate the cost of installing Type-B vent connectors and to determine the cost to reline masonry chimneys. These estimates are slightly higher than the GRI estimates. We estimated the number of homes needing Type-B vent connectors for 78% RE gas-fired water heaters from comments, and from an AGA survey in a GRI report. (GRI–91/0298). We also used the AGA survey data to determine, by region, the number of water heaters connected to masonry chimneys. In the same manner, we estimated installers would reline 25% of the masonry chimneys in climate regions exceeding 5,000 heating degree days when replacing an existing gas-fired water heater with an 80% RE water heater. DOE developed its installation costs for Type-B vent connectors and masonry chimney relining based on the replacement market and installers' cost estimates for a typical installation, which would include the pressure and temperature relief valve. See Appendix D–3 in the TSD.

We did not raise the RE enough to create condensation nor do we anticipate higher installation costs for 2 or 2.5 inch insulation thicknesses. Therefore, we added $160 for removal and replacement of door jambs for 50% of gas-fired water heaters with 3 inch thick insulation located in conditioned spaces. From the GRI data, we estimate that 25% of households with gas-fired water heaters in regions with over 5,000 heating degree days would need Type-B vent connectors at a cost of $114 for 78% RE. We estimated that 25% of households with gas-fired water heaters in regions with over 5,000 heating degree days would need chimney relining at a cost of $433 for 80% RE gas-fired water heaters. This is about one-half of the households with gas-fired water heaters common vented with gas furnaces.

Cost to Install Electricity. The three remaining gas-fired water heater design options (electronic ignition, electro-mechanical flue damper, and side-arm heater) all require electricity to operate. We used data from GRI to estimate the number of households that would require electricity. We also used GRI data to estimate the cost of labor and wiring and adjusted these estimates for inflation to obtain 1998 cost estimates,

see Chapter 8.4.5 in the TSD for more details.

e. Maintenance Costs

The electro-mechanical flue damper and the side-arm heater are the only design options that increase a gas-fired water heater's maintenance cost. We used the TSD water heater analysis for the March 4, 1994, NOPR to estimate the maintenance cost of the flue damper. (59 FR 10464, March 4, 1994) In this analysis, we assumed the flue damper failed in the tenth year of operation. We discounted the maintenance cost of the flue damper at a 6 percent rate to get its present value in 1998 dollars.

In response to a comment from Battelle, we included the maintenance cost to replace the side-arm heater circulation pump. (Battelle, No. 66 at 9 and No. 83 at 11). We assumed 10% of the installations would require a replacement of the circulation pump each year. We estimated the cost using contractor estimates and the 1998/99 Grainger Catalog.

The intermittent ignition device (IID) of gas-fired water heaters may incur maintenance costs due to the failure of the control module or the sensor. We assumed the IID maintenance cost to be equivalent to the maintenance cost of replacing the standing pilot light and therefore did not assign any incremental cost to it.

With the exception of the electro-mechanical flue damper, the IID and the side-arm circulation pump, information gathered to date suggests there is virtually no maintenance of residential electric or gas-fired water heaters. However, there were some suggestions from the manufacturer interviews that side-arm gas-fired water heater designs may incur increased maintenance costs due to clogging of the heat exchanger from scaling associated with hard water, but no data were identified or provided to confirm this.

We included a typical annual maintenance charge for oil-fired water heaters. Since we anticipate that none of the oil-fired water heater design options will affect maintenance, this charge has no bearing on the final engineering analysis of the design options.

f. Determination of Markups for Retail Prices

The retail price is the consumer cost of the water heating equipment. We determined the retail price for any design option simply by multiplying the manufacturer cost by the derived markup for the particular product class. We obtained a manufacturer cost-to-retail price markup by dividing the retail price by the manufacturer cost. We performed this calculation separately for electric, gas-fired, and oil-fired water heaters. In the engineering analysis, we assumed that the baseline manufacturer cost-to-retail price markup was constant for all design options within a fuel class. Our approach results in different average markups for each fuel class in the engineering analysis.

In order to obtain the retail price, DOE created the Water Heater Price Data Base. This Data Base contains extensive data on retail prices for electric and gas-fired water heaters and very limited information regarding retail prices of oil-fired water heaters. While the data in the Water Heater Price Database are based on information from water heater vendors in many regions of the U.S. (e.g., large retailers, plumbing wholesalers, small suppliers, web-sales and utility representatives), the majority of price information was gathered from large retailers and plumbing wholesalers. Although the database lacks information on the number of specific models sold, it contains actual prices representative of many models. We received the oil-fired water heater retail prices from approximately 25 oil equipment installers who buy water heaters from manufacturers and sell directly to consumers. In the case of oil-fired water heaters, the retail price does not include the cost of the burner, which is typically purchased separately.

We determined an average price for an existing baseline 50-gallon electric, 40-gallon gas-fired, or 32-gallon oil-fired water heater with HCFC–141b foam insulation . Since the length of the manufacturer's warranty affects the price of the water heater, we originally considered only water heaters with a five year or less warranty as baseline models. However, at the November 1998 workshop, water heater manufacturers provided information that six-year warranties are typical of those models that are produced in large quantities (i.e., baseline models). A longer warranty period, in addition to raising the price, also may indicate the presence of some design features not normally found in baseline models. Based on this information, we have changed the analysis to include water heaters with warranties of six-years or less in our baseline models.

The Water Heater Price Database includes installation costs that are part of the total cost to consumer. This price includes miscellaneous fees such as the delivery fee, removal fee, permit fee, and parts fee. We applied additional installation costs to some design options'for example, to account for replacing vent connectors, relining masonry chimneys, or installing larger water heaters in small spaces.

In their comments, AGA and EMPA claimed the database is not representative of all manufacturers or states. (AGA, No. 49 at 5; EMPA, No. 50 at 3; and No. 88 at 4–6). NEEA, NWPPC, ACEEE, Pacific Gas and Electric (PG&E) and OOE claimed DOE's retail prices are too high or DOE's incremental costs are too large. They cited data from the Eugene, Oregon Water and Light Board or the California Residential Contractors Program. (NEEA, No. 53 at 2; NWPPC, No. 43 at 2; ACEEE, No. 52 at 6 and No. 93 at 4; PG&E, No. 94 at 4; and OOE, No. 44 at 6; and No. 76 at 10). We received comments regarding the basis of the markups. For example, the analysis only included water heaters sold through stores (ACEEE, No. 52 at 6); the data may have been skewed by high sales volume models used as loss leaders (GAMA, No. 71 at 1); and the markup results should be reasonably consistent with prices found in the Northwest. (OOE, No. 44 at 7).

In response to these comments DOE collected more data to make the database more representative. DOE added more retail price data from wholesalers and plumbing distributors. DOE added price data from the Eugene Water and Light Board's database but DOE added only a limited number of these prices so that its database would continue to be representative of regional populations in the entire U.S. Nevertheless, the addition of these data did not significantly change the average retail price of gas-fired or electric water heaters. DOE believes its price database, from more than 130 retail distributors and plumbing wholesalers (representing all 12 Census divisions and all five major manufacturers), provides an accurate representation of prices with good regional representation.

OOE claimed a constant price should not be used for the entire analysis period because water heater prices should match today's prices in the mature market of the Pacific Northwest within 5–7 years after the imposition of a standard. (OOE, No. 96 at 6). We appreciate the price data provided by OOE and we have used a portion of the data in our national Water Heater Price Database. However, we kept the prices representative of each region in the U.S. by maintaining a fixed relationship between the number of water heater prices and the population of each region. See Chapter 5.2 in the TSD.

We obtained a manufacturer cost-to-retail price markup by dividing the retail price by the manufacturer cost. Our approach results in different average markups for each product class

(i.e., 1.49 for electric, 1.22 for gas-fired, and 3.2 for oil-fired water heaters).

Since oil-fired water heaters are essentially a niche product, the large markup was not surprising. However, several commenters believed that the gas-fired water heater markup should be nearly identical or identical to the electric water heater markup. ACEEE commented that DOE's retail costs showed inconsistent markups between electric, gas-fired, and oil-fired water heaters. (ACEEE, No. 52 at 6). GAMA claimed the markup value for gas-fired water heaters was too low because DOE only sampled the retail market and some of the models are direct vent models. (GAMA, No. 51 at 4). GAMA, AGA, EPRI, SC, CNG, and Bradford White suggested DOE apply the same markup to electric and gas-fired water heaters. (GAMA, No. 51 at 4; AGA, No. 49 at 5; EPRI, No. 70 at 3; SC, No. 72 at 2; CNG, No. 85 at 3; and Bradford White, No. 74 at 3). VP claimed there is no justification for using one average markup. (VP, No. 45 at 2). Battelle claimed the gas-fired water heater markup is too low. (Battelle, No. 83 at 8). SC did not believe retail markups for electric water heaters are twice as high as those for gas-fired water heaters. (SC, No. 84 at 1). EPRI disagreed with DOE's markup approach because it raises the price of heat traps differently for each fuel and tank size. (EPRI, No. 41 at 4).

We derived the markups by comparing retail prices to the baseline costs provided by GAMA. We believe these prices are representative of the national market for residential water heaters. Additionally, we applied our approach uniformly to all fuel types. Chapter 5 of the TSD provides a discussion on retail prices.

E. Economic Analysis

1. Life-Cycle-Cost (LCC) and Payback Analysis

In determining economic justification, the Act directs the Department to consider a number of different factors, including the economic impact of potential standards on consumers. Section 325(o)(2)(B)(i)(I), 42 U.S.C. 6295(o)(2)(B)(i)(I). The Act also establishes a rebuttable presumption that a standard is economically justified if the additional product costs attributed to the standard are less than three times the value of the first year energy cost savings. EPCA, § 325(o)(2)(B)(iii), 42 U.S.C. 6295 (o)(2)(B)(iii).

The payback, for purposes of the rebuttable presumption test, attempts to capture the payback to consumers affected if a new standard is promulgated. It compares the cost and energy use of water heaters consumers would buy in the year the standard becomes effective with what they would buy without a new efficiency standard. DOE calculates a simple payback which is the ratio of the increase in purchase price (including installation) to the decrease in annual operating expense (including maintenance).

In considering this factor, the Department calculates changes in LCCs to the consumers that are likely to result from the proposed standard and two different simple payback periods: the median payback period and the test procedure payback period. The difference between these payback calculations is due to the way we calculate energy savings. The median payback is based on the LCC analysis using a derived amount of hot water dependent on characteristics of each household. The test procedure payback is based on hot water usage of 64.3 gallons per day, the estimate of hot water usage used in the DOE test procedure.

The effect of standards on individual consumers includes a change in the operating expense (usually decreased) and a change in the purchase price (usually increased). The net effect is analyzed by calculating the change in LCC as compared to the base case. Inputs to the LCC calculation include the installed consumer cost (purchase price plus installation cost), operating expenses (energy and maintenance costs), lifetime of the appliance, and a discount rate.

In addition to analyzing price and energy cost effects on each household in a national database, DOE also determines which segments and what size of the population, if any, may be adversely affected. The Department has decided to consider the LCC impacts on low income and seniors-only consumer subgroups in this rulemaking. We chose the low-income subgroup because higher water heater prices might affect that subgroup more than the general population. We chose the seniors-only subgroup because many of them may be in the low-income subgroup and because they tend to use less hot water than the general population. Lower water usage could increase the payback of some efficiency improvements.

The LCC and one of the payback periods (median payback) are calculated using the LCC spreadsheet model developed in Microsoft Excel for Windows 95, combined with Crystal Ball (a commercially available software program) based on actual distributions of input variables. The LCC outputs from this program are a range of values that allow us to determine what fraction of the population will benefit from energy efficiency standards.

Based on the results of the LCC analysis, DOE selects candidate standard levels for a more detailed analysis. The range of candidate standard levels typically includes: (1) the most energy-efficient combination of design options or most energy-efficient level; (2) the combination of design options or efficiency level with the lowest LCC; and (3) the combination of design options or efficiency levels with a payback period of not more than three years. Additionally, candidate standard levels that incorporate noteworthy technologies or fill in large gaps between efficiency levels of other candidate standards levels may be selected. 10 CFR Part 430, Subpart C, Appendix A(5)(c)(3).

Table 4 lists the major input distributions DOE used in the water heater LCC analysis for the HFC–245fa blowing agent. We also completed an analysis for water blown insulation in the TSD. We discuss many of these assumptions briefly in this section. For more details on the LCC analysis for both blowing agents, please see Chapter 9 in the TSD.

TABLE 4.—INPUT DISTRIBUTION USED IN THE LCC ANALYSIS

LCC analysis assumptions	
Description	Assumption
Blowing agent	HFC–245fa blowing agent.
Energy prices	Marginal energy prices for incremental cost savings; average energy prices for base line costs.
Future energy prices	AEO99 reference case to the year 2020 with extrapolations to the year 2030.
Discount rates	0–15% with an average about 6%.
Water heater prices	From the engineering analysis.
Installation costs & baseline retail prices	LBNL water heater price database.
Design option combinations	From the engineering analysis.

LCC Analysis Assumptions

Description	Assumption
Markup	Retail prices divided by GAMA's manufacturing costs, calculated for each house in RECS '93.
Household characteristics	1993 RECS public use database, 5222 households.
Lifetime	Electric, 4–19 years, most likely 12 years; gas and oil, 3–15 years, most likely 9 years.
Energy consumption	Using RE, standby losses and input heating rates from the engineering analysis and calculated with WHAM.
Daily hot water use	Based on number of people, tank size and type of appliances from RECS, and thermostat settings and location imputed from the RECS data; climate data from NOAA 30 year averages; inlet water temperature and air temperature based on climate data.

To get data representative of all U.S. residential households we used DOE's Energy Information Administration (EIA) *Residential Energy Consumption Survey* (RECS) for 1993. The RECS public use data survey weights each household so that the data properly represent the 96.1 million households in the 50 states and the District of Columbia. The 1993 RECS public use data survey provides information concerning energy consumption in the residential sector and contains a more complete set of data for water heater analysis than any other survey reviewed and available for this study. The survey contains basic data concerning household characteristics from an interview questionnaire and annual fuel consumption and expenditures (excluding transportation fuel) derived from the records of fuel suppliers. It also includes weather data (in the form of heating and cooling degree days) and a weighting variable. The households included in the analysis (75% of the RECS public use data) all have running hot water, and an individual water heater using one of four fuels: electricity, oil, natural gas, or LPG. Households without these features, which did not report their water heater size, or for which a marginal energy price could not be calculated, are not used in the analysis.

The Department has received comments concerning the RECS data. EMPA claimed the 1993 RECS public use data is not valid, reliable, or representative because the useable data on electricity and gas consumption and costs is from only a portion of the households. (EMPA, No. 88 at 6). The RECS public use data is the most comprehensive national data set concerning residential water heating energy use. DOE used the entire data set that pertains to the types and sizes of water heaters in this rulemaking. We believe this subset is nationally representative and thus a valid data set.

a. Marginal Energy Price

DOE formerly used average energy prices, but stakeholders objected because these prices did not represent a consumer's true savings. For the LCC analyses, the Advisory Committee on Appliance Energy Efficiency Standards recommended DOE use the full range of consumer marginal energy prices instead of national average energy prices. Marginal energy prices are those prices consumers pay (or save) for their last units of energy used (or saved). The Department agreed that marginal energy prices would improve the accuracy of the LCC analysis and estimated marginal rates for electricity and natural gas from the 1993 RECS database.

EIA gathered monthly energy bills and energy consumption data for the RECS public use data. It did not gather information on rate schedules, fixed charges, or marginal prices. DOE estimated consumer marginal electricity and natural gas prices directly from household data in the 1993 RECS public use data survey as the change in household monthly energy bills divided by the change in monthly energy consumption for each fuel, referred to as the change in monthly bill method. This provides a precise marginal energy rate based on actual household bills.

For electricity, DOE calculated the slopes of the regression lines for four summer months (June–September) and, separately, for the winter (October–May) months. DOE derived the annual marginal price by taking the weighted average of the two seasonal prices, where the weighting used was the relative energy consumption of the appliance in each season. For water heaters, the weighting was 28% summer and 72% winter. For natural gas, DOE calculated the slopes of the regression lines at the annual level because there was no seasonal difference in marginal gas prices.

In order to understand and characterize regional variations in pricing and distribution of fuel oil and LPG, we collected information relating to pricing and distribution of fuel oil and LPG. We learned that bills paid by residential consumers for both fuel oil and LPG are essentially volume-driven, with a single block rate. We interpreted the average prices inherent in those bills, as reported in the RECS public use data, as being equivalent to marginal prices for the purposes of the LCC price analysis.

Several stakeholders commented on DOE's marginal energy prices. EEI and LaClede commented that marginal rates from the RECS public use data did not agree with EEI or AGA estimates. (EEI, No. 67 at 1–2; and LaClede, No. 82 at 2). EEI claimed DOE overstates actual electric costs by 12.8% due to the use of Inflator93. (Inflator93 is a scaling factor DOE used in an earlier analysis to adjust electricity prices from 1993–1998.) (EEI, No. 67 at 1–2). EMPA claimed that DOE did not account for the sampling and non-sampling errors in the RECS public use data and that DOE included fixed costs. (EMPA, No. 88 at 6–7).

We discovered that the Inflator93 coefficient in the July 1999 Workshop Analysis was incorrect and we removed it. There is no direct comparison between DOE's change in monthly bill method and EEI's and AGA's method of subtracting fixed costs because of differences in the level of aggregation (rate class vs. individual households), sample set, and time period. Furthermore, DOE believes a marginal energy price based on subtraction of fixed costs is not correct due to variable rate schedules and seasonal rates. DOE's change in monthly bill method can and does account for variable rates and seasonal rates.

VP stated that statistical probability analysis on many of the analysis inputs, use of marginal energy prices, and accurate conversion efficiencies provide greater assurance that the final rule will be appropriate and not overly burdensome. (VP, No. 45 at 3). DOE believes this is true. Our analysis methodology uses distributions on many analysis inputs, marginal energy prices and conversion efficiencies which change during the analysis based on EIA forecasts.

We recognize there are sampling and non-sampling errors in the RECS public use data. However, these errors are

small and we expect they will have very little impact on marginal energy rates. For example, EIA compared the results from RECS with the American Housing Survey results and found the maximum difference between the two surveys was 3.2%. EIA also compared results to Consumer Expenditures (CE) estimates by the Bureau of Labor Statistics and found fuel expenditures for the CE were 2% higher for gas and 6% higher for electricity.

DOE used projected future trends in average energy prices to derive estimates of future consumer marginal energy prices for the economic analysis of proposed standards. We created an index (scaling factor) from the trend in average prices (by fuel and sector) and applied it to the 1993 marginal prices calculated from the RECS public use database. The index accounts for both inflation and real energy price changes and it is different than Inflator93. For example, the average residential electricity price declined by 20% from 1993–1998, so we assume the marginal price for each household declines by 20% over the same period of time.

b. Future Energy Prices

Given the uncertainty of projections of future energy prices, DOE used scenario analysis to examine the robustness of proposed energy efficiency standards under different energy price conditions. The LCC calculations used these scenarios. Each scenario integrates energy supply and demand into its energy price. The scenarios differ in the energy prices that result. The Advisory Committee on Appliance Energy Efficiency Standards suggested the use of three scenarios with high, low, and middle levels of energy prices because three scenarios should be sufficient to bound the range of energy prices. This is also the guidance provided in the Process Rule, 10 CFR 430 subpart C, appendix A 13(b).

The EIA's 1999 Annual Energy Outlook (AEO99) reference case provides a middle scenario. For the high and low energy price scenarios, DOE used the scenarios with the highest and lowest energy prices in the economic sector and the fuel of interest from AEO99. DOE also used the reference case from the GRI projection, 1998 GRI Baseline Projection: Residential Natural Gas, Electricity, and Distillate Fuel Oil Prices Tables. The future trend in energy prices assumed in each of the four scenarios is clearly labeled and accessible in each spreadsheet. Stakeholders can substitute alternative assumptions in the spreadsheets to examine additional scenarios as needed.

c. Discount Rates

The Process Rule states that DOE will establish real (adjusted for federal taxes) discount rates for residential consumers by considering a range of three different real discount rates: credit card financing rate, a rate based on consumers having substantial savings, and a mid-range rate. 10 CFR 430, subpart C, appendix A13(d). The mid-range discount rate will represent DOE's approximation of the average financing cost (or opportunity cost of reduced savings) experienced by typical consumers.

Based on the guidelines from the Process Rule, we derived a distribution of discount rates to reflect the variability in financing methods consumers can use in purchasing water heaters. The real interest rate associated with financing an appliance purchase is a good indicator of the additional costs incurred by consumers who pay a higher first cost, but enjoy future savings, although it is not the only indicator of such costs. While the method used to derive this distribution relies on a number of uncertain assumptions regarding the financing methods used by consumers, DOE believes the resulting distribution of discount rates encompasses the full range of discount rates that are appropriate to consider in evaluating the impacts of standards on consumers (*i.e.,* values represented by the mid-range financing cost, consumers with no savings, and consumers with substantial savings), as well as all the discount rates that fall between the high and low extreme values.

DOE assumes the method of purchase used by consumers is indicative of the source of the funds and the type of financing used, although DOE is not aware of detailed research into this relationship. Whirlpool Corporation indicated that approximately 40% of white goods are purchased in cash, 35% with credit cards, and 25% with retailer loans. (1994 Eight Product Notice of Proposed Rulemaking, 59 FR 10464, March 4, 1994.) The same manufacturer indicated that 25% of appliance purchases are for new homes. However, we know consumers purchase 20% of water heaters with new homes, *i.e.,* in mortgages, and 80% as replacements for existing water heaters in separate retail purchases. Consumers pay for retail purchases by cash, credit cards, or loans. In the case of water heating equipment, we assumed consumers would usually use credit cards because most water heater purchases are emergency replacements. In order to derive a full distribution of discount rates, DOE estimated a range of interest rates, based on historical data and judgments of future trends, for different types of consumer savings or financing.

For new housing, the estimated nominal mortgage rate ranges from 5–8%, the derived after-tax rate is based on a tax of 28%, and a 2% inflation rate is subtracted from the total. The result is a range of real mortgage rates from 1.60%–3.76%. Example: 5%*(100%–28%)–2% =1.6%.

For cash, the minimum interest rate is 0%. This rate applies to consumers making cash purchases without withdrawing from savings accounts or interest bearing checking accounts. For the maximum rate, the opportunity cost is the interest that could have been earned in a savings account or mutual fund. The historical nominal maximum savings rate ranged from 4.5–5.5% from 1970–1986 (real rates of –8.27 to +3.58%). We believe the current maximum is the opportunity cost represented by the interest earned in a typical mutual fund (assumed to be 6% real). DOE selected a real rate of 3% as the mean.

DOE assumed the interest rates for retail loans and credit cards have the same range. The minimum credit card rate is 6% real. Introductory rates on some credit cards today are 5.9% nominal, but after the introductory period (often six months), the rate can increase sharply. Maximum rates are more than 20% nominal. However, if the consumer pays with a credit card and the balance is paid in less than the life of the water heater, then the effective interest rate is lower than the nominal credit card rate. The current assumption is a range of 6–15% real.

Combining the assumed shares of each financing method, the above real interest rates result in a weighted-average (mean) value of 6% and a distribution that varies from 0–15%. Sensitivity studies show that while the LCC results are sensitive to the value chosen for the mean discount rate, the LCC results are not sensitive to the distribution of discount rates.

DOE believes the methods described above are valid for establishing a distribution of discount rates relevant to most purchasers of the products covered by this rulemaking. However, the Department acknowledges that different assumptions could be made about likely interest, inflation and marginal tax rates, or about consumer financing methods, and that different approaches to identifying consumer discount rates might also be valid. For example, it is possible to base consumer discount rates on the average real rates of return on consumer investment or other measures of the opportunity costs

incurred by consumers who purchase the covered products. DOE does not believe, however, such alternative assumptions or alternative approaches would significantly alter the range of discount rates used by the Department or the conclusions drawn from the LCC analyses conducted using these discount rates.

The Department is seeking any information that would support significant alterations in the range or distribution of the discount rates derived from its analysis. Alternatively, DOE is soliciting comment on the possible use of a standardized distribution of discount rates ranging from approximately 4–12%, with a mean of 6%. The use of such a standardized distribution would explicitly recognize the many uncertainties associated with DOE's current analysis and, based on sensitivity analyses already performed by DOE, such a standardized distribution would not significantly alter the conclusions of DOE's life cycle cost analyses.

Two stakeholders, EEI and EMPA, claimed the discount rates in the LCC appear to be very low for consumers. (EEI, No. 39 at 7 and EMPA, No. 50 at 2). They do not reflect the actual consumer purchasing behavior as measured by an implicit discount rate. Such discount rates are often higher. DOE policy is to base discount rates on average financing costs (or opportunity cost of reduced savings) experienced by typical consumers.

d. Household Characteristics

The 1993 RECS public use data provide a sample of 7,111 households from the population of all primary, occupied residential housing units in the U.S. Of the 7,111 households, we use 5,222 household records in the analysis and we assume these households are representative of housing on a national scale. The households included in the analysis (see Table 5) have four defining features:

1. Water heater size
2. An individual water heater
3. One of four fuels: electricity, oil, natural gas, LP gas
4. Billing data for electric and gas-fired water heaters and gallons of fuel oil or LPG used

Of the households not included, 11.8% shared water heaters or used other fuels; these water heaters are not subject to this rulemaking. Of the remaining households not included, 6.2% had no water heater size indicated and 8.2% had insufficient billing data for energy price analysis.

EEI commented that the RECS public use data are more than five years old. (EEI, No. 39 at 3 and No. 67 at 1). The detailed 1997 RECS public use data were released in mid-January 2000. However, the Department has not had an opportunity to analyze the impact at this time. We will, however, determine the impacts of this updated information for the final rule. We have accounted for the age of the energy price data by adjusting the 1993 data to represent 1998 prices. We did this by multiplying the 1993 data by the ratio of the average annual energy prices from the EIA AEO between 1993 and 1998.

Table 5 provides some information about households in the 1993 RECS public use data used in the LCC analysis. The weighted number of households are the total households represented by the RECS data. The average hot water use is not from RECS but is determined from the results of a California Energy Commission (CEC) study of hot water usage. We have included the average water heater set point and average inlet water temperature, which are not part of the RECS public use data. These are derived from the location of the household using the National Oceanic and Atmospheric Administration's (NOAA) 30-year (1961–1990) database of average air temperatures to estimate average annual outdoor and inlet water temperatures (NOAA database: www.ncdc.noaa.gov/ol/climate/online/ccd). A more complete discussion of the data not from RECS is found in section III.E.2.d., Energy Analysis Module.

TABLE 5.—1993 RECS HOUSEHOLD CHARACTERISTICS

	Gas	Electricity	LPG	Fuel Oil	All Fuels
Number of Households (records)	2475	2323	248	176	5222
Number of Households (weighted)	35,959,707	30,279,600	2,540,960	1,807,350	70,587,617
Household Size (average number of people)	2.79	2.58	2.70	2.87	2.70
Clothes Washer (percent saturation)	89.2	82.0	89.1	96.6	86.3
Dishwasher (percent saturation)	52.4	49.1	32.5	56.8	50.4
Average Thermostat Set point (deg F)	134.6	133.5	135.0	137.5	134.2
Average Inlet Water (deg F)	57.1	59.1	56.3	51.8	57.8
Average Hot Water Use (gallons per day)	48.6	45.4	47.3	47.3	47.1
Low Income Households (percent of total)	5.68	5.69	0.64	0.12	12.13
Senior-Only Households (percent of total)	8.13	7.66	0.72	0.39	16.90
Senior-Only and/or Low income (percent of total)	12.59	12.17	1.17	0.492	6.42

Stakeholders raised concerns about the RECS data. Battelle commented that some fraction of households in the RECS database incorrectly identifies fuel type of water heaters. (Battelle, No. 66 at 5).

Battelle and AGA claimed DOE ''fabricated data not in the database.'' They believe this has led to higher average set point temperatures for gas water heaters (134.5°F for gas vs. 133.7°F for electric), cooler air temperatures where the water heater is installed (55.1°F for gas vs. 56.7°F for electric), and colder entering water temperatures (57.3°F for gas and 58.7°F for electric). (Battelle, No. 83 at 2 and AGA, No. 92 at 3).

Set point temperature, air temperatures and entering water temperatures are not in the RECS database. To obtain the set point, air and entering water temperatures, the Department used the following approach. DOE used heating degree days to determine an approximate location for each household. This is necessary because household locations are confidential. Based on the location, we used the 30-year NOAA data to determine the average air temperature. We derived cold water inlet temperatures based on the average annual air temperature. (NOAA database: www.ncdc.noaa.gov/ol/climate/online/ccd). From a study by the CEC (CEC, 1990, Report No. P400–90–009), DOE has inferred the set point temperature based on the cold water inlet temperature. This methodology is applied equally to all of the RECS public use data—gas, oil and electric. Any difference in the results among fuels is due to regional differences of

saturations of water heater fuel types and not to the data that DOE uses.

Battelle disagreed with DOE's preliminary results showing average daily water use of 48.5 gallons per day for households with gas-fired water heaters versus 45.4 gallons per day for households with electric water heaters. Battelle claimed DOE's results will increase the energy used by 3.3% and will cause 3.2% more standby losses for gas water heaters. (Battelle, No. 83 at 3). DOE believes the differences in average energy use and standby losses between gas and electric water heaters are due to regional differences in numbers of water heaters by fuel type and household size, among other factors. These differences are not caused by inadequate data.

e. Lifetime

Appliance Magazine was the source of information for water heater lifetimes. We created a triangular distribution using 4–19 years as the base for electric water heaters and the most likely value of 12 years as the peak. Similarly, for gas-fired water heaters the base is 3–15 years with the most likely value at 9 years. We assumed that oil-fired water heaters have the same lifetime as gas-fired water heaters.

2. LCC Spreadsheet Model

In order to simplify handling large amounts of input data, the water heater LCC analysis spreadsheet has five modules. The modules are LCC and Payback, Equipment Cost, Operating Cost, Energy Analysis, and Hot Water Draw. Chapter 9 in the TSD contains a detailed discussion of the spreadsheet and the individual modules.

a. LCC and Payback Module

The LCC analysis uses a spreadsheet model developed in Microsoft Excel combined with Crystal Ball (a commercially available software program). The model uses a Monte Carlo simulation to perform the analysis while considering uncertainty and variability of many input values. Crystal Ball is a program that provides risk analysis capabilities to help analyze the variability and uncertainties associated with the data. We organized the spreadsheet so ranges (distributions) are entered for each input variable needed to perform the calculations.

Recognizing that each household is unique, we accounted for variability in the model by performing the LCC calculation for a large number of individual households. The Monte Carlo simulation samples individual households from the RECS public use data. The results show the fraction of households having a particular LCC and payback.

For the LCC calculations, we randomly sampled the set of households 10,000 times. The analysis used separate LCC spreadsheets for each fuel type (electricity, natural gas, and fuel oil) and blowing agent (water and HFC–245fa). Chapter 9.1 of the TSD describes the sampling methodology and contents of the RECS public use data.

In comments, EMPA claimed 10,000 Monte Carlo runs are not enough, and consumers' actual savings depend on their specific energy prices and amount of usage of the appliance. (EMPA, No. 88 at 2–7). AGA claimed manufacturers' costs and consumer prices are correlated so DOE should use a correlated Monte Carlo approach. (AGA, No. 92 at 5).

We believe 10,000 Monte Carlo runs are sufficient because, when tested at 20,000 runs, there was less than 1% difference in the results. The manufacturers' cost data is not connected with a specific model but is only provided as a cost distribution. Therefore, manufacturers' costs and the prices in the Lawrence Berkeley National Laboratory (LBNL) price database cannot be correlated. There is no one-to-one correlation between the cost of a specific model to the price for that same model because GAMA only provided cost distribution data.

We analyzed all design options for water heaters as if they were at production levels equivalent to the typical existing baseline models, i.e., possessing similar economies of scale. We performed the LCC analysis separately for each energy source: electric, gas (including LPG) and oil. We calculated the analysis twice, once for water-blown insulation and again for HFC–245fa blown insulation. The LCC analysis does not address fuel choice; this is addressed in Section F, National Energy Savings and Shipments. See Section IV.A.1.a of this notice for the results of the LCC analysis.

The Department calculates payback and LCC for each design option combination and compares it to the 2003 baseline model for every sample household.

b. Equipment Cost Module

Equipment cost represents the sum of the retail price, sales tax, and installation costs. We calculated the retail price from the manufacturer's cost multiplied by an overall markup. GAMA provided estimates of water heater manufacturing costs for typical existing baseline models. The source of the retail price, the sales tax, and the installation cost of existing baseline models is the Water Heater Price Database, which is described in Section III.D.3.e. See Chapter 5.3 of the TSD.

In its analysis for the November 1998 workshop, we estimated the manufacturing costs for all other standard size existing baseline water heaters based on the manufacturing cost for the typical water heater plus (or minus) incremental costs for extra foam insulation, sheet metal, and other components. We determined the retail price of each combination of design options by multiplying the manufacturing cost times the markup. See Chapter 7 on markups and Chapter 9.5 in the TSD for a complete discussion of this.

AGA claimed DOE used average markups in the LCC. (AGA, No. 92 at 5). DOE does not use average markups in the LCC. As described above, we calculate an overall markup for each RECS household by dividing a randomly chosen retail price from the Water Heater Price Database by a randomly chosen manufacturing cost from the cost distribution data for each standard-size existing baseline model. We apply this markup to all of the subsequent design options for that household. We limited the markup algorithm to ensure the retail price was never lower than the manufacturing cost.

c. Operating Cost Module

Operating a water heater involves two costs: Fuel to operate the water heater and maintenance to keep the water heater running properly. Fuel costs depend on the water heater's energy usage and the per-unit cost of fuel. Maintenance costs depend on water heater design and were determined from consultants' discussions with manufacturers and installers.

In the LCC analysis, we calculate the operating cost for the baseline product class (fuel type) for each household in the RECS database using average annual energy prices. For each design option or combination of design options, we multiply the energy savings by the marginal energy price. The operating cost is the baseline operating cost minus the operating cost savings for the particular design option or combination of design options. Therefore, we apply marginal energy prices to only the portion of total operating cost resulting from improved energy efficiency.

To account for future uncertainties, we apply various scenarios of projected future energy prices (trends by national average) to each household's marginal energy price. After we adjusted for inflation and energy price changes, we adjusted energy prices for the RECS public use data from the starting year by

the projected average future energy prices. Thus, each sample house from the RECS public use data has four different future annual energy price series associated with it. We estimated future annual operating costs as annual energy use multiplied by the annual energy price series for each of the four scenarios: AEO99 High Growth, AEO99 Reference Case, AEO99 Low Growth, and the 1998 GRI Baseline Projection. The user can choose from among these four scenarios in the spreadsheets or can input his or her own price forecast.

d. Energy Analysis Module

Since we can write WHAM as an equation, DOE used it in the LCC spreadsheets to quickly and reliably estimate residential water heater energy consumption. We validated WHAM with the TANK and WATSIM simulation programs for gas-fired and electric water heaters for many water heater characteristics. The WHAM results were within 3% of predicted energy consumption for electric, and within 5% of predicted energy consumption for gas-fired water heaters. Three parameters—RE, UA and rated input power—describe the efficiency characteristics of the water heater. The operating conditions of the water heater are the average daily hot water used, inlet water temperature, hot water outlet temperature, and air temperature around the water heater.

We used the RE and standby heat loss coefficient values from computer simulations developed for the Engineering Analysis and rated input power from manufacturers' product literature to describe the energy performance of water heaters.

WHAM uses the average daily hot water consumption for each household calculated by the Hot Water Draw Module, discussed below. We calculated temperatures for inlet water and the air surrounding the water heater from the outdoor air temperature and the location of the water heater in the house. The RECS public use database provides data on heating and cooling degree days, but not air or water temperatures, for each household in the sample. Each household was assigned to the climate zone within its reported Census division with the closest number of heating and cooling degree days for 1993. Once each household was associated with a climate zone, we made other temperature assignments from NOAA's 30-year average annual temperatures. (NOAA database: www.ncdc.noaa.gov/ol/climate/online/ccd).

To assign hot water outlet temperatures for households, we derived an equation from a CEC study that measured delivered water temperature and cold water temperatures. (CEC, 1990, Report No. P400–90–009) The equation derived from the CEC data indicates that the water heater set point varies inversely with inlet water temperature. For every degree the average inlet water temperature increases, the hot water set point temperature decreases about half a degree. See Chapter 9.3.4 in the TSD for a discussion of the CEC data.

e. Hot Water Draw Module

Hot water use varies widely among households because it is dependent on household and water heater characteristics, including the number and age of the people who live in the home, the presence of appliances using hot water, the tank size and thermostat setting of the water heater, and the climate in which the home is situated. By accounting for these five characteristics, the hot water draw model estimates average daily hot water used.

There is a degree of uncertainty in estimating hot water use because of the limited data on measured actual hot water use. We estimate uncertainty attached to the weighting factors using normal distributions for parameters provided in the 1985 EPRI study. Based on the 1985 EPRI study, ''Electric Water Heating for Single-Family Residences: Group Load Research and Analysis,'' LBNL developed values for daily hot water used for the number and age of people living in the home and for the presence of appliances. (1996. LBNL–37805)

RECS provides data on the number and age of household occupants, presence of a clothes washer or dishwasher, and three ranges of water heater tank size: small, medium, and large. For this analysis, however, we needed specific water heater sizes. By matching the three RECS ranges (small, medium, and large) with the standard water heater sizes, we assigned an exact water heater size to each RECS house. Generally, small is equivalent to 30 gallons, medium to 40 gallons, and large to 50 gallons or larger.

3. Consumer Subgroup Analysis

In the Process Rule, DOE committed to considering the LCC impacts on consumer subgroups who might be uniquely affected by a rulemaking. Process Rule, Appendix A (11)(d). DOE used LCC as the metric to determine consumer impacts. See Chapter 10 in the TSD for consumer subgroup analysis.

The Consumer Subgroup Analysis for water heaters estimates the variation in energy consumption and LCC for different subgroups of consumers under different trial standard levels. Of particular interest is the potential effect of standards on households with low incomes and on seniors over 65. DOE identified these two subgroups from stakeholder input at the water heater workshop on November 11, 1998. The analysis answers questions such as: How many households of this type are better off with standards and by how much? How many households are worse off and by how much?

By comparing the LCC of all consumers to the LCC of the specific consumer subgroups referenced above, we determine if the standards will affect those subgroups differently. DOE made these determinations for each trial standard level for low income and seniors-only households.

AGA stated DOE must provide statistical support for the way the RECS data are used in the Consumer Subgroup Analysis. (AGA, No. 68 at 6). There are a total of 484 records for low income households and 779 records for senior-only households in the RECS database. Most of the low income or senior-only households have either a gas-fired or electric water heater. DOE used the RECS data because it is the most complete and largest database publicly available.

4. Payback Analysis for Rebuttable Presumption

The Act establishes a rebuttable presumption that a standard is economically justified if the additional product costs attributed to the standard are less than three times the value of the first year energy savings. Section 325(o)(2)(B)(iii), 42 U.S.C. 6295 (o)(2)(B)(iii).

The payback period measures the amount of time needed to recover the additional money the consumer invests in increased efficiency through lower operating costs. Numerically, the payback period is the ratio of the increase in purchase (and installation) price to the decrease in annual operating expenditures (including maintenance) from replacing the 2003 baseline water heater with a water heater incorporating another more efficient design option.

For purposes of the rebuttable presumption test, DOE identifies the design options with the highest efficiency that have a payback of no more than three years. Since the Act requires that the rebuttable presumption be based on the DOE test procedure, it is determined in the engineering

analysis. See section IV.A.1.c. of this notice for these results.

F. National Impacts Analysis

1. Net Present Value (NPV) and Energy Savings

The national impacts analysis assesses the NPV of total consumer LCC and energy (and water, if appropriate) savings. A preliminary assessment of the aggregate impacts at the national level is conducted for the NOPR. Analyzing impacts of Federal energy-efficiency standards requires a comparison of projected U.S. residential energy consumption with and without standards. The base case, which is the projected U.S. residential energy consumption without standards, includes the mix of efficiencies being sold at the time the standard becomes effective. Sales projections together with efficiency levels of the water heaters sold, are important inputs to determine the total energy consumption due to water heaters under both base case and standards case scenarios. The differences between the base case and standards case provides the energy and cost savings. Depending on the analysis method used, the sales under a standards case projection may differ from those of a base case projection.

The Department estimates national energy and water, if applicable, consumption for each year beginning with the expected effective date of the standards. National annual energy and water savings are calculated as the difference between two projections: a base case and a standards case.

Analysis begins with estimated energy savings by fuel type for electricity, natural gas, LPG, and oil. DOE estimates energy consumption and savings based on ''site energy'' (kWh of electricity, million Btu of natural gas, LPG or oil used in the home). The Act defines ''energy use'' as the ''quantity of energy directly consumed by a consumer product at the point of use, determined in accordance with test procedures under Section 323.'' Section 321(4), 42 U.S.C. 6291(4). This is generally called ''site'' energy as opposed to ''source'' energy, which includes transportation and generation losses.

The energy savings to the nation are expressed in quadrillions of Btu's of ''source'' energy. The National Energy Savings (NES) spreadsheet model first calculates the energy savings in site energy, kWh or Btu, and then uses a time series of conversion factors to convert site energy to source energy. This was a recommendation by the Appliance Efficiency Advisory Committee that the Department implemented recently. The conversion factors are derived from the AEO99 (DOE/EIA–0383).

Measures of impact reported include the NPV of the energy savings in dollars and the energy savings at the source. Each of the above are determined for selected trial standard levels. These calculations are done by the use of a spreadsheet tool called the NES spreadsheet model, which has been developed for all the appliance standards rulemakings and tailored to each specific appliance rulemaking.

In the water heater rulemaking, the NES spreadsheet model also forecasts fuel type market shares to new housing completions. Fuel switching may be caused by price increases of gas-fired and/or electric water heaters due to standards or other government agency actions. DOE examines several scenarios in order to include the range of possibilities for different market shares of electric and gas-fired water heaters (see Chapter 11.3 of the TSD).

2. National Energy Savings (NES) Spreadsheet Model

Table 6 lists the major assumptions that DOE used in the water heater NES analysis. We discuss many of these assumptions briefly in this section. We discuss in more detail below our shipment analysis because shipments are an important input to the NES analysis. The shipment model predicts the number of water heaters expected to be sold each year between 2003 and 2030. For more details on the NES analysis, please see Chapter 12 in the TSD.

TABLE 6.—ASSUMPTIONS USED IN THE NATIONAL ENERGY SAVING ANALYSIS

National energy savings assumptions	
Description	Assumption
Real Discount Rate and Year of the NPV	7% discounted to the year 1998.
Start Year of New Standards	2003.
Energy Savings	Source Consumption.
Average Marginal Energy Price	From the LCC analysis adjusted to 1998$.
Average Retail Prices and Installation Costs	From the LCC analysis.
Energy Price Projections to 2020	AEO99.
Extrapolation of Energy Prices to 2030	For petroleum, we use the average world oil price with markups from 2020; for gas, we use the average growth rates from 1997–2020 with margins from 2020; electricity prices are constant at 2020 levels.
Electric Source to Site Conversion Factors	Time variant values from AEO99.
Gas Source to Site Conversion Factors	0.9 from AGA.
Voluntary Programs	Included in the base case via historical shipments data.
Annual Unit Energy Consumption	Values from the engineering analysis are market weighted by shipments forecasts.
Base Case	Electric: 80% low efficiency, 20% high efficiency. Gas-fired: 70% low efficiency, 12% medium efficiency, 18% high efficiency. Oil-fired: 80% low efficiency, 15% medium efficiency, 5% high efficiency.

The NES spreadsheet model determines the total source energy savings and the NPV of these savings. The model calculates net savings each year as the difference between total operating cost savings and total equipment cost increases. The NPV calculations also capture any differences in maintenance costs. NPV greater than zero indicates net savings (*i.e.*, that the standard reduces consumer expenditures in the standards case

relative to the base case). NPV less than zero indicates that the standard incurs net costs. The elements of the NPV also can be expressed as a benefit/cost ratio. The benefit is the savings in decreased energy expense, while the cost is the increase in the purchase price due to standards relative to the base case. When the NPV is greater than zero, the benefit/cost ratio is greater than one and benefits exceed costs.

We determine equipment costs from the increased purchase price associated with the higher energy efficiency of appliances purchased in the standards case compared to the base case. We calculate equipment costs as the difference in the purchase price between the base case and trial standard levels for new water heaters purchased each year, multiplied by water heater sales. We accounted for the number of water heaters sold each year by tracking shipments of new water heaters and the average lifetime of each market share by trial standard levels. We determine the retail prices of the baseline design and the higher efficiency design options from the LCC Analysis. Purchase price includes the water heater installation cost.

Reductions in operating costs associated with the higher energy efficiency of water heaters purchased in the standards case—compared to the base case—create savings. Total operating cost savings are the product of savings per unit and the number of units of each age that continue to operate in a particular year. We accounted for the mix of different efficiencies each year using an average annual unit energy consumption weighted by the percentage of water heaters in the market.

DOE calculates national energy consumption for the base case and each trial standard level by multiplying the average energy consumption by water heater age times the number of water heaters of that age still in the stock. This yields an estimate of the national total energy consumption for a year. We calculated annual NES as the difference between the total energy consumption for the trial standard level and the base case. We summed the annual NES to obtain cumulative energy savings over the period 2003–2030. Then using energy conversion rates from the EIA's AEO99 or from AGA, we can calculate the source energy consumption and savings. Energy conversion rates account for generation and distribution losses of electricity and transportation and pumping losses of natural gas. DOE's proposed standard is only based on the AEO99 reference energy price forecasts, although we consider the high and low economic forecast.

NPV in a Saturated Market

NPV is the (discounted) difference in national water heater expenditures between the standard and base cases. Standards generally lower the average operating cost of appliances, but increase the average first (equipment) cost. Also, standards can cause consumers to make different purchase decisions, either choosing another product, *e.g.,* room air conditioner instead of central air conditioners, or another fuel type, *e.g.,* electric to gas. NPV accounts for these shifts.

Water heaters constitute a saturated market (96% of households)—standards are not expected to affect the percentage of households using a water heater. However, standards may affect the fuel type mixture of the water heater market. In calculating the NPV, the NES model accounts for two effects, the operating expenditures and increase in purchase price of the more efficient water heaters. The shipments model, an input to the NES, forecasts the change in market share of the various fuel types in response to the different standards. These shipment changes, due to purchase price, are reflected in the NES calculation of NPV.

Since trial standard levels 1 and 3 are the same for gas water heaters, one would expect the NPV for these two levels to be the same. The individual, or unit, change in purchase price and operating expenditures are the same for the two trial standards levels, however, the shipment model forecasts are different for gas and electric water heaters. These different shipment forecasts cause the aggregate equipment expenditures and operating costs to differ for the two trial standards levels.

Because of the higher cost of electric water heaters in trial standard level 3, the market share of electric water heaters is predicted to decrease. In the period between 2003 and 2030, the shipment model predicts about five million fewer electric water heater shipments in trial standard level 3 than in trial standard level 1. This loss in shipments of electric units is (roughly) compensated by an equivalent gain in gas unit shipments.

NPV, combined across fuel types, includes the effect of market share changes caused by standards. For a saturated market, which is the case with water heaters, this accounts for the effects on the nation of standards. Considering NPV separately by fuel type can be misleading because changes in shipments among fuel types (market effects due to price increases) can obscure the expected national energy savings due to improved efficiency across all product classes. For a complete discussion of this topic, see sections 12.2 and 12.5 of Chapter 12 in the TSD.

a. Shipments

One of the more important components of any estimate of future economic impact is shipments. Forecasts of shipments for the base case and the standard case need to be obtained as an input to the NES. Table 7 lists the major assumptions that DOE used in the water heater shipments analysis. We discuss many of these assumptions briefly in this section. For more details on the shipments analysis, please see Chapter 11 in the TSD.

TABLE 7.—ASSUMPTIONS USED IN THE SHIPMENTS ANALYSIS

Shipments analysis assumptions	
Description	Assumption
Base Case	Based on historic data and new housing starts, projected to 2030.
Existing Homes	Replace water heaters with units of the same fuel type. 96% of housing units have water heaters of the type analyzed here.
New Construction	Have a fuel choice, 96% of homes have a residential water heater of one of the four major fuel types. Number of housing units based on Census data and EIA forecasts.
Market Saturation in New Construction	Based on fuel price, equipment price and household income.
Implicit Discount Rates	Electric 191%, Gas-fired 83%, Oil-fired 124%, LPG 83%.
Cost Elasticities	From a 1979 Oak Ridge National Laboratory study, see Table 11.3 in the TSD.
Fuel Prices	AEO99 and GRI98.
Lifetime	Appliance Magazine 1998: Electric 4–19 yrs., most likely is 12 yrs; gas, oil and LPG, 3–15 yr., most likely is 9 yrs.

TABLE 7.—ASSUMPTIONS USED IN THE SHIPMENTS ANALYSIS—Continued

Shipments analysis assumptions	
Description	Assumption
Equipment Cost	From the LCC analysis.
Household Income	RECS93.

The Water Heater Shipments forecast spreadsheet is used primarily as an input into estimates of national impacts from standards implementation and into the manufacturer's impact analysis. The model predicts the total number of water heaters expected to be sold by manufacturers in each year between 2003 and 2030. In addition, it describes the change in fuel type market saturation due to implementing standards and other macroeconomic factors. The basic assumption of our analysis is that nearly all homes currently have a water heater with one of the four major fuel types, and that this trend will continue throughout the forecast period. Furthermore, we consider only water heaters serving a single housing unit. (We know from the RECS public use data that 4% of housing units built will either have no hot water, share a hot water heater with other units, or be fueled by a source other than the four fuel types, but we have excluded these from our analysis.)

In its comments, AGA asked why the consumer implicit discount rates are different for gas, electric, and oil. (AGA, No. 68 at 6). We use an implicit discount rate to model a consumer's behavior and the tendency to purchase the least expensive water heater. We assume consumers are strongly influenced by first cost and future savings are much less important. The implicit discount rates are different for each fuel class because they depend on the increase in consumer price from the baseline to the first design option. In the shipment analysis, we use the implicit discount rate to determine the value of future operating cost savings for gas-fired, electric, oil-fired and LPG water heaters.

ACEEE claimed DOE's analysis assumes purchasers are quite sensitive to operating costs and suggested DOE reduce the sensitivity to operating costs in the water heater shipment model similarly to the adjustments made to the clothes washer shipments model. (ACEEE, No. 93 at 5). We could not make any adjustments to our shipments model similar to the adjustments made for clothes washers because we do not have any consumer preference surveys for water heaters.

We use implicit discount rates to calculate equipment cost elasticities, which are about 2–5 times higher than operating cost elasticities. Based on the operating cost elasticities derived by the Oak Ridge National Laboratory (ORNL), we assume consumers are more sensitive to first cost than to operating cost. Using these calculations in the shipments model and the NES spreadsheet, we can assess the impact of fuel switching. The complete explanation and derivation of terms are in Chapter 11.3.2 of the TSD.

As part of its analysis to determine energy savings, the Department develops a base case forecast. The base case shipments is a forecast of annual shipments in the absence of new standards and their weighted average energy efficiency to the year 2030. This forecast requires an assessment of the impacts of past and current non-regulatory efforts by manufacturers, utilities and other interested parties. DOE considers information on the actual impacts of such initiatives to date, and also considers information presented regarding the possible impacts that any current initiatives might have in the future. Such information could include the actions manufacturers, distribution channels, utilities, or others will take to realize such voluntary efficiency improvements.

To develop a base case forecast of shipments, we used total water heater shipments from GAMA through 1993 and market share data from consultants to calibrate the model so it correctly estimates historical data. DOE calculated annual water heater shipments by fuel type as the sum of water heater installations in new housing and replacement units. We account for the energy saving impacts of non-regulatory efforts by manufacturers, utilities, and government (*e.g.*, the FEMP), in the base case and we forecast their effects in the future. DOE considered information on the actual impacts of such initiatives to date, and also considered information regarding possible impacts that any existing initiatives might have in the future. See Chapter 11.3.1 in the TSD for our estimates of the relative market share efficiencies for the base case.

Voluntary programs typically have a small but important effect in raising the future efficiency of the average appliance in the market. In the water heater market, utility programs and state building codes have created regional markets for high efficiency gas-fired and electric water heaters. See Section V.B of this notice for results of enhanced voluntary programs. FEMP also provides government purchasers with information about higher efficiency water heaters and their life-cycle costs. We included the effects of these programs in the base case by modeling the current market for each fuel type by efficiency level. DOE also is researching electric heat pump water heaters and hopes to increase their market penetration in the future by reducing the first cost to consumers. We have not included any impact from these efforts to increase heat pump water heater market penetration in our forecast since we are still doing research.

Since 1980, the U.S. has built about 1.3–2.1 million new housing units each year, including mobile home placements. From 1990–1993, about 96% of new housing units installed residential storage water heaters of the type and size considered under the standards. The remaining 4% of new housing units are not considered in the shipments forecast because the water heaters are shared among more than one housing unit or renewable energy sources are used for water heating. Thus, there are about 1.2–2.0 million residential storage water heaters installed in new housing each year. Since 1990, these installations have accounted for 15–20% of annual water heater shipments.

After accounting for new housing construction, the remaining 80–85% of shipments are replacements. We determined the number of replacements by using the number shipped in the past and a distribution of water heater life expectancies, which varies by fuel type.

The choice among competing fuels for water heating is highly correlated with the choice of fuel for space heating. Most homes use the same fuel for water heating as for space heating. In this analysis, we assume that when water heaters need to be replaced, they are replaced by water heaters of the same

fuel type as the original; changes in market share occur primarily as a result of installation trends in new housing. Natural gas and electric water heaters account for the major shares of shipments. As of 1997, electric water heaters account for about 47%, and natural gas (including LPG) water heaters account for almost 53%. Sales of oil-fired water heaters account for less than 1% of water heater shipments.

DOE estimates shipments based on two markets: new housing construction and water heater replacements in existing housing. We assume replacements in existing housing equal retirements; that is, everyone replaces his or her worn-out water heater. We further assume consumers replace their water heaters with the same fuel type; that is, we assume no fuel switching in the replacement market. For each fuel type, the number of retirements is equal to the total stock of each vintage, multiplied by a retirement probability for that vintage contained in the lifetime function for that fuel type. Electric water heaters have a life expectancy of 4–19 years and gas-fired water heaters last from 3–15 years, with average lifetimes of 12 and 9 years, respectively, as published in the September 1998 issue of Appliance Magazine. We expect water heater replacements to constitute 85 percent of total water heater shipments by 2003. Total retirements calculated in this way show rough agreement with historical shipment data provided by GAMA, during the period from 1967 to the present.

The remainder of shipments comes from new housing construction. We took housing completions, including mobile home shipments, from census historic data and EIA forecasts. Currently, 96% of new homes generate a shipment of a water heater that is not shared and that is fired by one of the four major fuel types. We assume this percentage remains constant throughout the forecast period.

The projected shipments for each fuel type consist of the water heaters retired and replaced, plus the number of new homes multiplied by the new-home market saturation of the fuel type. Total modeled shipments agree with actual shipment data from 1980–1997.

In its comments, Battelle requested an explanation for the sudden shifts in shipments among fuel types in the analysis. (Battelle, No. 83 at 7). Although there may be shifts in shipments among fuel types, we expect the total number of water heaters shipped to, and installed in, consumers' homes (shipments) to be nearly the same under different trial standard levels. When standards become effective, all the baseline water heaters immediately have improved efficiency and higher prices. The change in price among fuel types causes the sudden shift in shipments.

EEI claimed the water heater shipment forecast seemed to be optimistic, with sales increasing for gas-fired and electric units every year from 2000–2030 (30 years). Past history has shown periods of flat or declining shipments. (EEI, No. 39 at 9). Our shipment forecast reflects the EIA's forecast of continued strong demand for new housing construction. Shipments of each fuel type may differ slightly, due to changes in market saturation occurring as a result of installation trends in new housing.

Fuel Switching and Market Share. The Department decided to study the potential impacts of different trial standard levels on fuel type market share using the shipment model. A large shift from one fuel to another may affect consumer costs and national energy consumption and environmental impacts. We created an Ad Hoc Water Heater Fuel Switching Working Group to assist us in investigating fuel switching concerns. The Working Group was made up of representatives from GAMA, gas and electric utilities and energy advocates. The Working Group decided that since most water heater replacements are usually emergencies, water heaters are always replaced with the same fuel type. Therefore, in our analysis we assume no fuel switching in the replacement market; all shifts in fuel type market share are assumed to occur in new construction.

The Department determined fuel type market share in new construction in response to economic conditions. The three components contributing to the type of water heater a consumer will buy are: equipment (initial) cost, operating (fuel) expense, and household income. The shipment model that we used takes income and fuel price projections through 2030 from EIA. Equipment costs and unit energy consumption are those calculated in the Engineering and LCC analyses. Each of these variables is related to consumer behavior by a set of cost elasticities from a 1978 study by the ORNL (ORNL/CON–24 1978). For more details on shipments and fuel switching, see Chapter 11.3 in the TSD.

Water heater market shares in new construction by fuel type in 1992 were: 47% electric; 44% natural gas; 1% oil; and 4% LPG. The shipments model shows a drop in gas market shares in the 1990s that may not be supported by data. Data from the American Housing Survey on space heating fuel market saturations shows no decline in gas heating fuel installations during the 1990s. Since space heating fuel and water heating fuels are highly correlated in households, we decided to conduct a sensitivity analysis to understand the impact of different shipment scenarios. We investigated several alternative scenarios based on constant market share. This scenario fits the results of the American Housing Survey. U.S. Census Bureau, Current Housing Reports, Series H150/97, September 1999.

We conducted the NES analysis to determine energy savings and NPV using a constant market shipment scenario and two scenarios based on a 10% change in the constant market shipments. Note that a constant market shipment fixes fuel shares so there is no fuel switching. For each of these scenarios, we forecast all four trial standard levels. In all cases, we held market shares of shipments constant throughout the forecast period. In the first scenario, we held market shares of shipments at 1992 values; that is, electric 47% and natural gas 44%. In the second scenario, we shift market shares of shipments 10%, to electric 57% and natural gas 34%. In the third scenario, we shift market shares of shipments to 37% electric and 54% natural gas.

Results from the NES analysis show only slight differences in NES among the three scenarios 0.06–0.11 quads compared to the model result of 4.75 quads. Among the three scenarios, NPV is at its highest level at trial standard level three although it is about 15% lower than the model forecast. Since we only changed the shipment model in the three scenarios and our shipment forecast falls within the range of the scenarios, we conclude the energy savings and economic benefits to consumers are not sensitive to a 10% increase or decrease in new construction market share of electric or gas-fired water heaters. Therefore, we have continued to use the model results in our analysis. We present the results for the sensitivity analysis in Chapter 11.3.3 of the TSD.

b. Energy Prices

Because the AEO99 forecasts only to the year 2020 while other analyses related to appliance energy efficiency are forecast to 2030, we extrapolated energy price data to 2030 using a method similar to the one that EIA uses to forecast fuel prices for FEMP. To determine the regional price forecasts for petroleum products, we used the average growth rate for the world oil price in combination with refinery and distribution markups from 2020.

Similarly, we derived natural gas prices from the average growth rate over the years 1997–2020 in combination with regional price margins from the year 2020. We kept electricity prices constant at 2020 levels because we assume the transition to a restructured utility industry will be completed by then.

3. Comments

LaClede stated the spreadsheet only allows the EIA price, heat rate, emissions, and economic forecasts. (LaClede, No. 69 at 4). EMPA stated DOE's analyses appear to be biased toward EIA's high economic scenario. (EMPA, No. 88 at 2). The EIA high and low economic forecasts bound the GRI and AGA forecasts, with one exception. From 2016–2020, the EIA low growth scenario forecasts fuel prices that are higher than the GRI forecast. See Appendix E–4 of the TSD for the results of alternate energy price forecasts. The spreadsheets can produce output based on any of the four economic scenarios. We based our decision on the reference case in the AEO99 energy price forecasts. This is the middle range of the energy price forecast and there is no bias toward the high economic scenario.

AGA commented that the national energy analysis spreadsheet does not permit alternative inputs for electricity generation efficiency. (AGA, No. 68 at 4). The NES spreadsheet models include a clearly defined column of conversion factors, one for each year of the projection. DOE and stakeholders can examine the effects of alternative assumptions by substituting different values in this column.

The model calculates national energy consumption at the site (*i.e.*, electricity in kWh, natural gas, LPG, and oil in MMBtu, consumed in the household). Based on this site energy consumption, DOE applied site-to-source conversion factors to calculate the primary energy consumed. The conversion factors are different for natural gas and electricity and account for losses, such as losses in generation, transmission, and distribution of electricity, or distribution losses for natural gas. This analysis assumes that the source conversion factor changes over time, and applies annual values. The model uses the U.S. annual electricity conversion factors from AEO99, Table A4 (DOE/EIA 1998). The source conversion factor applied to site natural gas consumption is the site energy divided by 0.9 (Natural Gas Council (NGC), 1998).

In comments on the November 1998 analysis, AGA claimed the gas source-to-site conversion should be 90%, but the spreadsheet for the July workshop used 78% in 2003 and 81% in 2030. (AGA, No. 68 at 4). We have corrected this error in the baseline case of the NES spreadsheet and the conversion is now 90%. However, for the natural gas savings from the trial standard levels we use a marginal site to source gas conversion factor from NEMS–BRS model (see Section III.I of this notice) that is approximately 91%. See Chapter 12 of the TSD.

NGC stated that in the case of natural gas, approximately 10% of the total energy is lost in the journey from the wellhead to the burner tip. NGC compared this loss to losses of 73% for electricity generation and distribution. It claims a total energy efficiency analysis will show gas-fired water heaters to be more efficient and cost effective than their electric counterparts. (NGC, No. 59 at 1).

The Department has always believed that, in evaluating the impacts of appliance standards, one must consider the full range of impacts, including consumer and national impacts. In the analysis of consumer impacts, the Department considers the energy directly consumed by the product at the point of use. The measures of energy efficiency and energy use are, for example, all based on the energy consumed at the point of use and these are the measures of energy use that are used in the consumer analyses, *e.g.*, LCC in Section III.E of this notice. See Section 321(4) of EPCA, as amended, 42 U.S.C. 6291(4), which defines energy use in this manner. This, DOE believes, provides useful measures to consumers since it can be directly related to information readily available, *i.e.*, utility bills. In examining the impacts of standards on the nation, however, the Department considers the total energy consumed over the entire fuel cycle as well as emissions and energy costs. In this manner, the analysis captures the total impact of the standards.

G. Manufacturer Impact Analysis

1. Economic Impact on Manufacturers

The economic impact of the standard on manufacturers is a criterion that must be considered under EPCA, as amended. Section 325(o)(2)(B)(i), 42 U.S.C. 6295(o)(2)(B)(i). The Process Rule provides guidance on how to assess these potential impacts on manufacturers. 10 CFR 430, subpart C, appendix A 10. First, the Department will utilize an annual cash flow approach in determining the quantitative impacts on manufacturers. This includes a short-term assessment based on the cost and capital requirements during the period between the announcement of a regulation and the time when the regulation comes into effect. We will examine critical variables affecting manufacturers, such as industry NPV, cash flows by year, changes in revenue and income, changes in product price as it affects the fuel type of water heaters shipped, and other variables, as appropriate. Second, the Department will analyze and report the impacts on different types of manufacturers, with particular attention to impacts on small manufacturers. Third, the Department will consider the impact of standards on domestic manufacturer employment, manufacturing capacity, plant closures and loss of capital investment. Finally, the Department will consider the cumulative impacts of other DOE and other Federal agencies' regulations on manufacturers.

2. Product Specific

The manufacturing impact analysis (MIA) estimates the financial impact of standards on manufacturers, as well as the impacts on competition, employment, and manufacturing capacity. Table 8 lists the major assumptions that DOE used in the water heater MIA. We discuss each of these assumptions briefly in this section. For more details on the MIA, please see Chapter 13 in the TSD.

TABLE 8.—ASSUMPTIONS USED IN THE MANUFACTURING IMPACT ANALYSIS (MIA)

Assumptions in the manufacturer impact analysis	
Description	Assumption
Manufacturer Costs and Investments	GAMA & consultants' estimates.
Financial Information	SEC–10K Reports, Moody's Company Data Reports, Standard & Poor's Stock Reports, and Robert Morris Associates Reports.
Shipments	From the shipments forecast.

TABLE 8.—ASSUMPTIONS USED IN THE MANUFACTURING IMPACT ANALYSIS (MIA)—Continued

Assumptions in the manufacturer impact analysis	
Description	Assumption
Business Scenarios	1. Full recovery of investment, 2. Loss of all investment, 3. Recovery of 75% of investment.
Other Federal Regulatory Actions	Phase out of HCFC–141b on January 1, 2003 and the CPSC initiative to prevent ignition of flammable vapors on gas-fired water heaters.
Qualitative Impacts	From interviews.

We conducted the MIA in three phases. Phase one consisted of the preparation of an industry characterization as well as individual meetings with manufacturers to identify issues facing the water heater industry. Phase two focused on the larger industry. In this phase, DOE used the Government Regulatory Impact Model (GRIM) to perform an industry cash flow analysis. Phase three entailed documenting additional impacts on competition, employment, and manufacturing capacity based on comments during the manufacturer's interviews. Below, we describe the three analytical tools used to accomplish these three phases: GRIM modeling, manufacturer subgroup analysis, and interviews.

There are two other government regulatory actions that water heater manufacturers must incorporate into their manufacturing process by January 1, 2003, or sooner. First, the EPA phase out of HCFC's will require an alternative insulation blowing agent. Second, the CPSC initiative to prevent ignition of flammable vapors on gas-fired water heaters will require design, development, testing and production of a radically new gas burner. We account for these two actions in the MIA as cumulative effects along with energy efficiency standards.

3. GRIM: Industry Cash Flow

A change in energy efficiency standards affects manufacturers in three distinct ways. More stringent standards require additional investment, raise production costs, and affect revenue through higher prices and, possibly, lower quantities sold. To quantify these changes, the Department performed an industry cash flow analysis using the GRIM. The GRIM analysis uses a number of factors—annual expected revenues, manufacturer cost of sales, selling and general administration costs, taxes, and capital expenditures related to depreciation, new standards, and maintenance—to arrive at a series of annual cash flows beginning before implementation of standards and continuing explicitly for several years after implementation. DOE obtained financial information, also required as an input to GRIM, from publicly available data and aggregated values of confidentially submitted manufacturer information. Discounted annual cash flows from the period before implementation of standards to some future point in time provide the measure of industry net present values.

Given the relatively small number of firms in the industry, the Department created an industry cash flow analysis using a combination of top-down and bottom-up approaches. In order to facilitate individual manufacturer analyses, the Department prepared baseline scenarios for a ''strawman'' manufacturer using publicly available financial information (top-down). Manufacturers were able to modify relevant parameters to meet their own situation (price, cost, financial, etc.) (bottom-up). DOE aggregated the modified inputs to the GRIM to develop an industry cash flow. DOE then used this industry cash flow to determine the economic burden on manufacturers for energy efficiency standards as well as other regulations currently facing the industry.

The Department received manufacturing cost data for the various design options for typically-sized gas-fired and electric water heaters from manufacturers; GAMA had compiled and reported these data. DOE consultants provided manufacturer costs for the various design options for typically-sized oil-fired water heaters. DOE used the initial GAMA data, coupled with publicly available financial information, to develop a ''strawman'' industry cash flow.

In preparing the industry cash flow analysis, the Department used the same shipment scenarios in the GRIM and the NES spreadsheets. The other GRIM inputs are firm-level financial information that indicates the extent to which individual firms may be adversely impacted by new standards. To obtain estimates for these inputs we analyzed publicly available, firm-specific financial information—SEC–10K Reports, Moody's Company Data Reports, Standard & Poor's Stock Reports, and Robert Morris Associates Reports—for major water heater manufacturers.

4. Manufacturer Subgroup Analysis

Using industry ''average'' cost values is not adequate for assessing the variation in impacts among subgroups of manufacturers. Standards could more negatively affect smaller manufacturers, niche players, or manufacturers exhibiting a cost structure largely different from industry averages. The Department conducted detailed interviews with as many manufacturers as possible to gain insight into the potential impacts of standards. During these interviews, the Department solicited the information necessary to evaluate cash flows and to assess competitive, employment, and capacity impacts. The Department also considered firm-specific cumulative burden. We requested participation from both large and small manufacturers, but only four of the five large manufacturers responded. No small manufacturers responded to DOE's request for interviews, so examination of the small manufacturers was not possible at the quantitative level carried out for the large manufacturers.

5. Interview Process

The interview process played a key role in the MIA, because it provided an opportunity for interested parties to privately express their views on important issues. A key characteristic of the interview process is that it allows DOE to consider confidential information in its decision making process.

The Department developed a detailed and focused questionnaire, using information collected during the industry characterization process from industry and market publications, industry trade organizations, company financial reports, and product literature. The Department of Justice (DOJ) reviewed and commented on the

interview questionnaire. The interview questionnaire solicited information on the possible impacts of trial standard levels on manufacturing costs, product prices, and sales. The questionnaire solicited both qualitative and quantitative information. Evaluation of the possible impacts on direct employment, capital assets, and industry competitiveness drew heavily on the information gathered during the interviews.

The questions on competitive impacts pertained to the assessment of the likelihood of increases in market concentration levels and other market conditions that could lead to anti-competitive pricing behavior. The manufacturer interviews also gathered information that helped in assessing whether there may be asymmetrical cost increases to some manufacturers, whether any increased proportion of fixed costs potentially increases business risks, and whether there are any potential barriers to market entry (*e.g.,* proprietary technologies).

DOE conducted face-to-face interviews with four of the five major water heater manufacturers in the winter and spring of 1999. During these interviews, the Department solicited the information necessary to evaluate cash flows and to assess competitive, employment, and capacity impacts. DOE also discussed firm-specific cumulative regulatory burdens. DOE has not placed any confidential information from the manufacturer interviews in the public record. However, DOE considered all of the information collected by interviews in its decision making process.

DOE collated the completed interview questionnaires and prepared a summary. Chapter 13.3.2 of the TSD discusses the major issues identified by the manufacturers during the interview process. Also, Appendix H–1 of the TSD contains a copy of the manufacturer's interview guide.

The manufacturer interviews allowed a free exchange of information between DOE representatives and manufacturer representatives, in a manner that does not occur in public meetings. From this exchange, the Department gained much more than quantitative data on the financial impacts of the trial standard levels for each particular company. During the interviews, DOE and manufacturers discussed rulemaking issues such as:

—The requirements for a new blowing agent,
—Design options that are particularly costly or difficult to manufacture or market,
—Marketing and distribution issues,
—Impacts of developing and manufacturing gas-fired water heaters that prevent ignition of flammable vapors, and
—Installation concerns due to thicker insulation.

H. Other Factors

This provision allows the Secretary of Energy, in determining whether a standard is economically justified, to consider any other factors that the Secretary deems to be relevant. Section 325(o)(2)(B)(i)(VI), 42 U.S.C. 6295(o)(2)(B)(i)(VI). The Secretary has decided that no other factors need to be considered in this rulemaking.

I. Utility Analysis

The utility analysis estimates the effects of the reduced energy consumption due to improved appliance efficiency on the utility industry. Because electric utility restructuring is well underway, it is no longer valid to assume a cost recovery mechanism under public utility regulation, which was the basis of previous utility impact analyses. Therefore, this utility analysis consists of a comparison between forecast results for a case comparable to the AEO99 Reference Case and forecasts for policy cases incorporating each of the water heater trial standard levels.

Table 9 lists the major assumptions DOE used in the water heater utility analysis. We discuss each of these assumptions briefly in this section. For more details on the utility analysis, please see Chapter 14 in the TSD.

TABLE 9.—ASSUMPTIONS USED IN THE UTILITY IMPACT ANALYSIS

Utility impact analysis assumptions	
Description	Assumption
Energy Prices	AEO99.
Energy Savings	From the NES spreadsheet as site energy savings.
Interpolation of Scaling Factors	Linear.

The Department uses a variant of EIA's widely recognized National Energy Modeling System-Building Research and Standards called NEMS–BRS for the utility analysis, together with some scaling and interpolation calculations.[1] EIA uses NEMS primarily for the purpose of preparing the Annual Energy Outlook. Using NEMS, EIA produces a baseline forecast for the U.S. energy economy through 2020. The NEMS–BRS model used for this analysis is based on the AEO99 version of NEMS with minor modifications.

NEMS–BRS has several advantages that have led to its adoption as the source for basic forecasting in the appliance energy efficiency analyses. NEMS–BRS relies on the AEO99 assumptions, which are well-known and accepted due to the exposure and scrutiny each AEO receives. In addition, the comprehensiveness of NEMS–BRS permits the modeling of interactions among the various energy supply and demand sectors and the economy as a whole, so it produces a sophisticated picture of the effects of appliance standards. Perhaps most importantly, because it explicitly simulates the impact on the industry, NEMS–BRS provides an accurate estimate of marginal effects, which yield better indicators of actual effects than estimates based on industry-wide average values. Marginal rates show only the effects of standards. Average rates show the effects of standards as well as what is happening in the market.

To analyze the effects of standards, we evaluate the trial standard levels by entering the changes in electricity, gas, LPG, and oil consumption values into the NEMS–BRS Residential Demand Module. We took the energy savings input from the NES spreadsheet, applied it to the water heater end use, and allocated it appropriately among census divisions. In the TSD, we report

[1] For more information on NEMS, please refer to the National Energy Modeling System: An Overview 1998. DOE/EIA–0581 (98), February, 1998. DOE/EIA approves use of the name NEMS to describe only an official version of the model without any modification to code or data. Because our analysis entails some minor code modifications and the model is run under various policy scenarios that are variations on DOE/EIA assumptions, the name NEMS–BRS refers to the model as used here. BRS is DOE's Building Research and Standards office.

results for several key industry parameters, notably residential energy sales, generation, and installed capacity, including the fuel mix that is used for generation. See Chapter 14 of the TSD for more details.

J. Environmental Analysis

The Department determines the environmental impacts of each standard level as required in Section 325(o)(2)(B)(i)(VI), 42 U.S.C. 6295(o)(2)(B)(i)(VI). Specifically, DOE calculates the reduction in carbon dioxide (CO_2, nitrous oxide (NO_x) and sulfur dioxide (SO_2) emissions with the NEMS–BRS computer model, together with some external calculations. NEMS–BRS is a modification of the National Energy Modeling System used by DOE/EIA.

Table 10 lists the major assumptions DOE used in the water heater environmental analysis. We discuss each of these assumptions briefly in this section. For more details on the environmental analysis, please see Chapter 14 in the TSD.

TABLE 10.—ASSUMPTIONS USED IN THE ENVIRONMENTAL ANALYSIS

Environmental analysis assumptions	
Description	Assumption
Energy Prices	AEO99.
Energy Savings	From the NES spreadsheet as site energy savings.
Interpolation of Scaling Factors	Linear
Household Emissions	CO_2, NO_X & SO_2 estimated from general factors.

We analyze the environmental effects of proposed water heater energy-efficiency standards using NEMS–BRS plus some scaling and interpolation calculations. Inputs to NEMS–BRS are similar to those used for the AEO99 reference case, except residential energy usage for water heaters is reduced by the amount of energy (gas, oil, LPG, and electricity) saved due to the water heater trial standard levels.

The environmental analysis considers two pollutants, SO_2 and NO_X, and one emission, CO_2. NEMS–BRS has an algorithm for estimating NO_X emissions from power generation. Since we use the AEO99 version of NEMS, the May 25, 1999 EPA rule (64 FR 28249) on trading of NO_X is fully incorporated in our analysis. However, NEMS–BRS estimates of NO_X emissions are incomplete because NEMS–BRS does not estimate household emissions. Household emissions result from the combustion of fossil fuels, primarily natural gas, within individual homes. Because households that use natural gas, fuel oil, or LPG contribute to NO_X emissions, DOE's analysis includes a separate household NOx emissions estimation, based on simple emissions factors derived from the general literature. NEMS–BRS tracks CO_2 emissions based on the total of fuels consumed. NEMS–BRS also produces comprehensive estimates of the benefits of the trial standard levels, so no additional analysis is necessary. Because SO_2 emissions from power plants are capped by clean air legislation, physical emissions of this pollutant from electricity generation will be only minimally affected by possible water heater standards. Therefore, we do not consider power plant SO_2 emissions here, although we report household emissions savings using a method similar to that described for NO_X. See Appendix EA–1 in the TSD for the methodology used to derive emission factors for residential combustion.

The NES spreadsheet provides the input of energy savings for NEMS–BRS, which then produces the emissions forecast. We calculate the net benefits of the standard as the difference between emissions estimated by the reference case version of NEMS–BRS and the emissions estimated with the trial water heater standard in place. See the Environmental Assessment (EA) bound into the TSD for details.

We received several comments from stakeholders about the environmental analysis in NEMS–BRS. SC commented that the EIA treats electricity from renewable sources the same as fossil-fired generation. SC believes there is no benefit to ''saving'' hydroelectric, wind, geothermal generation, or biomass Btus. (SC, No. 42 at 3). However, DOE believes there are benefits from end-use electricity savings. Usually end-use savings result in differences in fossil fuel generation and not the fuels listed by SC because fossil fuels tend to be displaced first. The emissions reductions reported in this rulemaking are the net result of changes in the mix of electricity generating fuels used. Changes in equipment and any construction program adjustments that result from proposed standards are also accounted for. For example, DOE will only record CO_2 emissions savings to the extent that electricity generators burn less fuels emitting CO_2.

LaClede commented that DOE's emissions models appear to severely underestimate electric losses from extraction to generation, whereas natural gas losses are accounted for from the point of extraction to the point of end-use. (LaClede, No. 47 at 2). All losses from natural gas production are accounted for in NEMS–BRS. NES estimates are inputs to NEMS–BRS. They affect the natural gas supply system and are therefore completely accounted for in the model. As reductions in end-use consumption result in less natural gas generation, less gas is extracted from wellheads resulting in less transportation losses from point of extraction through pipelines.

NEMS–BRS accounts for total CO_2 emissions, so the full fuel cycle of carbon is incorporated from both coal and natural gas production. However, since NO_X and SO_2 emissions are only treated in the power sector, emissions of these pollutants caused by mining and transporting fuel for power plants (''upstream emissions'') are ignored in NEMS–BRS. For electric end-uses, all energy losses associated with transmission and distribution from electric generators to residential appliances are included. Appendix EA–2 was included in the TSD to quantify the relative contribution of these upstream emissions to those reported in NEMS-BRS. DOE does not include the estimates of upstream coal mining emissions in its emissions reduction estimates.

VP commented DOE should use marginal electric generating plant emission rates in the analysis to be more accurate and consistent with the energy costs. (VP, No. 45 at 3). Reported emissions are calculated from marginally displaced electric generation as simulated in NEMS–BRS.

K. Net National Employment

The Process Rule includes national employment impacts among the factors

DOE considers in selecting a proposed standard; 10 CFR 430 subpart C, appendix A(4)(d)(7)(vi). The Department estimates the impacts of standards on employment for appliance manufacturers, relevant service industries, energy suppliers, and the economy in general. We estimate two employment impacts: total and direct impacts. Total impacts—or net national employment impacts—are impacts on the national economy, including the manufacturing sector being regulated. Direct employment impacts would result if standards led to a change in the number of employees at manufacturing plants and related supply and service firms. The MIA only discusses the direct employment impacts.

We define net national employment impacts from water heater standards as net jobs created or eliminated in the general economy. We expect the proposed energy efficiency standards for water heaters to save consumers money, although these savings will be partially offset by increased costs for water heaters. The resulting net savings are expected to be redirected to other forms of economic activity. We expect these shifts in spending and economic activity to affect the demand for labor, but there is no generally accepted method for estimating these effects.

One method to assess the possible effects on the demand for labor of such shifts in economic activity is to compare sectoral employment statistics developed by the Labor Department's Bureau of Labor Statistics (BLS). The BLS regularly publishes its estimates of the number of jobs per million dollars of economic activity in different sectors of the economy, as well as the jobs created elsewhere in the economy by this same economic activity. BLS data indicates that expenditures in the electric sector generally create fewer jobs (both directly and indirectly) than expenditures in other sectors of the economy. There are many reasons for these differences, including the capital-intensity of the utility sector and wage differences. Based on the BLS data alone, we believe net national employment will increase due to shifts in economic activity resulting from the water heater standards.

In developing this proposed rule, the Department attempted a more precise analysis of national employment impacts using an input/output model of the U.S. economy. The model characterizes the interconnections among 35 economic sectors using the data from the Bureau of Labor Statistics. Since the electric utility sector is more capital-intensive and less labor-intensive than other sectors (see Bureau of Economic Analysis, Regional Multipliers: A User Handbook for the Regional Input-Output Modeling System (RIMS II), Washington, DC, U.S. Department of Commerce, 1992), a shift in spending away from energy bills into other sectors would be expected to increase overall employment. For more details on the net national employment analysis, please see Chapter 15 in the TSD. This analysis also concluded that the shifts in sectoral expenditures likely to result from the proposed ballast standard would likely increase the net national demand for labor.

Because this is a new analysis for an energy conservation standard rulemaking, we are requesting public comments on the validity of the analytical methods used and the appropriate interpretation and use of the results of this analysis.

IV. Analytical Results

A. Trial Standard Levels

Based on the combination of design options that represent the most energy efficient level and the results of the LCC, MIA and NES analyses, we selected the following trial standard levels (see Table 12). In selecting trial standard levels, we followed the guidance set forth in the Process Rule, 10 CFR 430, Subpart C, Appendix A, 5(c)(3), to identify and select candidate standard levels at the lowest LCC, a three year or less payback period, and the most energy efficient combination of design options.

We have established four trial standard levels. Each level is made up of a combination of design options for each of the three fuel classes (electric, gas and oil). Several of the trial standard levels have the same efficiency within a particular fuel type (*i.e.,* gas-fired trial standard level one and three have the same efficiency, but the electric and oil-fired efficiencies are different). This allows us to evaluate different design option combinations of fuel classes for subsequent analysis, permitting us to make an informed decision on the merits of different trial standard levels. We repeated some energy efficient, cost effective design options for electric and gas-fired water heaters in the selected trial standard levels to reduce the potential for fuel switching between these fuels. Table 11 presents the baseline and trial standard levels and associated design options for each fuel class of water heater.

TABLE 11.—TRIAL STANDARD LEVELS FOR WATER HEATERS WITH HFC–245FA BLOWING AGENT

Trial standard level	Design options	Energy factor
Basecase	Electric: Baseline	.93—.00132V*
	Gas: Baseline	.62—.0019V
	Oil: Baseline	.59—.0019V
1	Electric: Heat Traps + Tank Bottom Insulation	.95—.00132V
	Gas: Heat Traps + Flue Baffles (78% RE) + 2 Inch Insulation	.67–.0019V
	Oil: Heat Traps	.60—.0019V
2	Electric: Heat Traps + Tank Bottom Insulation + 2 Inch Insulation	.96–.00132V
	Gas: Heat Traps + Flue Baffles (78% RE) + 2.5 Inch Insulation	.68—.0019V
	Oil: Heat Traps	.60–.0019V
3	Electric: Heat Traps + Tank Bottom Insulation + 2.5 Inch Insulation	.97—.00132V
	Gas: Heat Traps + Flue Baffles (78% RE) + 2 Inch Insulation	.67—.0019V
	Oil: Baseline	.59—.0019V
4	Electric: Heat Traps + 3 Inch Insulation + Plastic Tank	.98—.00132V
	Gas: Heat Traps + Flue Baffles (80% RE) + 3 Inch Insulation + Side Arm Heater +Plastic Tank + IID	.79—.0019V
	Oil: Heat Traps + 3 Inch Insulation + Interrupted Ignition + Increased Heat Exchanger Area (82% RE)	.67—.0019V

* V is the Rated Storage Volume, which equals the water storage capacity of a water heater, in gallons, as specified by the manufacturer.

Based on Honeywell's September 13, 1999, public announcement that it will produce HFC–245fa, the proposed standard levels are based on insulation blown with HFC–245fa. We considered insulation thicknesses of 2 inches, 2.5 inches, and 3 inches. Although we do not report the results of the water blown insulation analyses here, we completed a full analysis using water blown foam for each trial standard level. We chose HFC–245fa over water blown insulation because of 0.7 to 1.7 quads more energy savings for trial standard levels one to four. We request comments on the use of water blown insulation since DOE has analyzed both options. Results from the water blown insulation analyses are found in the TSD. Chapter 9.7 in the TSD has tables for HFC–245fa and water-blown insulation and the associated design options for each fuel class of water heater.

Water heater energy conservation standards vary as a function of the water heater volume. Section 325(e) of EPCA as amended, 42 U.S.C. 6295(e). DOE defines this volume as the rated volume based on manufacturers' labeling. See 10 CFR 430, subpart B, appendix E. For this rulemaking, DOE verified that these volumetric coefficients were consistent for the increased levels of efficiency under consideration in the analysis.

1. Economic Impacts on Consumers

a. Life-Cycle-Cost

To evaluate the economic impact on consumers, we conducted a LCC analysis for each of the fuel types and trial standard levels including estimating the percent of the population that benefits at each trial standard level. Table 12 shows the average LCC savings and percent of households benefitting for each of the trial standard levels for each of the fuel classes. The average LCC savings for trial standard levels one, two and three are positive for gas-fired and electric water heaters with the HFC–245fa blowing agent. Only trial standard level three is not negative for oil-fired water heaters, and it is the baseline. None of the other trial standard levels has positive average LCC savings for oil-fired water heaters because energy savings are small compared to the increase in consumer price.

Where LCC savings are positive for electric and gas-fired water heaters, the percent of households benefitting ranges from 74–91% for the trial standard levels analyzed. For oil-fired water heaters, the maximum of households benefitting is 25% at trial standard level two. However, even at trial standard level four, 20–31% of households with electric or gas-fired water heaters will benefit.

TABLE 12.—LIFE-CYCLE-COST SAVINGS AND PERCENT BENEFITTING

[HFC–245fa Blown Insulation]

Trial standard level	Design options	Percent benefitting	Life-cycle cost savings
1	Electric: Heat Traps + Tank Bottom Insulation	91	32
	Gas Heat Traps + Flue Baffles (78% RE) + 2 Inch Insulation	87	43
	Oil: Heat Traps	25	−15
2	Electric: Heat Traps + Tank Bottom Insulation + 2 Inch Insulation	79	36
	Gas: Heat Traps + Flue Baffles (78% RE) + 2.5 Inch Insulation	79	34
	Oil: Heat Traps	25	−15
3	Electric: Heat Traps + Tank Bottom Insulation + 2.5 Inch Insulation	74	40
	Gas: Heat Traps + Flue Baffles (78% RE) + 2 Inch Insulation	87	43
	Oil: Baseline	NA	0
4	Electric: Heat Traps + 3 Inch Insulation + Plastic Tank	31	−55
	Gas: Heat Traps + Flue Baffles (80% RE) + 3 Inch Insulation + Side Arm Heater + Plastic Tank + IID.	20	−214
	Oil: Heat Traps + 3 Inch Insulation + Interrupted Ignition + Increased Heat Exchanger Area (82% RE).	0	−459

Another LCC analysis we conducted is the Consumer Subgroup analysis. This analysis examines the economic impacts on different groups of consumers by estimating the average change in LCC and by calculating the fraction of households that would benefit. We analyzed the potential effect of standards for households with low income levels and senior-only households, two consumer subgroups of interest identified by DOE and supported by stakeholders. We present the results of the analysis in Table 13.

TABLE 13.—CONSUMER SUBGROUP LCC SAVINGS AND PERCENT OF HOUSEHOLDS BENEFITTING

Trial std levels	Sample households benefitting (%)			Average LCC Savings ($)		
	Total	Senior-only	Low income	Total	Senior-only	Low income
Electric Water Heaters, HFC–245fa blown insulation						
1	91	94	92	32	34	29
2	79	83	80	36	48	43
3	74	77	76	40	53	48
4	31	34	28	−55	−46	−66
Gas-fired Water Heaters, HFC–245fa blown insulation						
1	87	90	91	43	42	46
2	79	80	82	34	34	38
3	87	90	91	43	42	46
4	20	20	19	−214	−193	−206

TABLE 13.—CONSUMER SUBGROUP LCC SAVINGS AND PERCENT OF HOUSEHOLDS BENEFITTING—Continued

Trial std levels	Sample households benefitting (%)			Average LCC Savings ($)		
	Total	Senior-only	Low income	Total	Senior-only	Low income
Oil-Fired Water Heaters, HFC–245fa blown insulation						
1	25	20	25	−15	−11	−6
2	25	20	25	−15	−11	−6
3	0	0	0	0	0	0
4	0	0	0	−459	−512	−461

The two consumer subgroups show the same trend in average LCC savings and percent of sample households benefitting as the total sample of households. In the case of electric water heaters, both senior-only and low income consumer groups appear to benefit more from trial standard levels two through four than the total sample of households. In households with gas-fired water heaters, low income households have greater savings of average LCC for trial standard levels one through three. None of the oil-fired water heater trial standard levels show positive LCC savings, but level three shows zero LCC savings because it is the same as the baseline. Low income households with oil-fired water heaters show 25% or less of households benefitting from any of the trial standard levels.

We have noted the LCC savings for the senior-only subgroup are similar to those of the general population. Since the elderly use 30 percent less hot water on average than the general population, one would expect their costs to be lower and as a result, the LCC effect to be different. However, the standby losses of water heaters, which are not affected by hot water usage, are the same for the elderly and the general population. Therefore, since most of the design options considered affect standby losses and not water heating efficiency, we would expect the distribution of LCC impacts for the elderly to be similar to the general population.

b. Median Payback

A part of the LCC analysis is the payback analysis. The LCC payback analysis considers all of the design option combinations for each fuel type and calculates a payback for each RECS household. We report the median payback from the distribution of paybacks for each trial standard level in Table 14. The median payback is the median number of years required to recover, in energy savings, the increased costs of the efficiency improvements.

TABLE 14.—MEDIAN AND TEST PROCEDURE PAYBACK (YEARS)

[HFC–245fa Blown Insulation]

Trial standard level	Design options	Median payback	Test procedure payback [1]
1	Electric: Heat Traps + Tank Botton Insulation	2.5	1.9
	Gas: Heat Traps + Flue Baffles (78% RE) + 2 Inch Insulation	2.9	3.3
	Oil: Heat Traps	8.2	6.1
2	Electric: Heat Traps + Tank Bottom Insulation + 2 Inch Insulation	4.8	3.3
	Gas: Heat Traps + Flue Baffles (78% RE) + 2.5 Inch Insulation	3.9	4.1
	Oil: Heat Traps	8.2	6.1
3	Electric: Heat Traps + Tank Bottom Insulation + 2.5 Inch Insulation	5.4	3.7
	Gas: Heat Traps + Flue Baffles (78% RE) + 2 Inch Insulation	2.9	3.3
	Oil: Baseline	0.0	0.0
4	Electric: Heat Traps + 3 Inch Insulation + Plastic Tank	11.7	8.2
	Gas: Heat Traps + Flue Baffles (80% RE) + 3 Inch Insulation + Side Arm Heater + Plastic Tank + IID.	11.3	10.3
	Oil: Heat Traps + 3 Inch Insulation + Interrupted Ignition + Increased Heat Exchanger Area (82% RE).	24.6	15.5

[1] Electric—50 Gallon; Gas—40 Gallon; Oil—32 Gallon.

c. Test Procedure Payback

The Act states that if the Department determines that the payback period is less than three years as calculated under the water heater procedure, there shall be a rebuttable presumption that such trial standard level is economically justified. In Table 14, we list the payback periods by fuel type (product class) and trial standard levels for HFC–245fa blown insulation. The Act further states that if this three year payback is not met, this determination shall not be taken into consideration in the deciding whether a standard is economically justified. Section 325(o)(2)(B)(iii), 42 U.S.C. 6295(o)(2)(B)(iii).

Only electric water heaters at trial standard level one satisfy the rebuttable presumption. Electric water heaters with heat traps and insulated tank bottoms have a 1.9 year payback calculated under the test procedure. There are no trial standard levels for gas-fired or oil-fired water heaters that have a payback of three years or less.

2. Economic Impact on Manufacturers

We performed a MIA to determine the impact of standards on manufacturers. The complete analysis is in Chapter 13 of the TSD. In general, manufacturers stated they would be able to manufacture any of the design options with heat traps, thicker insulation, tank bottom insulation on electric and improved flue baffles on gas-fired water heaters. None of the manufacturers indicated they would leave the industry or go out of business as a result of standard levels that would require

energy factors below plastic tanks or side-arm heaters (*i.e.*, trial standard levels one through three).

We conducted detailed interviews with four of the five major water heater manufacturers. The five together supply more than 99% of the U.S. residential water heater market. The interviews provided valuable information used to evaluate the impacts of an amended standard on manufacturers' cash flows, manufacturing capacities and employment levels.

We analyzed the water heater industry using two business scenarios. The standards scenario represents the investments needed to meet the energy efficiency level of a trial standard level. The cumulative scenario includes the investments required for energy efficiency improvement, changes to a new blowing agent and the development and manufacture of a gas-fired water heater resistant to ignition of flammable vapors. Additionally, we examined the ability of manufacturers to recover the investments required for each of the scenarios and trial standard levels.

The potential value of the water heater industry, represented by the INPV, ($322 million in 1998 dollars) is directly related to the manufacturers' price to the dealer/distributor. Since all five of the major manufacturers produce both gas-fired and electric water heaters, the industry is highly competitive in terms of manufacturer's pricing. Manufacturer prices are expected to increase from the current average cost to the dealer/distributor of $156 to a range of $188–299 for trial standard levels one through four. Based on comments from the interviews, we assume manufacturers will raise prices enough to recover the costs of materials, labor and transportation and 75% of their investment. If manufacturers increased water heater distributor prices slightly more, from $0.13 for trial standard level one to $2.00 for trial standard level four, they would recover all of their investment. Table 15 shows the results of the cash flow analysis with these assumptions.

TABLE 15.—MANUFACTURER IMPACT ANALYSIS

Trial Std level	INPV ($ millions)	Change in INPV		Investment required ($ millions)
		(%)	($ millions)	
Standard Scenario, HFC–5fa blown insulation				
Base Case	322	0	0	0
1	314	−3	−8	32
2	307	−5	−15	61
3	307	−5	−15	61
4	265	−18	−57	229
Cumulative Scenario, HFC–245fa blown insulation				
Base Case	322	0	0	0
1	287	−11	−35	142
2	280	−13	−42	172
3	279	−13	−43	172
4	237	−27	−85	340

From Table 15, we note energy efficiency standards could result in losses of industry net present value from about $8 million to 57 million (3–18%), while requiring investments of $32 million to 229 million. However, even if DOE did not revise energy efficiency standards, other Federal regulatory actions that will take effect on or before January 1, 2003, will result in a $27 million loss (8%) in industry NPV. This loss exceeds any of DOE's trial standard levels except level four. As requested by GRI and the SC and as required by the Process Rule, 10 CFR part 430, subpart C, appendix A 10(g)(1), DOE considered the cumulative impacts of other Federal regulatory actions on the trial standard levels, including the phase out of HCFC–141b and the CPSC initiative to prevent the ignition of flammable vapors on gas-fired water heaters. (GRI, No. 11 at 1 and SC, No. 42 at 2). These cumulative losses range from $35 million to $85 million. The investments to prevent ignition of flammable vapors and for new blowing agents are $111 million. The investments for cumulative regulations are potentially large given the current after tax profitability of the water heater industry, estimated to be $41 million (1998) on revenues of $1.3 billion.

Based on DOE's interviews, manufacturers expect little impact on manufacturing capacity and expect to meet future demand as long as standard levels based on side-arm gas-fired water heaters and plastic tank electric units are not mandated. Currently, the U.S. industry has far more manufacturing capacity than the domestic market can absorb. Manufacturers estimated the industry is operating at 60–80% of total capacity. Due to the phase-out of HCFC–141b insulation blowing agent and a requirement for a gas-fired water heater resistant to ignition of flammable vapors, it is likely that nearly every product line would have to be redesigned, retested and re-certified. Several manufacturers indicated a preference to retool for new blowing agents, energy-efficiency standards and flammable vapor-resistant designs at the same time, to avoid redundant efforts and limit costs.

We also used the manufacturers' interviews to assess employment impacts due to an amended energy efficiency standard. Manufacturers expected the impact of new blowing agents and flammable vapor resistant designs on labor to be minimal, neither increasing nor reducing employment levels by more than a few employees. Unless efficiency levels requiring the adoption of side arm heaters or plastic tanks are mandated, manufacturers do not anticipate significant changes in employment levels or training requirements. Additionally, we believe market growth of 2.5% per year for new homes and modest productivity gains ensure current employment levels for the foreseeable future. In our analysis, yearly water heater shipments range from 9.7 million in 1999 to 19.5 in 2030. Furthermore, a replacement market that increases by about 1/10th of the new home market each year ensures future demand.

B. Significance of Energy Savings

The Act prohibits the Department from adopting a standard for a product if that standard would not result in ''significant'' energy savings. Section 325(o)(3)(B), 42 U.S.C. 6295(o)(3)(B). While the term ''significant'' is not defined in the Act, the U.S. Court of Appeals, in *Natural Resources Defense Council* v. *Herrington*, 768 F.2d 1355, 1373 (D.C. Cir. 1985), ruled that Congress intended ''significant'' energy savings to be savings that were not ''genuinely trivial.'' The energy savings for all of the trial standard levels considered in this rulemaking are non-trivial and therefore we consider them ''significant'' within the meaning of Section 325 of the Act.

National Energy Savings. To estimate the energy savings through the year 2030 due to amended standards, we compared the energy consumption of water heaters in the 2003 baseline to the energy consumption of water heaters complying with the trial standard levels. DOE calculates these energy savings at the source using the NEMS–BRS distribution and generation losses. This addresses stakeholders' comments that a source-based analysis is a more accurate measurement of the total energy being used. (Clearwater, No. 30 at 1 and NGC, No. 59 at 1). Table 16 shows these results for water heaters with HFC–245fa blown insulation.

TABLE 16.—SOURCE ENERGY SAVINGS WITH HFC–245FA BLOWN INSULATION (QUADS)

	Trial Std 1	Trial Std 2	Trial Std 3	Trial Std 4
Total Quads Saved	3.4	4.3	4.8	13.1
Total Exajoules Saved	3.6	4.5	5.0	13.8

All of the trial standard levels considered in this rulemaking have significant energy savings, ranging from 3.4 quads (3.6 Exajoules (EJ)) to 13.1 quads (13.8 EJ), depending on the trial standard level.

National Net Present Value. Additionally, we analyzed the economic impact on the nation to year 2030. This is a NPV analysis using the AEO99 reference energy prices. Table 17 lists the NPV for HFC–245fa blown insulation. The NPV considers the combined discounted energy savings minus increased consumer costs of the four fuel types of equipment at a particular trial standard level. We base this calculation on all expenses and savings occurring between 2003 and 2030.

TABLE 17.—NATIONAL NET PRESENT VALUE

Trial standard level	NPV—HFC–245fa ($ billions)
1	2.3
2	1.5
3	3.3
4	−17.4

The national NPV is positive for trial standard levels one through three. In this analysis, a positive NPV means that the estimated energy savings are greater than the increased costs due to standards. Among the trial standard levels analyzed, trial standard level three has the highest NPV.

C. Lessening of Utility or Performance of Products

None of the trial standard levels reduces the performance of water heaters. Generally, the trial standard levels reduce heat losses and improve heat exchanger effectiveness. These changes improve energy and water heating performance and may increase the amount of water available in one hour, i.e., the first hour rating.

However, to reduce heat losses, it is necessary to use thicker insulation. The trial standard levels contemplate thicker insulation of 2.5–3 inches versus the 1–2 inches in common use today. This extra thickness of insulation will make water heaters larger and more difficult to squeeze into tight spaces when replacing a water heater. DOE does not believe any model of water heater will become unavailable as a result of thicker insulation. In those applications where thicker insulation could cause problems, we believe possible solutions include smaller tanks with larger heating elements, taller tanks, more effective insulation, *e.g.*, space blanket, or perhaps instantaneous water heaters. Instantaneous water heaters generally have characteristics such as, initiating water heating based on sensing water flow, a higher heating rate and storage capacities less than two gallons.

However, a number of manufacturers and other stakeholders believe that thicker insulation will reduce product utility or adversely impact consumers. (Bradford White, No. 74 at 2; GAMA, No. 71 at 4 and No. 91 at 1; CNG, No. 85 at 2; NEGA, No. 90 at 3; Rheem, No. 95 at 1; SC, No. 84 at 2; and AGA, No. 92 at 9). There may be replacement applications where manufacturers can only meet the demand for replacement water heaters with a slightly smaller tank. DOE has investigated this with water heater manufacturers and home builders and is aware that some replacement applications may be unable to accommodate the tank size currently used.

ACEEE claimed manufacturers can make water heaters taller or wider to fit most of the installation situations encountered. (ACEEE, No. 93 at 8). OOE stated the industry can find the additional space for insulation by reducing the storage tank diameter. This will only reduce tank volume by 2–3 gallons, according to OOE. (OOE, No. 96 at 5). In another approach, Battelle suggested manufacturers could increase the firing rate, set point, and heat transfer rate of gas-fired water heaters so they could reduce tank size without sacrificing any first-hour rating. (Battelle, No. 66 at 8 and No. 83 at 11). We estimate external dimensions for electric water heaters could be maintained at approximately current sizes, if tank volume were reduced about 20%, coupled with a 1.35 kW increase in the heating rate, from 4.5–5.85 kW. This would restore the first hour rating and a 6 kW heating element as a common size, see Chapter 3.4.4 in the TSD. We recognize the increased heating element wattage may overload some existing electrical circuits. We request comments on these suggestions and the extent that product utility might be affected.

Further, DOE requests engineering data or other information that will substantiate claims of reduced product utility and an explanation of the specific impact that would be anticipated. We are particularly interested in comments on the number of households that may be affected and whether these households are in a particular geographic region or income strata.

D. Impact of Lessening of Competition

The Act directs the Department to consider any lessening of competition that is likely to result from standards. It further directs the Attorney General to determine the impact, if any, of competition likely to result from such

standard and transmit such determination, not later than 60 days after the publication of a proposed rule to the Secretary, together with an analysis of the nature and extent of such impact. Section 325(o)(2)(B)(i)(V), 42 U.S.C. 6295(o)(2)(B)(i)(V).

In order to assist the Attorney General in making such a determination, the Department has provided the Department of Justice (DOJ) with copies of this notice and the TSD for review. At DOE's request, the DOJ reviewed the manufacturer impact analysis interview questionnaire to ensure that it would provide insight concerning any lessening of competition due to any proposed trial standard levels.

In response to a comment from the AGA, DOE requested the DOJ's view as to whether the ''lessening of competition'' language in Section 325(o)(2)(B)(i)(V), 42 U.S.C. 6295(o)(2)(B)(i)(V) applies to energy suppliers. (AGA, No. 49 at 6). In its letter dated June 25, 1999, the DOJ replied that ''we would consider not only evidence of the effect on competition among water heater manufacturers, but also information relating to the likely effect on competition among energy suppliers.'' However, the DOJ added they would focus on the effect of standards ''on the overall level of market competition, not on individual fuel suppliers or on shifts in consumer usage among alternate fuels.''

E. Need of the Nation To Save Energy and Net National Employment

1. Environmental Impacts

Enhanced energy efficiency improves the Nation's energy security, strengthens the economy and reduces the environmental impacts of energy production. The energy savings from water heater standards result in reduced emissions of CO_2, SO_2 and NO_X and aids in addressing global climate change and reducing air pollution. Depending on the standard level chosen, the cumulative emission reductions to 2030 range from 48–219 Mt for carbon equivalent, 141–599 thousand metric tons (kt) for NO_X, and −6 to 54 kt for SO_2. The large reductions in CO_2 and NO_X at all standard levels are a positive benefit to the nation. We show cumulative emissions savings from 2003–2030 in Table 18.

EEI, SC and VP claimed in-house combustion also will produce carbon monoxide (CO), particulates, and volatile organic compounds (VOCs), yet they are not included in the environmental analysis. (EEI, No. 39 at 4 and No. 79 at 1; SC, No. 84 at 2; and VP, No. 45 at 3). Properly functioning appliances should not emit CO. Additionally, particulates and hydrocarbon emissions from appliances are very, very small. Therefore, we assumed CO and particulate emissions reductions resulting from proposed energy standards are negligible.

TABLE 18.—CUMULATIVE EMISSIONS REDUCTIONS THROUGH 2030

Emission	Trial Std level 1	Trial Std level 2	Trial Std level 3	Trial Std level 4
Carbon (Mt)	48	74	83	219
NO_X (kt)	141	208	229	599
SO_2 (kt)	**4	**<1	**−6	**54

**Results only include household SO_2 emissions reductions because SO_2 emissions from power plants are capped by clean air legislation. Thus, SO_2 emissions will only be negligibly affected by possible water heater standards.

2. Net National Employment

In the Process Rule, DOE committed to develop estimates of the employment impacts of proposed standards in the economy in general. The results of the Department's analysis are shown in Chapter 15 of the TSD.

While both this input/output model and the direct use of BLS employment data suggest the proposed water heater standards could increase the net demand for labor in the economy, the gains would most likely be very small relative to total national employment. For several reasons, however, even these modest benefits for national employment are in doubt:

- Unemployment is now at the lowest rate in 30 years. If unemployment remains very low during the period when the proposed standards are put into effect, it is unlikely that the standards could result in any net increase in national employment levels.
- Neither the BLS data nor the input-output model used by DOE include the quality or wage level of the jobs. One reason that the demand for labor increases in the model may be that the jobs expected to be created pay less than the jobs being lost. The benefits from any potential employment gains would be reduced if job quality and pay are reduced.
- The net benefits from potential employment changes are a result of the estimated net present value of benefits or losses likely to result from the proposed standards, it may not be appropriate to separately identify and consider any employment impacts beyond the calculation of net present value.

Taking into consideration these legitimate concerns regarding the interpretation and use of the employment impacts analysis, the Department concludes only that the proposed water heater standards are likely to produce employment benefits that are sufficient to offset fully any adverse impacts on employment in the water heater or energy industries.

F. Conclusion

1. Comments on Standard Levels

In order to inform interested stakeholders, we released our preliminary analysis results and convened a workshop to receive comments on what standard might be supported by the results. Below is a short summary of the type of comments we received on our preliminary analysis. We have considered these comments when selecting the proposed standard level. Many of the comments suggest actions that are already a part of the process we use to select a standard.

SC stated minimum efficiency levels should be set so that the majority of consumers benefit from the new standards. SC suggested if at least 85% of the population benefitted, it would be unlikely that any particular subgroup of customers would suffer substantial loss from the proposed standard. (SC, No. 42 at 3). CNG and NEGA stated any standard above trial standard level one (use EFs from July Workshop) is too costly for consumers and may affect safety. (CNG, No. 85 at 1 and NEGA, No. 90 at 1). When we select a standard level, we weigh the overall benefits and burdens. We do not base our decision on any particular fraction of the population that benefits.

Several comments claimed DOE should keep new standards fuel neutral (EEI, No. 79 at 2 and American Electric

Power, No. 87 at 1). The National Rural Electric Cooperative Association (NRECA) claimed gas-fired and electric water heaters should have the same 0.03 increase in energy factor using thicker insulation and heat traps. (NRECA, No. 2 at 2). EEI and American Electric Power wanted DOE to keep new standards fuel neutral by raising energy factors for all fuel types.

Other comments made specific recommendations for gas-fired and electric water heaters. PG&E claimed DOE should set the new standards for electric and gas-fired water heaters at the highest levels that can be achieved with conventional technologies, *e.g.*, 0.60 EF for gas-fired water heaters that are common in southern California. (PG&E, No. 94 at 3). ACEEE claimed that according to DOE's July 1997 analysis, the minimum LCC point is 0.91 EF for a 50-gallon electric and 0.61 EF for a 40-gallon gas-fired water heater when using HFC–245fa blown insulation. Furthermore, ACEEE believes this is what DOE should propose as the new standard in the NOPR. (ACEEE, No. 93 at 9). Bradford White recommended that electric and oil standards should remain the same and gas-fired water heater standards should be raised by 0.02 EF. (Bradford White, No. 89 at 5).

ACEEE claimed DOE should consider a gas-fired water heater with an 80% flue baffle, 2 inches of insulation and heat traps because it appears to be the minimum LCC. (ACEEE, No. 93 at 2). In our revised analysis, the lowest LCC for a gas-fired water heater is a 78% flue baffle with 2 inches of insulation and heat traps. To verify that we did not overlook any economically justified trial standard, we analyzed a gas-fired water heater with an 80% flue baffle and 2 inches of insulation. This standard level resulted in a negative LCC savings, negative manufacturers' impact and negative NPV so we concluded it is not economically justified.

2. Proposed Standard

Section 325(o)(2)(A), 42 U.S.C. 6295(o)(2)(A), of the Act specifies that any new or amended energy conservation standard for any type (or class) of covered product shall be designed to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified. In determining whether a standard is economically justified, the Secretary must determine whether the benefits of the standard exceed its burdens. Section 325(o)(2)(B)(i), 42 U.S.C. 6295(o)(2)(B)(i). The amended standard must ''result in significant conservation of energy.'' Section 325(o)(2)(B)(iii)(3)(B), 42 U.S.C. 6295(o)(B)(iii)(3)(B). The Secretary has eliminated the maximum technologically feasible levels for electric and gas-fired water heaters, but we are analyzing the maximum technologically feasible level for oil-fired water heaters. See Section III.D.2 of this notice. All of the design options included in our analysis are technologically feasible since they are commercially available.

As discussed in section IV.A, we consider the impacts of standards at each of four standards levels, beginning with the most efficient level, *i.e.*, standard level four. We then consider less efficient levels. Standard levels three and two are combinations of different efficiency levels for the different classes. For gas-fired water heaters, standard levels three and one are the same, though lower efficiency than that found in standard level two. For electric water heaters, no standard levels are repeated and the efficiency of each lower standard level is lower than that found in higher standard levels. Finally, for oil-fired water heaters, standard levels two and one are the same and level three is no change from the current standard. By combining efficiency levels in this way, the Department is able to evaluate the impacts of different combinations of standard levels to make an informed decision on the merits of different efficiency combinations.

To aid the reader as we discuss the benefits or burdens of the trial levels we have included a summary of the analysis results in Table 19.

TABLE 19.—SUMMARY ANALYSIS RESULTS BASED ON HFC–245FA BLOWN INSULATION

	Trial Std 1	Trial Std 2	Trial Std 3	Trial Std 4
Total Quads Saved	3.4	4.3	4.8	13.1
NPV ($Billion)	2.2	1.5	3.4	−17.4
Emissions:				
Carbon Equivalent (Mt)	48	74	83	219
NO_X (kt)	141	208	229	599
SO_2 (kt)	**4	**<1	**−6	**54
Cumulative Change in INPV ($ Million)	−8	−15	−15	−57
Life Cycle Cost ($):				
Electric	32	36	40	−55
Gas-Fired	43	34	43	−215
Oil-Fired	−20	−20	0	−447

**Results only include household SO_2 emissions reductions because SO_2 emissions from power plants are capped by clean air legislation. Thus, SO_2 emissions will only be negligibly affected by possible water heater standards.

We first considered trial standard level four, the most efficient level for each of the three classes. Trial standard level four saves about 13.1 quads of energy, a significant amount. The emissions reductions of 219 Mt of carbon equivalent, 599 kt of NO_X, and 54 kt of SO_2 are significant. However, at this level, consumers experience negative LCC impacts. They would lose $55 (with electric water heaters), $193 (with gas-fired water heaters) and $459 (with oil-fired water heaters). Furthermore, the water heater industry would lose 27% of its value and the nation would have a loss in NPV of more than $17 billion. The Department concludes the resulting energy savings and emission reductions at this level are outweighed by the negative economic impacts on the nation, consumers and manufacturers. Consequently, the Department concludes trial standard level four is not economically justified.

Next, we considered trial standard level three. This trial standard level saves about 4.8 quads of energy, a significant amount. The emissions reductions are significant: 83 Mt of carbon equivalent and 229 kt of NO_X. There is a small increase in household emissions of SO_2 (6 kt) due to a slight increase in shipments of oil-fired water heaters. The national NPV of trial standard level three is $3.4 billion from 2003–2030.

The economic benefits to consumers are significant. The average LCC savings for consumers with electric and gas-fired water heaters are $40 and $43 respectively and there are no impacts on users of oil-fired water heaters. In trial standard level three, 87% of households with gas-fired water heaters have LCC savings, for an average savings of $57, while 13% experience LCC losses, for an average loss of $52. For households with electric water heaters, 74% of households have LCC savings, for an average savings of $64, while 26% experience LCC losses, for an average loss of $27.

For electric water heaters, the analysis predicts that 26 percent of all consumers would experience no change or some net cost with more efficient electric water heaters. However, we believe that there are costs or savings near the point of zero change in LCC that consumers would be unable to distinguish in their yearly expenses. We have chosen ±2 percent of average baseline LCC as the band of no consumer impact. We believe this small percentage, regardless of the actual total LCC, is insignificant to the consumer because these LCC costs or savings are spread over monthly utility bills for the life of the water heater. By applying a 2% band of average LCC, we can clearly show the significant net savings and net costs associated with a trial standard level. This permits a more informed decision based on weighing the significant benefits and burdens in terms of consumer impact. The resulting ranges are shown in Figure 9.6.2a in the TSD.

We will use ±2 percent of baseline LCC to indicate no impact, positively or negatively, on consumers. Therefore, only 4 percent of consumers in the case of electric water heaters or 6 percent of consumers in the case of gas water heaters sustain any significant net costs under the proposed standard level for water heaters. Similarly, 35 percent of consumers in the case of electric water heaters or 62 percent of consumers in the case of gas water heaters have significant net savings.

Two percent of average baseline LCC equals $51 for electric water heaters. Over the average life of 12 years for an electric water heater, this is less than $4.50 per year. For consumers with gas-fired water heaters, two percent of average baseline LCC is $30. Over the average life of 9 years for a gas water heater, this is less than $3.50 per year. We believe this is a small amount in terms of yearly expenditures and will not adversely impact consumers' purchase decisions about water heaters, or their financial positions.

Additionally, low-income and senior-only consumer subgroups exhibit similar distributions of costs and savings. A similar small percentage of low-income or senior only consumers are affected by higher costs.

The industry will lose about 5% ($15 million) of its INPV due to energy efficiency standards. These losses are more than balanced by NPV gains to the nation of $3.3 billion, or 220 times the industry losses. Industry losses for trial standard level three due to all Federal actions (CPSC, EPA and DOE) are 13% of its INPV, or $43 million. Even this level of losses is offset by gains to the nation that are 77 times the industry losses.[2] Based on the manufacturer interviews, DOE believes there will not be any plant closures or employee layoffs.

In determining the economic justification of trial standard level three, the Department has weighed the benefits of energy savings, reduced average consumer LCC, significant and positive NPV, and emissions reductions and the burdens of a loss in manufacturer net present value, and consumer LCC increases for some households. After carefully considering the results of the analysis, DOE has determined the benefits of trial standard level three outweigh its burdens and is economically justified. The Department also concludes trial standard level three saves a significant amount of energy and is technologically feasible.[3] Therefore, the Department today proposes to adopt the energy conservation standards for water heaters at trial standard level three.

V. Procedural Reviews

A. Review Under the National Environmental Policy Act

In issuing the March 4, 1994, Proposed Rule for energy efficiency standards for eight products, one of which was water heaters, the Department prepared an Environmental Assessment (DOE/EA–0819) that was published within the Technical Support Document for that Proposed Rule. (DOE/EE–0009, November 1993). The environmental effects associated with various standard levels for water heaters, as well as the other seven products, were found not to be significant, and a Finding of No Significant Impact (FONSI) was published. (59 FR 15868, April 5, 1994).

In conducting the analysis for this Proposed Rule, the DOE evaluated several design options suggested in comments to the screening document. As a result, the energy savings estimates and resulting environmental effects from revised energy efficiency standards for water heaters in this Proposed Rule differ somewhat from those presented for water heaters in the 1994 Proposed Rule. Nevertheless, the environmental effects expected from the energy efficiency standards considered for this Proposed Rule fall within the ranges of environmental impacts from the revised energy efficiency standards for water heaters that DOE found in the 1994 FONSI not to be significant.

B. Review Under Executive Order 12866, ''Regulatory Planning and Review''

The Department has determined today's regulatory action is a significant regulatory action within the scope of Section 3(f)(1) of Executive Order 12866, ''Regulatory Planning and Review.'' (58 FR 51735, October 4, 1993). Therefore, this proposal requires a regulatory analysis. Such an analysis presents major alternatives to the proposed regulation that could achieve substantially the same goal, as well as a description of the cost and benefits (including potential net benefits) of the proposed rule. Accordingly, the Office of Information and Regulatory Affairs (OIRA) reviewed today's action under the Executive Order.

There were no substantive changes between the draft we submitted to OIRA and today's action. The draft and other documents we submitted to OIRA for review are a part of the rulemaking record and are available for public review in the Department's Freedom of Information Reading Room, 1000 Independence Avenue, SW, Washington, DC 20585, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays, telephone (202) 586–3142.

The following summary of the Regulatory Impact Analysis (RIA) focuses on the major alternatives considered in arriving at the proposed approach to improving the energy

[2] As DOE has determined, the benefits of today's proposal outweigh the $15 million loss to the industry. To review the support for this determination, see the TSD at Chapters 12.5 and Table 12.1a, 13.3.3.5 and Table 13.8a, 13.3.4, and 13.3.5.

[3] The proposed standard is based on insulation blown with HFC–245fa. We also analyzed the impact of using water-blown insulation. We found the benefits of LCC savings, emission reductions, and NPV are lower, and manufacturers' losses are higher using water blown insulation compared to using HFC–245fa blown insulation. The energy savings and water heater performance are also lower because water blown insulation is 42% less effective than HFC–245fa blown insulation.

If, based on comments on today's proposed rule, DOE were to conclude that insulation with energy conservation characteristics similar to HFC–245fa blown insulation will not be available at the effective date of the standard, DOE would use the water blown insulation analysis as a basis for its final decision.

efficiency of consumer products. The reader is referred to the complete RIA, which is contained in the TSD, available as indicated at the beginning of this NOPR. It consists of: (1) A statement of the problem addressed by this regulation, and the mandate for government action; (2) a description and analysis of the feasible policy alternatives to this regulation; (3) a quantitative comparison of the impacts of the alternatives; and (4) the economic impact of the proposed standard.

The RIA calculates the effects of feasible policy alternatives to water heater energy efficiency standards, and provides a quantitative comparison of the impacts of the alternatives. We evaluate each alternative in terms of its ability to achieve significant energy savings at reasonable costs, and we compare it to the effectiveness of the proposed rule.

We created the RIA using a series of regulatory scenarios (with various assumptions), which we used as input to the shipments model for water heaters. We used the results from the shipments model as inputs to the NES spreadsheet calculations.

DOE identified the following seven major policy alternatives for achieving consumer product energy efficiency. These alternatives include:

- No New Regulatory Action
- Informational Action
- Product Labeling
- Consumer Education
- Prescriptive Standards
- Financial Incentives
  —Tax credits
  —Rebates
  —Low income and seniors subsidy
- Voluntary Energy Efficiency Targets (5 Years, 10 Years)
- Mass Government Purchases
- The Proposed Approach (Performance Standards)

We have evaluated each alternative in terms of its ability to achieve significant energy savings at reasonable costs (Table 20), and have compared it to the effectiveness of the proposed rule.

TABLE 20.—ALTERNATIVES CONSIDERED

Policy Alternatives	NPV ($ in billions)	Energy Savings Quads
Consumer Product Labeling	−0.009	0.077
Consumer Education	0.439	0.539
Prescriptive Standards	1.149	0.78
Consumer Tax Credits	0.333	0.163
Consumer Rebates High Efficiency	0.349	0.174
Consumer Rebates Heat Pump	1.164	0.586
Low Income and Seniors Subsidy	1.011	0.415
Manufacturer Tax Credits	0.074	0.039
Voluntary Efficiency Target (5 year delay)	1.47	2.887
Voluntary Efficiency Target (10 year delay)	0.882	2.211
Mass Government Purchases	0.012	0.057
Performance Standards	3.433	4.746

NPV = Net Present Value (2003–2030, in billion 1998 $) (does not include government expenses).
Savings = Energy Savings (Source Quads).

If we imposed no new regulatory action, then we would implement no new standards for this product. This is essentially the ''base case'' for water heaters. In this case, between the years 2003 and 2030, there would be an expected energy use of 120.91 Quads (127.56 Exajoules (EJ)) of primary energy, with no energy savings and a zero NPV.

We grouped several alternatives to the base case under the heading of informational action. They include consumer product labeling and DOE public education and information programs. Both of these alternatives are already mandated by, and are being implemented under EPCA, as amended, Sections 324 and 337, 42 U.S.C. 6294, 6297. One base case alternative would be to estimate the energy conservation potential of enhancing consumer product labeling. To model this possibility, the Department estimated that 5 percent of consumers change their decisions on which water heater to buy based on a consumer product labeling program. The consumer product labeling alternative resulted in 0.077 quad (0.081 EJ) of energy savings with a negative $0.009 billion NPV.

Another approach, called consumer education, is to consider an Energy Star® program for heat pump water heaters. We assume, under this program, sales would jump to 150,000 units per year in 2008 and continue to be constant after that. This estimate is based on an Arthur D. Little (ADL) report from October 20, 1997, ''Low Cost Heat Pump Water Heater Status Report.'' We calculated the fraction that this represents of the baseline electric water heater market share in 2008, and subtracted this fraction from the next lowest design option with any market share. This consumer education program would perform somewhat better than product labeling with energy savings equal to 0.539 Quad (0.57 EJ) and $0.439 billion NPV.

Another method of setting standards would entail requiring that certain design options be used on each product, i.e., for DOE to impose prescriptive standards. For this approach, we assume that a prescriptive standard is implemented as a standard at the next lower trial standard level than the performance standard level, i.e., we would implement a prescriptive standard at trial standard level two. The reduced flexibility afforded to manufacturers of a prescriptive standard would make it difficult for manufacturers to achieve the higher level. The lower standard level entails slightly smaller expenditures for retooling and purchasing parts. Consequently, the economic impacts we expect before the implementation date should be slightly smaller for prescriptive standards. This resulted in energy savings of 0.78 Quad (0.82 EJ) and $1.15 billion NPV.

We tested various financial incentive alternatives. These included tax credits and rebates to consumers, as well as tax credits to manufacturers. We assumed the tax credits to consumers were 50% of the incremental purchase expense for higher energy-efficiency water heaters. The incremental cost is based on the difference between the 2003 baseline cost and the cost of a 50-gallon 0.91 EF electric, a 40-gallon 0.60 EF gas-fired, and a 32-gallon 0.61 EF oil-fired water heater. We estimate the impact of this policy is to move 5% of the market

share from the 2003 baseline to the more efficient models. These tax credits start in 2003 and run for six years. We assume people stop buying these more efficient and more expensive water heaters when the tax credits stop. The tax credits to consumers showed a change from the base case, saving 0.163 Quad (0.17 EJ) with $0.333 billion NPV.

To estimate the impact of consumer rebates, DOE assumed rebates of 35% of the incremental retail prices for more energy-efficient water heaters. The incremental cost is based on the difference between the 2003 baseline cost and the cost of a 50-gallon 0.91 EF electric, a 40-gallon 0.60 EF gas-fired, and a 32-gallon 0.61 EF oil-fired water heater. We estimate the impact of this policy is to move 5% of market share from the 2003 baseline to the more efficient models. These rebates start in 2003 and run for six years and we assume people stop buying these more efficient and more expensive water heaters when the rebates stop. Consumer rebates would save 0.174 Quad (0.18 EJ) with $0.349 billion NPV.

We also considered a consumer rebate alternative that was equal to the difference between the retail cost of a heat pump water heater and a 0.91 EF electric resistance water heater. This rebate is only applied to new construction because heat pumps may require more closet space and more air space from which to remove heat. We estimated the installed costs of heat pump water heaters ($875) and market penetration levels (300,000 units per year) based on ADL data on drop-in heat pump water heaters. We assumed these rebates run for six years and we assume people stop buying these more efficient and more expensive water heaters when the rebates stop. We estimated this rebate alternative would save 0.586 Quad (0.62 EJ) and produce $1.164 billion NPV.

One of the market barriers to higher efficiency gas-fired water heaters is the expense to upgrade venting systems. Another market barrier for electric and gas-fired water heaters is the expense to enlarge small closets or to relocate water heaters with thicker insulation when they will not fit into an existing space. Since these expenses can be a particular burden on low income and seniors-only households, we considered a low income and seniors-only subsidy of $100 to make higher efficiency water heaters available and cost effective for these households. We determined the number of low income and seniors only households from the RECS public use data. The program starts in 2003 and runs for six years. This subsidy saved 0.415 Quad (0.44 EJ) with $1.011 billion NPV.

Another financial incentive we considered was a tax credit to manufacturers for the production of energy-efficient models of water heaters. We assumed an investment tax credit of 20%, applicable to the tooling and machinery costs of the manufacturers. These are tooling costs as they relate to producing a 0.91 EF on a 50-gallon electric, a 0.60 EF on a 40-gallon gas-fired, and a 0.61 EF on a 32-gallon oil-fired water heater. We estimate the impact of this policy is to move 1% of the market share from the 2003 baseline to the more efficient models. These tax credits start in 2003 and run for six years. We assume no persistence in the market once they stop. Tax credits to manufacturers would save 0.039 Quad (0.41 EJ) and produce $0.074 billion NPV.

The impact of this scenario produces small savings because the investment tax credit was applicable only to the tooling and machinery costs of the firms. The firms' fixed costs and some of the design improvements that would likely be adopted to manufacture more efficient versions of this product would involve purchased parts. Expenses for purchased parts would not be eligible for an investment tax credit.

We examined two scenarios of voluntary energy efficiency targets. In the first one, we assumed all the relevant manufacturers voluntarily adopted the proposed energy conservation standards in five years. In the second scenario, we assumed the proposed standards were adopted in 10 years. In these scenarios, voluntary improvements having a five-year delay, compared to implementation of mandatory standards, would result in energy savings of 2.887 Quads (3.05 EJ) and $1.469 billion NPV; voluntary improvements having a 10-year delay would result in 2.211 Quads (2.33 EJ) being saved and $0.882 billion NPV. These scenarios assume that there would be universal voluntary adoption of the energy conservation standards by these appliance manufacturers, an assumption for which there is no assurance.

Another policy alternative we reviewed was that of large purchases of high efficiency electric and gas-fired water heaters by Federal, State, and local governments. We modeled this policy by assuming these governmental entities (i.e., U.S. Department of Housing and Urban Development and DOE at the Federal level) purchased high efficiency water heaters for 5% of the low income, rented housing. This policy alternative resulted in energy savings of 0.057 Quad (0.06 EJ) and $0.012 billion NPV.

Lastly, all of these alternatives must be gauged against the performance standards we are proposing in this NOPR. Such performance standards would result in energy savings of 4.746 Quads (5.00 EJ), and the NPV would be an expected $3.443 billion.

As indicated in the paragraphs above, none of the alternatives we examined for these products would save as much energy as the Proposed Rule. Also, several of the alternatives would require new enabling legislation, since authority to carry out those alternatives does not presently exist.

C. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612 (Pub. L. 96–354) requires an assessment of the impact of regulations on small businesses. The Small Business Administration's definition for small business in the water heater industry is one that employs 500 or fewer employees.

The water heater industry is characterized by five firms accounting for nearly 99% of sales. Smaller businesses and firms, which make specialty water heaters and supply niche markets, share 1% of the market. We are aware of three small firms: Bock Water Heaters, Heat Transfer Products, and Vaughn.

Of the three small firms, Bock manufactures oil-fired water heaters that have not been affected by this proposed rule. Therefore, we do not think that this firm will suffer any adverse impacts to the rule. The other two firms, Heat Transfer and Vaughn, both make electric water heaters that are considered in this rule. In the GAMA directory, these firms only list electric water heaters that meet or exceed the standard level contemplated in this rule. The proposed rule may raise the standard level enough to impact their niche market for high efficiency electric water heaters. However, these manufacturers also manufacture very long life products that incorporate other features which will help them preserve their niche market. The Department has taken this into consideration in this rulemaking.

The Department prepared a manufacturing impact analysis that it shared with all the water heater manufacturers. The smaller manufacturers did not choose to discuss the impacts of the trial standard levels on their firms.

In view of the information discussed above, the Department has determined and hereby certifies pursuant to Section 605(b) of the Regulatory Flexibility Act

that, for this particular industry, the proposed standard levels in today's Proposed Rule will not ''have a significant economic impact on a substantial number of small entities,'' and it is not necessary to prepare a regulatory flexibility analysis.

D. Review Under the Paperwork Reduction Act

No new information or record keeping requirements are imposed by this rulemaking that would require Office of Management and Budget clearance under the Paperwork Reduction Act. 44 U.S.C. 3501 *et seq.*

E. Review Under Executive Order 12988, ''Civil Justice Reform''

With respect to the review of existing regulations and the promulgation of new regulations, Section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and (4) promote simplification and burden reduction.

With regard to the review required by Section 3(a), Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in Section 3(a) and Section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE reviewed today's proposed rule under the standards of Section 3 of the Executive Order and determined that, to the extent permitted by law, these proposed regulations meet the relevant standards.

F. ''Takings'' Assessment Review

The Department has determined pursuant to Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 53 FR 8859 (March 18, 1988) that this regulation would not result in any takings that might require compensation under the Fifth Amendment to the United States Constitution.

G. Review Under Executive Order 13132, ''Federalism''

Executive Order 13132 (64 FR 43255, August 10, 1999) requires agencies to develop an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have ''federalism implications.'' Policies that have federalism implications are defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various level of government.'' Under Executive Order 13132, DOE may not issue a regulation that has federalism implications, that imposes substantial direct costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the State and local governments, or DOE consults with State and local officials early in the process of developing the proposed regulation. DOE also may not issue a regulation that has federalism implications and that preempts State law unless it consults with State and local officials early in the process of developing the proposed regulations.

The statutory authority under which this proposed standard is being promulgated specifically addresses the effect of Federal rules on State laws or regulations concerning testing, labeling and standards. Section 327 of EPCA, as amended, 42 U.S.C. 6297. Generally all such State laws or regulations are superseded by EPCA, unless specifically exempted in Section 327. The Department can grant a waiver of preemption in accordance with the procedures and other provisions of Section 327(d) of the Act, as amended. 42 U.S.C. 6297(d). States can file petitions for exemption from preemption with the Secretary and have their request reviewed on a case-by-case basis.

DOE has examined today's rule and has determined that although final standards would preempt State laws in this area, they would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. No further action is required by Executive Order 13132.

H. Review Under the Unfunded Mandates Reform Act of 1995

With respect to a proposed regulatory action that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year, Section 202(a) of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531 *et seq.* requires a Federal agency to publish a written statement concerning estimates of the resulting costs, benefits and other effects on the national economy. 2 U.S.C. 1532(a), (b). DOE estimates that the proposed standards, if adopted, would result in the expenditure by the private sector of $100 million or more in a year.

Section 202 of UMRA authorizes an agency to respond to the content requirements of UMRA in any other statement or analysis that accompanies the proposed rule. 2 U.S.C. 1532(c). The content requirements of Section 202(a) of UMRA relevant to the private sector mandate substantially overlap the economic analysis requirements that apply under Section 325(o) of EPCA, as amended, and Executive Order 12866. The Supplementary Information section in this NOPR and the analysis contained in the TSD for this proposed rule responds to those requirements.

DOE is obligated by Section 205 of UMRA, 2 U.S.C. 1535, to identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a written statement under Section 202 is required. From those alternatives, DOE must select the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule, unless DOE publishes an explanation of why a different alternative is selected. As required by Section 325(o) of the EPCA, as amended, 42 U.S.C. 6295(o), this proposed rule would establish energy conservation standards for water heaters that are designed to achieve the maximum improvement in energy efficiency which DOE has determined is technologically feasible and economically justified. A full discussion of the regulatory and non-regulatory alternatives considered by DOE is presented in the TSD for this proposed rule.

I. Review Under the Plain Language Directives

Section 1(b)(12) of Executive Order 12866 requires that each agency draft its regulations so that they are simple and easy to understand, with the goal of

minimizing the potential for uncertainty and litigation arising from such uncertainty. Similarly, the Presidential memorandum of June 1, 1998 (63 FR 31883) directs the heads of executive departments and agencies to use, by January 1, 1999, plain language in all proposed and final rulemaking documents published in the **Federal Register**, unless the rule was proposed before that date.

Today's proposed rule uses the following general techniques to abide by Section 1(b)(12) of Executive Order 12866 and the Presidential memorandum of June 1, 1998 (63 FR 31883):

- Organization of the material to serve the needs of the readers (stakeholders).
- Use of common, everyday words.
- Shorter sentences and sections.

We invite your comments on how to make this proposed rule easier to understand.

J. Assessment of Federal Regulations and Policies on Families Review

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. No. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any proposed rule or policy that may affect family well-being. Today's proposal would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded it is not necessary to prepare a Family Policymaking Assessment.

VI. Public Comment Procedures

A. Written Comment Procedures

The Department invites interested persons to participate in the proposed rulemaking by submitting data, comments, or information with respect to the proposed issues set forth in today's proposed rule to Ms. Brenda Edwards-Jones, at the address indicated at the beginning of this notice. We will consider all submittals received by the date specified at the beginning of this notice in developing the final rule.

According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit one complete copy of the document and ten (10) copies, if possible, from which the information believed to be confidential has been deleted. The Department of Energy will make its own determination with regard to the confidential status of the information and treat it according to its determination.

Factors of interest to the Department when evaluating requests to treat as confidential information that has been submitted include: (1) A description of the items; (2) an indication as to whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) an indication as to when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

B. Public Workshop

1. Procedures for Submitting Requests To Speak

You will find the time and place of the public workshop listed at the beginning of this notice of proposed rulemaking. The Department invites any person who has an interest in today's notice of proposed rulemaking, or who is a representative of a group or class of persons that has an interest in these proposed issues, to make a request for an opportunity to make an oral presentation. If you would like to attend the public workshop, please notify Ms. Brenda Edwards-Jones at (202) 586–2945. You may hand deliver requests to speak to the address indicated at the beginning of this notice between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays, or send them by mail.

The person making the request should state why he or she, either individually or as a representative of a group or class of persons, is an appropriate spokesperson, briefly describe the nature of the interest in the rulemaking, and provide a telephone number for contact.

The Department requests each person wishing to speak to submit an advance copy of his or her statement at least ten days prior to the date of this workshop as indicated at the beginning of this notice. The Department, at its discretion, may permit any person wishing to speak who cannot meet this requirement to participate if that person has made alternative arrangements with the Office of Building Research and Standards in advance. The letter making a request to give an oral presentation must ask for such alternative arrangements.

2. Conduct of Workshop

The workshop (hearing) will be conducted in an informal, conference style. The Department may use a professional facilitator to facilitate discussion, and a court reporter will be present to record the transcript of the meeting. We will present summaries of comments received before the workshop, allow time for presentations by workshop participants, and encourage all interested parties to share their views on issues affecting this rulemaking. Following the workshop, we will provide an additional comment period, during which interested parties will have an opportunity to comment on the proceedings at the workshop, as well as on any aspect of the rulemaking proceeding.

The Department will arrange for a transcript of the workshop and will make the entire record of this rulemaking, including the transcript, available for inspection in the Department's Freedom of Information Reading Room. Any person may purchase a copy of the transcript from the transcribing reporter. You can also download the TSD and other analyses from the Internet at: http://www.eren.doe.gov/buildings/codes_standards/applbrf/waterheater.htm

C. Issues for Public Comment

We are interested in receiving comments and data to improve our analyses. In particular, we are interested in seeking responses to the following questions and/or concerns:

1. Gas-fired water heater venting studies or data on venting problems. Data or studies on the use of 80% RE gas-fired water heaters in natural draft venting systems. Data on the number of 78% or 80% RE gas-fired water heaters installations, type of venting systems employed and the length of time installed.

2. The number or type of ''size constrained'' replacement water heater installations. Data on the cost impact of installing a 3–4 inch larger diameter water heater in existing manufactured homes, mobile homes, attics, and applications where water heaters are located in the living space. Also, comments on the number of water heaters affected. Suggestions for alternative technologies such as, higher input gas burners or larger electric heating elements, that may reduce the impact of thicker insulation on ''size constrained'' replacement water heater applications.

3. Additives or blowing agents with zero ozone depletion potential that will

provide lower conductivity or cost than HFC–245fa blown insulation at temperatures between 120°F and 140°F. We also request comment on our choice of insulation blowing agent, among the alternatives we analyzed. We welcome other suggestions of appropriate blowing agents.

4. Approaches that will reduce the impact on manufacturers of the relatively short time between the availability of HFC–245fa in commercial quantities, the phase-out of HCFC–141b and a proposed effective date of September 2003 for DOE's amended water heater energy conservation standard.

5. DOE is considering a consistent distribution of consumer discounts ranging from 4–12% with a mean of 6% for all the appliance products. We would like comments on this approach as it applies to water heaters.

6. We request comments on the validity of the analytical methods used to develop the direct effects of water heater standards on national employment and the appropriate interpretation and use of the results of this analysis approach.

Appendix A—Acronyms and Abbreviations

ACEEE American Council for an Energy Efficiency Economy
ADL Arthur D. Little
AEO EIA's Annual Energy Outlook
AEO99 EIA's 1999 Annual Energy Outlook
AGA America Gas Association
ANOPR Advance Notice of Proposed Rulemaking
ANSI American National Standards Institute
ASHRAE American Society for Heating, Refrigerating and Air-Conditioning Engineers
BRS DOE's Office of Building Research and Standards
Btu British thermal unit
C Elemental carbon
CE Consumer Expenditures
CEC California Energy Commission
CFR Code of Federal Regulations
CNG Connecticut Natural Gas
CO Carbon monoxide
CO_2 Carbon dioxide
CPSC Consumer Product Safety Commission
DOE U.S. Department of Energy (also the Department)
DOJ U.S. Department of Justice
EA Environmental Assessment
EEI Edison Electric Institute
EIA DOE's Energy Information Administration
EERE DOE's Office of Energy Efficiency and Renewable Energy
EF Energy factor
EJ Exajoule
EMPA Energy Market and Policy Analysis
EPA Environmental Protection Agency
EPCA Energy Policy and Conservation Act
EPRI Electric Power Research Institute
FEMP Federal Energy Management Program
FOI Freedom of Information
FONSI Finding of No Significant Impact
FR Federal Register
GAMA Gas Appliance Manufacturers Association
GRI Gas Research Institute
GRIM Government Regulatory Impact Model
HCFC Hydrochlorofluorocarbon
HFC Hydrofluorocarbon
IID Intermittent ignition device
ImBuild Impact of Building Energy Efficiency Programs model
INPV Industry net present value
ITS Intertek Testing Services
kt Thousand metric tons
kWh kilowatt hours
LBNL Lawrence Berkeley National Laboratory
LCC Life-cycle cost
LPG Liquid petroleum gas
MIA Manufacturer impact analysis
MMBtu Million Btus
Mt Million metric tons
NEEA Northwest Energy Efficiency Alliance
NEGA New England Gas Association
NEMS National Energy Modeling System
NEMS–BRS National Energy Modeling System—Building Research and Standards
NEPA National Environmental Policy Act
NES National energy savings
NFGC National Fuel Gas Code
NGC Natural Gas Council
NIST National Institute of Standards and Technology
NO_X Oxides of nitrogen
NOAA National Oceanic and Atmospheric Administration
NOPR Notice of Proposed Rulemaking
NPV Net present value
NRDC Natural Resources Defense Council
NRECA National Rural Electric Cooperative Association
NU Northeast Utilities
NWPPC Northwest Power Planning Council
OIRA Office of Information and Regulatory Affairs
OOE Oregon Office of Energy
ORNL Oak Ridge National Laboratory
PG&E Pacific Gas and Electric
PNNL Pacific Northwest National Laboratory
Pon Rated input power
RE Recovery efficiency
RECS Residential Energy Consumption Survey
RIA Regulatory impact analysis
SC Southern Company
SO_2 Sulfur dioxide
TANK Computer simulation model for gas-fired water heaters
TSD Technical Support Document
UA Heat transfer coefficient
UMRA Unfunded Mandates Reform Act of 1995
VOC Volatile organic compound
VP Virginia Power
WATSIM Computer simulation model for electric storage water heaters
WHAM Water Heater Analysis Model for oil-fired water heaters

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Energy Conservation, Household appliances.

Issued in Washington, DC, on March 8, 2000.

Dan W. Reicher,

Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, Part 430 of Chapter II of Title 10, Code of Federal Regulations is proposed to be amended as set forth below.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

1. The authority citation for Part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309.

2. Section 430.32(d) of Subpart C is revised to read as follows:

§ 430.32 Energy conservation standards and effective dates.

* * * * *

(d) Water Heaters

The energy factor of water heaters shall not be less than the following for products manufactured on or after the indicated dates.

Product class	Energy factor as of January 1, 1990	Energy factor as of April 15, 1991	Energy factor as of [date 3 years from publication of final rule]
1. Gas-fired Water Heater	0.62 − (.0019 × Rated Storage Volume in gallons).	0.62 − (.0019 × Rated Storage Volume in gallons).	0.67 − (0.0019 × Rated Storage Volume in gallons).
2. Oil-fired Water Heater	0.59 − (.0019 × Rated Storage Volume in gallons).	0.59 − (.0019 × Rated Storage Volume in gallons).	0.59 − (0.0019 × Rated Storage Volume in gallons).
3. Electric Water Heater	0.95 − (.00132 × Rated Storage Volume in gallons).	0.93 − (.00132 × Rated Storage Volume in gallons).	0.97 − (0.00132 × Rated Storage Volume in gallons).

Note: The Rated Storage Volume equals the water storage capacity of a water heater, in gallons, as specified by the manufacturer.

* * * * *

[FR Doc. 00–9847 Filed 4–17–00; 11:57 am]

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Federal Register

Friday,
April 28, 2000

Part III

Federal Financial Institutions Examination Council

Community Reinvestment Act; Interagency Questions and Answers Regarding Community Reinvestment; Notice

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Community Reinvestment Act; Interagency Questions and Answers Regarding Community Reinvestment; Notice

AGENCY: Federal Financial Institutions Examination Council.

ACTION: Notice and request for comment.

SUMMARY: The Consumer Compliance Task Force (we) of the Federal Financial Institutions Examination Council (FFIEC) is supplementing, amending, and republishing its Interagency Questions and Answers Regarding Community Reinvestment. The Interagency Questions and Answers have been prepared by staff of the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS) (collectively, the agencies) to answer frequently asked questions about community reinvestment. These Interagency Questions and Answers contain informal staff guidance for agency personnel, financial institutions, and the public. We invite public comment on the proposed question and answer, as well as any of the new and revised questions and answers and any other community reinvestment issues that are not addressed in these Interagency Questions and Answers.

DATES: Effective date of amended Interagency Questions and Answers on Community Reinvestment: April 28, 2000. Comments on the proposed questions and answers are requested by June 27, 2000.

ADDRESSES: Questions and comments may be sent to Keith J. Todd, Executive Secretary, Federal Financial Institutions Examination Council, 2000 K Street, NW., Suite 310, Washington, DC 20006, or by facsimile transmission to (202) 872–7501.

FOR FURTHER INFORMATION CONTACT:

OCC: Malloy Harris, National Bank Examiner, Community and Consumer Policy Division, (202) 874–4446; or Margaret Hesse, Senior Attorney, Community and Consumer Law Division, (202) 874–5750, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

Board: Catherine M.J. Gates, Senior Review Examiner, (202) 452–3946; James H. Mann, Attorney, (202) 452–2412; or Kathleen C. Ryan, Attorney, (202) 452–3667, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

FDIC: Robert W. Mooney, Senior Fair Lending Specialist, Division of Compliance and Consumer Affairs, (202) 942–3090; or A. Ann Johnson, Counsel, Legal Division, (202) 898–3573, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

OTS: Theresa A. Stark, Project Manager, Compliance Policy, (202) 906–7054; or Richard R. Riese, Director, Compliance Policy, (202) 906–6134, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Background

In 1995, the agencies revised the Community Reinvestment Act (CRA) regulations by issuing a joint final rule, which was published on May 4, 1995 (60 FR 22156). *See* 12 CFR parts 25, 228, 345 and 563e, implementing 12 U.S.C. 2901 *et seq.* The agencies published related clarifying documents on December 20, 1995 (60 FR 66048) and May 10, 1996 (61 FR 21362).

The revised regulations are interpreted primarily through ''Interagency Questions and Answers Regarding Community Reinvestment,'' which provide informal staff guidance for use by agency personnel, financial institutions, and the public, and which are supplemented periodically. We published our most recent guidance on May 3, 1999 (1999 Interagency Questions and Answers). 64 FR 23618. In addition to issuing the 1999 Interagency Questions and Answers, we proposed three questions and answers in the accompanying supplementary information. These questions and answers addressed: (1) Collection of refinanced and renewed small business and small farm loan data; (2) direct benefit of community development loans and services and qualified investments to an institution's assessment area; and (3) consideration as qualified investments of mortgage-backed securities backed by mortgages originated or purchased primarily by the investing institution. We specifically requested comment addressing the proposed questions and answers, as well as general comments and questions regarding the CRA regulations. 64 FR at 23624–26.

We received 86 letters in response to our request for comments in the 1999 Interagency Questions and Answers. Comments came from financial institutions (55), community organizations (10), financial institution trade associations (8), federal entities (5), state/local agencies (1), as well as others (7). This document supplements, revises, and republishes the 1999 Interagency Questions and Answers based, in part, on questions and comments received from examiners, financial institutions, and other interested parties, and on comments received in response to our request for comments.

As discussed below, this document adopts two of the questions and answers proposed in May 1999, along with a conforming change to another existing question and answer. We are also reissuing for comment the third question and answer proposed in May 1999 and proposing for comment a conforming amendment to an existing question and answer. In addition, we are making slight revisions to four existing questions and answers and adding one new question and answer.

In this version of the Interagency Questions and Answers, we have deleted the ''Table of Contents,'' which appeared in previous versions. In lieu of the table of contents, we are adding, for the first time, an index to aid readers in locating specific information in the document. The index contains keywords, listed alphabetically, along with numerical indicators of questions and answers that relate to that keyword. The list of questions and answers addressing each keyword in the index is not intended to be exhaustive. We welcome suggestions for additional entries to the index. Further, when this new version of the Interagency Questions and Answers is made available on the agencies' and the FFIEC's World Wide Web sites, the index question and answer numbers will be linked by hypertext to the questions and answers in the document to facilitate quick reference to relevant information.

Questions and answers are grouped by the provision of the CRA regulations that they discuss and are presented in the same order as the regulatory provisions. The Interagency Questions and Answers employ an abbreviated method to cite to the regulations. Because the regulations of the four agencies are substantially identical, corresponding sections of the different regulations usually bear the same suffix. Therefore, the Interagency Questions and Answers typically cite only to the suffix. For example, the small bank performance standards for national banks appear at 12 CFR 25.26; for Federal Reserve System member banks supervised by the Board, they appear at 12 CFR 228.26; for nonmember state banks, at 12 CFR 345.26; and for thrifts, at 12 CFR 563e.26. Accordingly, the citation in this document would be to

§ ____.26. In the few instances in which the suffix in one of the regulations is different, the specific citation for that regulation is provided. In order to create a meaningful index, we found it necessary to devise a slightly new question numbering system. The new question numbering system consists of the regulatory citation (as described above) and a number, connected by a dash. For example, the first question addressing § ____.21(a) would be identified as § ____.21(a)–1.

Adopting Questions and Answers Proposed in May 1999

We are adopting two of the three questions and answers that we proposed in May 1999. We are also adopting a conforming revision to an existing question and answer to provide consistency with a new question and answer.

May an Institution Receive Consideration Under the Investment Test for Mortgage-Backed Securities Backed by Home Mortgages That the Same Institution Originated or Purchased?

In May, we proposed a new question and answer that stated that an institution could not receive investment test consideration for a mortgage-backed security that is primarily or exclusively backed by loans originated or purchased by the same institution.

Twenty-seven of the 82 letters submitted to the FFIEC addressed this issue. In addition, four Federal Reserve Banks wrote to the Board with comments on this proposal. Commenters were evenly divided on this proposed question and answer. Twelve financial institutions, two trade associations and one federal entity (15 commenters) disagreed with the proposed question and answer, while six financial institutions, three community organizations, two trade associations, four federal entities (the Federal Reserve Banks) and one other commenter (an affiliate of a financial institution) (16 commenters) agreed with the proposed question and answer.

The Interagency Questions and Answers currently state that mortgage-backed securities (MBSs) designed primarily to finance community development generally are qualified investments. (§§ ____.12(s) & 563.12(r)–2.) This view was adopted based on staff's belief that, in allowing CRA consideration for MBSs backed by affordable housing loans, affordable housing loan originators would have an additional incentive to sell their affordable housing loans. As a result, they would be able to originate more affordable housing loans with the proceeds from the sale of their loans through the MBS vehicle.

Commenters that opposed adoption of the question and answer, which as proposed would not have allowed an institution to receive consideration for MBSs that are primarily or exclusively backed by loans originated or purchased by the same institution, generally stressed that securitizing affordable housing loans had capital, liquidity, and credit and interest rate risk advantages. For example, the risk-based capital required for MBSs may be lower than for the corresponding loans held in portfolio. If an MBS is guaranteed by a government-sponsored enterprise (GSE), such as Fannie Mae or Freddie Mac, the risk-based capital requirement (on the guaranteed portion) is 20 percent, compared to a risk-based capital requirement of 50 percent for one-to-four family mortgages held in portfolio. (On the other hand, if the MBS is not guaranteed by a GSE, the risk-based capital requirement is 50 percent, the same as the requirement for loans held in portfolio.) Commenters also indicated that MBSs could be used as collateral against other borrowings, such as from Federal Home Loan Banks, whereas whole loans generally cannot be used as this type of collateral.

Proponents of the proposed question and answer generally argued, however, that if an originator of affordable housing loans securitizes its own loans and buys back the security, these transactions generally do not make available proceeds with which to originate additional affordable housing loans. A typical securitization of this type occurs as follows: An institution originates the loans and holds the loans on its books at cost. It then sells the loans (at market value) either to a trust that is established for the purpose of holding the securitized loans or to another entity, including Fannie Mae or Freddie Mac. (The originating institution could realize gain or loss on the sale due to the difference between cost and fair market value.) The security is created. The institution then purchases back either the entire issuance or a portion thereof. The cost of the security may be higher or lower than the market value of the underlying loans based upon market conditions.

Because no or limited funds are made available to enable the institution to originate more affordable housing loans, the reasoning for allowing consideration for the purchase of MBSs does not apply. And, to the extent that any funds are made available through the securitization of loans and are used to originate or purchase additional home mortgage loans, institutions will receive consideration under the lending test for the additional home mortgage loans. Furthermore, although the purchase of the security and the origination of the loans are separate transactions, considering both would amount to double counting, in contravention of § ____.23(b).

After carefully considering both positions of the commenters, we have decided to adopt the question and answer as proposed as § ____.23(b)–2.

Should Renewals and Refinancings of Small Business and Small Farm Loans Be Collected and Reported?

The fifth question and answer addressing § ____.42(a), (§ ____.42(a)–5), originally adopted in October 1996, provided that an institution should report refinancings, but not renewals, of small business and small farm loans. In May 1999, we published for comment two alternative revisions of § ____.42(a)–5. ''Alternative I'' provided that an institution would not collect or report either renewals or refinancings of small business or small farm loans, unless the loan amount were increased. ''Alternative II'' provided that institutions would collect and report renewals and refinancings of small business and small farm loans as originations, subject to a limit of reporting one origination per loan per year, unless an increase in the loan amount is granted, in which case the amount of the increase would be reported as a separate origination.

We received a total of 64 comments on the issue of reporting small business and small farm loans. Forty-nine of these commenters appeared to support Alternative II. Only five commenters clearly supported Alternative I. Other commenters, including some who stated that they preferred Alternative II, proposed other approaches to the issue of small business and small farm loans, including reporting these events separately from originations, or reporting them as originations but without a one-origination-per-year limit.

Commenters in favor of Alternative II believed that this approach would:

- Result in more accurate data—renewals appear to be widely used as a more cost-effective method for meeting the credit needs of small businesses and small farms;
- Help institutions serve credit needs in their communities—financial institutions will be encouraged to maintain existing relationships with small businesses and small farms;
- Reduce burden by eliminating the current confusion over the meaning of a refinancing versus a renewal;

• Remove the incentive for institutions to artificially structure small business and farm transactions as refinancings in order to enhance their CRA performance;

• Prevent ''gaming'' by limiting reporting to only one origination per year; and

• Allow for better comparison of data across financial institutions because all would be subject to the one origination per year limit.

In contrast, we found that the comments in favor of Alternative I were not as persuasive on the issues of serving the community, reducing burden, and ensuring data accuracy. A few commenters maintained that Alternative I would have better reflected CRA performance because financial institutions would only report *increases*, or ''new money generated into the community.'' However, as stated, many others supported Alternative II because the credit needs of small businesses and farms are apparently well served by renewals. Although one commenter believed that Alternative I was simply more clear and concise than Alternative II, the commenter did not elaborate. Another commenter stated that Alternative I would provide an incentive for financial institutions to maintain customer relationships because it counts increases. However, many commenters stated that Alternative II would go further in providing this incentive, because it would allow institutions to report both renewals and refinancings one time per year, as well as increases.

Based on the comments received, the agencies believe that Alternative II appears to better address the purpose of CRA and the need to minimize burden while enhancing data accuracy. Therefore, we are revising § ____.42(a)–5 consistent with proposed Alternative II. Under revised § ____.42(a)–5, an institution no longer needs to distinguish between refinancings and renewals, because it collects and reports both as loan originations, subject to the one-origination-per-year limitation set forth in the revised question and answer. Institutions will also collect and report the amount of the increase as a loan origination when they increase the amount of a renewed or refinanced loan.

We recognize that adopting Alternative II will require changes to financial institutions' data collection and reporting procedures; however, commenters appeared to agree that either alternative would entail some burden. Systems will have to be changed to identify renewals as loan originations because they were previously not collected or reported as originations. Further, systems will need to be programmed to identify whether a loan is made, refinanced or renewed more than one time per year to prevent reporting of more than one origination per loan (absent an increase in the loan amount). Any extra burden, however, should result in more accurate, useful, and consistent data regarding an institution's small business and small farm lending performance. To minimize the burden placed on institutions, the revised question and answer becomes effective for CRA data collected in 2001 and reported in 2002. Until January 2001, institutions may collect small business and small farm loan data according to the guidance published most recently in May 1999.

Conforming Amendment to the Fourth Question and Answer Addressing § ____.42 Regarding Renewals of Lines of Credit

In § ____.42–4, we previously stated that renewals of lines of credit are not collected and/or reported—consistent with the treatment of loan renewals. Because we are revising § ____.42(a)–5, we are also amending § ____.42–4 so that collection and/or reporting of lines of credit for small business, small farm, and consumer purposes is consistent with the collection and/or reporting of small business, small farm, and consumer loans. Accordingly, renewals of lines of credit for small business, small farm, and consumer purposes should be collected and reported, if applicable, in the same manner as renewals of small business or farm loans as discussed in § ____.42(a)–5. Institutions that are HMDA reporters continue to collect and report home equity lines of credit, at their option, in accordance with the requirements of 12 CFR part 203. Revised § ____.42–4 also becomes effective for CRA data collected in 2001 and reported in 2002. Until January 2001, institutions may collect data on small business, small farm and consumer lines of credit according to the guidance published in May 1999.

Proposing Again for Comment One Question and Answer That Was Proposed for Comment in May 1999 and One Conforming Question and Answer

Must There Be Some Immediate or Direct Benefit to the Institution's Assessment Area(s) To Satisfy the Regulations' Requirement That Qualified Investments and Community Development Loans or Services Benefit an Institution's Assessment Area(s) or a Broader Statewide or Regional Area That Includes the Assessment Area(s)?

The fifth question and answer addressing §§ ____.12(i) and 563e.12(h) (§§ ____.12(i) & 563e.12(h)–5) addresses whether there must be an immediate or direct benefit to an institution's assessment area(s) to satisfy the regulations' requirement that qualified investments and community development loans or services benefit an institution's assessment area(s) or a broader statewide or regional area that includes the assessment area(s). This question and answer currently states that an institution's assessment area(s) need not receive an immediate or direct benefit from the institution's specific participation in the broader statewide or regional organization or activity, provided the purpose, mandate, or function of the organization or activity includes serving geographies or individuals located in the assessment area(s).

In May 1999, we proposed revising this question and answer to permit consideration of support for community development organizations or activities serving individuals or geographies located somewhere in the broader statewide or regional area that includes the institution's assessment area. This consideration would be given even if the organization or activity did not have the purpose, mandate or function of serving geographies or individuals within the institution's assessment area(s). Most commenters appeared to favor the proposed revision, as it would provide increased flexibility in engaging in community development activities. However, it appeared that a number of commenters did not recognize the revised answer as an expansion of existing options for institutions to engage in community development activities outside an assessment area(s). Accordingly, we are re-proposing for public comment a revised question and answer to ensure that the public understands that the question and answer expands the current guidance.

As revised for purposes of re-proposal, the question and answer contains two approaches to determine

whether qualified investments and community development loans or services benefit an institution's assessment area(s) or a broader statewide or regional area that includes the institution's assessment area(s). First, as currently stated, if an activity supports an organization or program that benefits the institution's assessment area or a broader statewide or regional area that is larger than, but includes, the assessment area(s), the activity will be considered if the purpose, mandate, or function of the organization or activity includes serving the assessment area(s). Second, if, in light of its performance context, an institution has adequately addressed the community development needs of its assessment area(s), examiners will consider community development activities that benefit low- and moderate-income individuals or geographies somewhere in the broader statewide or regional area that includes the assessment area(s) even if those activities do not have a purpose, mandate, or function of benefiting the institution's assessment area(s).

The following example may be useful in explaining the two approaches. An institution is located in Chicago. Its assessment area is the Chicago metropolitan area. Its community development activities include loans, investments, and services in organizations and projects located in and benefiting Chicago, its assessment area. These activities would be considered under the first approach. The institution's community development activities also include loans and investments in several projects that benefit the entire state of Illinois, including Chicago. These activities also are considered under the first approach. In addition, the institution participated in a community development activity that benefits the entire Great Lakes region, including the Chicago metropolitan area. This activity would also be considered under the first approach. Assume that, after considering its performance context, examiners have determined that the institution has adequately addressed the community development needs of its assessment area through loans, investments or services considered under the first approach. Examiners then would also consider the institution's investment in a community development organization located in Decatur, IL, that will serve only the Decatur area—with no potential that it will ever benefit Chicago, the institution's assessment area. Decatur, of course, is in the statewide area (Illinois) that includes the institution's assessment area. The institution would receive consideration for this activity under the second approach.

The text of the proposed question and answer follows:

Proposed §§ ____.12(i) & 563e.12(h)–5: *Must there be some immediate or direct benefit to an institution's assessment area(s) to satisfy the regulations' requirement that qualified investments and community development loans or services benefit an institution's assessment area(s) or a broader statewide or regional area that includes the institution's assessment area(s)?*

Proposed A5. No. The regulations recognize that community development organizations and programs are efficient and effective ways for institutions to promote community development. These organizations and programs often operate on a statewide or even multi-state basis. Therefore, an institution's activity is considered a community development loan or service or a qualified investment if it supports an organization or activity that covers an area that is larger than, but includes, the institution's assessment area(s). The institution's assessment area(s) need not receive an immediate or direct benefit from the institution's specific participation in the broader organization or activity, provided that the purpose, mandate, or function of the organization or activity includes serving geographies or individuals located within the institution's assessment area(s).

In addition, a retail institution that, considering its performance context, has adequately addressed the community development needs of its assessment area(s) will receive consideration for certain other community development activities. These community development activities must benefit geographies or individuals located somewhere within a broader statewide or regional area that includes the institution's assessment area(s). Examiners will consider these activities even if they will not benefit the institution's assessment area(s).

Proposed Conforming Amendment to §§ ____.12(i) & 563e.12(h)–6

Consistent with expanded consideration that would be granted under proposed §§ ____.12(i) & 563e.12(h)–5, we believe that §§ ____.12(i) & 563e.12(h)–6 must also be modified so that, in cases where an institution has already adequately addressed the community development needs of its assessment area(s), examiner discretion does not unduly impede the broader choice and judgment permitted to institutions for performing community development activities in the relevant statewide or regional area. Accordingly, we are proposing to amend §§ ____.12(i) & 563e.12(h)–6 as follows to explain how the institution's performance will be evaluated in these situations.

Proposed §§ ____.12(i) & 563e.12(h)–6: *What is meant by the term ''regional area''?*

Proposed A6. A ''regional area'' may be as small as a city or county or as large as a multistate area. For example, the ''Mid-Atlantic States'' may comprise a regional area.

Community development loans and services and qualified investments to statewide or regional organizations that have a bona fide purpose, mandate or function that includes serving the geographies or individuals within the institution's assessment area(s) will be considered as addressing assessment area needs. When examiners evaluate community development loans and services and qualified investments that benefit a regional area that includes the institution's assessment area(s), they will consider the institution's performance context as well as the size of the regional area and the actual or potential benefit to the institution's assessment area(s). With larger regional areas, benefit to the institution's assessment area(s) may be diffused and, thus, less responsive to assessment area needs.

In addition, as long as an institution has adequately addressed the community development needs of its assessment area(s), it will also receive consideration for community development activities that benefit geographies or individuals located somewhere within the broader statewide or regional area that includes the institution's assessment area(s), even if those activities do not benefit its assessment area(s).

New Question and Answer

Consumer Income Data Collection

The agencies have received questions from examiners and others about whose income should be collected and maintained in connection with consumer loans that are made to more than one borrower. We are adopting a new question and answer (§§ ____.42(c)(1)(iv)–4) to clarify what income should be reported when an institution makes such a consumer loan. The new question and answer provides that an institution that chooses to have consumer loans considered must collect and maintain the income of all primary obligors, including co-signers, to the extent that the institution considered the income of the primary obligors when making the decision to extend

credit. On the other hand, the institution should not collect and maintain the income of guarantors on consumer loans, because guarantors are only secondarily liable for the debt.

Revised Questions and Answers

Special Purpose Institutions

In 1995, all of the agencies except the OTS adopted § ____.11(c)(3) of the regulation, which addresses ''special purpose banks.'' More recently, the OTS added the provision to its regulation as § 563e.11(c)(2).

As a result of the OTS's addition of § 563e.11(c)(2), we have made minor technical corrections to the two Qs and As addressing § ____.11(c)(3), to substitute the term ''institution,'' rather than ''bank.'' We have also amended the heading and question and answer numbers to include reference to OTS's new regulatory provision.

Business Revenue Data Collection and Reporting in Connection With Sole Proprietorships

Staff have received a number of questions about what revenue information an institution should provide if it is collecting and reporting data on a sole proprietorship and has considered both the business's revenue and the sole proprietor's income when making the credit decision. We believe that because the purpose of small business data collection is to determine whether an institution is serving businesses of all sizes, an individual's—such as the sole proprietor's—outside income is irrelevant. Current § ____.42(a)(4)–1 addresses this issue. However, we are slightly amending that question and answer to clarify our position. We are amending the last sentence of the answer to read: ''However, if the institution considered and relied on revenues or income of a cosigner or guarantor that is not an affiliate of the borrower, such as a sole proprietor, the institution should not adjust the borrower's revenues for reporting purposes.''

Affordable Housing

The question and answer, §§ ____.12(h)(1) & 563e.12(g)(1)–1, finalized on May 3, 1999, discusses whether a formulaic approach is appropriate when determining whether a project is ''affordable housing for low- and moderate-income individuals,'' thereby meeting the definition of ''community development.'' A typical formula would only compare the cost of ownership, rental, or borrowing to the income levels in the area, regardless of whether the users, likely users, or beneficiaries of that affordable housing are low- or moderate-income individuals.

The answer currently states: ''For projects that do not yet have occupants, and for which the income of the potential occupants is not knowable in advance, examiners will review factors such as demographic, economic, and market data to determine the likelihood that the housing will 'primarily' accommodate low- or moderate-income individuals.'' It then sets forth a variety of these factors.

This sentence implies that the question and answer addresses only unoccupied or new affordable housing projects that do not have occupants. However, the preamble discussion (64 FR at 23620), based on staff discussions at the time of drafting, states: ''Institutions and others have asked how to determine whether a housing development will provide 'affordable' housing for low- and moderate-income individuals, *particularly* in a new project, *or in other projects* where the income of renters cannot be verified.''

As indicated by the preamble discussion, we intended that application of these other factors should not be restricted to new projects. In fact, examiners have applied them to other projects during examinations in urban areas for multifamily dwellings where the income of occupants cannot be verified. Therefore, we are slightly amending the question and answer to more clearly reflect the preamble discussion and our intended interpretation. The second sentence of the answer is being changed to read: ''For projects that do not yet have occupants and for which the income of the potential occupants *cannot be determined* in advance*, or in other projects where the income of occupants cannot be verified,* examiners will review factors such as demographic, economic and market data to determine the likelihood that the housing will 'primarily' accommodate low- or moderate-income individuals.''

Community Development Loan

In May, we added a sentence to the first question and answer addressing §§ ____.12(i) and 563e.12(h) to clarify that the abatement of environmental hazards could be a part of rehabilitating affordable housing or community facilities targeted to low- and moderate-income individuals. We received several comments suggesting that we rephrase the sentence to make clear that an environmental hazard need only be mitigated, rather than abated entirely. We concur with these comments. We are rephrasing the last sentence of the answer to read: ''The rehabilitation or construction of affordable housing or community facilities, referred to above, may include the abatement or remediation of, or other actions to correct, environmental hazards, such as lead-based paint, that are present in the housing, facilities, or site''.

Discussion of Other Comments Received

As discussed previously, the FFIEC received 82 letters commenting on the May 1999 Interagency Questions and Answers and the Board received four letters from Federal Reserve Banks. Although most of the commenters limited their comments to issues addressed in the questions and answers that were proposed in May, some commenters also raised other issues. We are continuing to consider these other issues and, to the extent that we believe additional guidance is appropriate, we expect to address them in the next publication of the Interagency Questions and Answers.

General Comments

In addition to the specific request for comments on the proposed questions and answers addressing §§ ____.12(i) and 563e.12(h) and § ____.23(a), we invite public comment on the new and revised questions and answers. We also invite public comment on a continuing basis on any issues raised by the CRA and these Interagency Questions and Answers. If, after reading the Interagency Questions and Answers, financial institutions, examiners, community organizations, or other interested parties have unanswered questions or comments about the agencies' community reinvestment regulations, they should submit them to the agencies or the FFIEC. We will consider addressing such questions in future revisions to the Interagency Questions and Answers.

Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)

The SBREFA requires an agency, for each rule for which it prepares a final regulatory flexibility analysis, to publish one or more compliance guides to help small entities understand how to comply with the rule.

Pursuant to section 605(b) of the Regulatory Flexibility Act, the agencies certified that their proposed CRA rule would not have a significant economic impact on a substantial number of small entities and invited public comments on that determination. *See* 58 FR 67478 (Dec. 21, 1993); 59 FR 51250 (Oct. 7, 1994). In response to public comment, the agencies voluntarily prepared a final

regulatory flexibility analysis for the joint final rule, although the analysis was not required because it supported the agencies' earlier certification regarding the proposed rule. Because a regulatory flexibility analysis was not required, section 212 of the SBREFA does not apply to the final CRA rule. However, in their continuing efforts to provide clear, understandable regulations and to comply with the spirit of the SBREFA, the agencies have compiled the Interagency Questions and Answers. The Interagency Questions and Answers serve the same purpose as the compliance guide described in the SBREFA by providing guidance on a variety of issues of particular concern to small banks and thrifts.

The text of the Interagency Questions and Answers follows:

Interagency Questions and Answers Regarding Community Reinvestment

§ ____.11—Authority, Purposes, and Scope

§ ____.11(c) Scope

§ ____.11(c)(3) & 563e.11(c)(2) Certain special purpose institutions.

§§ ____.11(c)(3) & 563e.11(c)(2)–1: *Is the list of special purpose institutions exclusive?*

A1. No, there may be other examples of special purpose institutions. These institutions engage in specialized activities that do not involve granting credit to the public in the ordinary course of business. Special purpose institutions typically serve as correspondent banks, trust companies, or clearing agents or engage only in specialized services, such as cash management controlled disbursement services. A financial institution, however, does not become a special purpose institution merely by ceasing to make loans and, instead, making investments and providing other retail banking services.

§§ ____.11(c)(3) & 563e.11(c)(2)–2: *To be a special purpose institution, must an institution limit its activities in its charter?*

A2. No. A special purpose institution may, but is not required to, limit the scope of its activities in its charter, articles of association or other corporate organizational documents. An institution that does not have legal limitations on its activities, but has voluntarily limited its activities, however, would no longer be exempt from Community Reinvestment Act (CRA) requirements if it subsequently engaged in activities that involve granting credit to the public in the ordinary course of business. An institution that believes it is exempt from CRA as a special purpose institution should seek confirmation of this status from its supervisory agency.

§ ____.12—Definitions

§ ____.12(a) Affiliate

§ ____.12(a)–1: *Does the definition of ''affiliate'' include subsidiaries of an institution?*

A1. Yes, ''affiliate'' includes any company that controls, is controlled by, or is under common control with another company. An institution's subsidiary is controlled by the institution and is, therefore, an affiliate.

§§ ____.12(f) & 563e.12(e) Branch

§§ ____.12(f) & 563e.12(e)–1: *Do the definitions of ''branch,'' ''automated teller machine (ATM),'' and ''remote service facility (RSF)'' include mobile branches, ATMs, and RSFs?*

A1. Yes. Staffed mobile offices that are authorized as branches are considered ''branches'' and mobile ATMs and RSFs are considered ''ATMs'' and ''RSFs.''

§§ ____.12(f) & 563e.12(e)–2: *Are loan production offices (LPOs) branches for purposes of the CRA?*

A2. LPOs and other offices are not ''branches'' unless they are authorized as branches of the institution through the regulatory approval process of the institution's supervisory agency.

§§ ____.12(h) & 563e.12(g) Community Development

§§ ____.12(h) & 563e.12(g)–1: *Are community development activities limited to those that promote economic development?*

A1. No. Although the definition of ''community development'' includes activities that promote economic development by financing small businesses or farms, the rule does not limit community development loans and services and qualified investments to those activities. Community development also includes community- or tribal-based child care, educational, health, or social services targeted to low- or moderate-income persons, affordable housing for low- or moderate-income individuals, and activities that revitalize or stabilize low- or moderate-income areas.

§§ ____.12(h) & 563e.12(g)–2: *Must a community development activity occur inside a low- or moderate-income area in order for an institution to receive CRA consideration for the activity?*

A2. No. Community development includes activities outside of low- and moderate-income areas that provide affordable housing for, or community services targeted to, low- or moderate-income individuals and activities that promote economic development by financing small businesses and farms. Activities that stabilize or revitalize particular low- or moderate-income areas (including by creating, retaining, or improving jobs for low- or moderate-income persons) also qualify as community development, even if the activities are not located in these low- or moderate-income areas. One example is financing a supermarket that serves as an anchor store in a small strip mall located at the edge of a middle-income area, if the mall stabilizes the adjacent low-income community by providing needed shopping services that are not otherwise available in the low-income community.

§§ ____.12(h) & 563e.12(g)–3: *Does the regulation provide flexibility in considering performance in high-cost areas?*

A3. Yes, the flexibility of the performance standards allows examiners to account in their evaluations for conditions in high-cost areas. Examiners consider lending and services to individuals and geographies of all income levels and businesses of all sizes and revenues. In addition, the flexibility in the requirement that community development loans, community development services, and qualified investments have as their ''primary'' purpose community development allows examiners to account for conditions in high-cost areas. For example, examiners could take into account the fact that activities address a credit shortage among middle-income people or areas caused by the disproportionately high cost of building, maintaining or acquiring a house when determining whether an institution's loan to or investment in an organization that funds affordable housing for middle-income people or areas, as well as low-and moderate-income people or areas, has as its primary purpose community development.

§§ ____.*12(h)(1) & 563e.12(g)(1) Affordable housing (including multifamily rental housing) for low- or moderate-income individuals.*

§§ ____.12(h)(1) & 563e.12(g)(1)–1: *When determining whether a project is ''affordable housing for low- or moderate-income individuals,'' thereby meeting the definition of ''community development,'' will it be sufficient to use a formula that relates the cost of ownership, rental or borrowing to the income levels in the area as the only factor, regardless of whether the users, likely users, or beneficiaries of that affordable housing are low- or moderate-income individuals?*

A1. The concept of ''affordable housing'' for low- or moderate-income individuals does hinge on whether low-

or moderate-income individuals benefit, or are likely to benefit, from the housing. It would be inappropriate to give consideration to a project that exclusively or predominately houses families that are not low- or moderate-income simply because the rents or housing prices are set according to a particular formula.

For projects that do not yet have occupants, and for which the income of the potential occupants cannot be determined in advance, or in other projects where the income of occupants cannot be verified, examiners will review factors such as demographic, economic and market data to determine the likelihood that the housing will ''primarily'' accommodate low- or moderate-income individuals. For example, examiners may look at median rents of the assessment area and the project; the median home value of either the assessment area, low- or moderate-income geographies or the project; the low- or moderate-income population in the area of the project; or the past performance record of the organization(s) undertaking the project. Further, such a project could receive consideration if its express, bona fide intent, as stated, for example, in a prospectus, loan proposal or community action plan, is community development.

§§ ____.12(h)(3) & 563e.12(g)(3) Activities that promote economic development by financing businesses or farms that meet certain size eligibility standards.

§§ ____.12(h)(3) & 563e.12(g)(3)–1: *''Community development'' includes activities that promote economic development by financing businesses or farms that meet certain size eligibility standards. Are all activities that finance businesses and farms that meet these size eligibility standards considered to be community development?*

A1. No. To be considered as ''community development'' under §§ ____.12(h)(3) and 563e.12(g)(3), a loan, investment or service, whether made directly or through an intermediary, must meet both a size test and a purpose test. An activity meets the size requirement if it finances entities that either meet the size eligibility standards of the Small Business Administration's Development Company (SBDC) or Small Business Investment Company (SBIC) programs, or have gross annual revenues of $1 million or less. To meet the purpose test, the activity must promote economic development. An activity is considered to promote economic development if it supports permanent job creation, retention, and/or improvement for persons who are currently low- or moderate-income, or supports permanent job creation, retention, and/or improvement either in low- or moderate-income geographies or in areas targeted for redevelopment by Federal, state, local or tribal governments. The agencies will presume that any loan to or investment in a SBDC or SBIC promotes economic development.

In addition to their quantitative assessment of the amount of a financial institution's community development activities, examiners must make qualitative assessments of an institution's leadership in community development matters and the complexity, responsiveness, and impact of the community development activities of the institution. In reaching a conclusion about the impact of an institution's community development activities, examiners may, for example, determine that a loan to a small business in a low- or moderate-income geography that provides needed jobs and services in that area may have a greater impact and be more responsive to the community credit needs than does a loan to a small business in the same geography that does not directly provide additional jobs or services to the community.

§§ ____.12(i) & 563e.12(h) Community Development Loan.

§§ ____.12(i) & 563e.12(h)–1: *What are examples of community development loans?*

A1. Examples of community development loans include, but are not limited to, loans to:

- Borrowers for affordable housing rehabilitation and construction, including construction and permanent financing of multifamily rental property serving low-and moderate-income persons;
- Not-for-profit organizations serving primarily low-and moderate-income housing or other community development needs;
- Borrowers to construct or rehabilitate community facilities that are located in low-and moderate-income areas or that serve primarily low-and moderate-income individuals;
- Financial intermediaries including Community Development Financial Institutions (CDFIs), Community Development Corporations (CDCs), minority-and women-owned financial institutions, community loan funds or pools, and low-income or community development credit unions that primarily lend or facilitate lending to promote community development.
- Local, state, and tribal governments for community development activities; and
- Borrowers to finance environmental clean-up or redevelopment of an industrial site as part of an effort to revitalize the low- or moderate-income community in which the property is located.

The rehabilitation and construction of affordable housing or community facilities, referred to above, may include the abatement or remediation of, or other actions to correct, environmental hazards, such as lead-based paint, that are present in the housing, facilities, or site.

§§ ____.12(i) & 563e.12(h)–2: *If a retail institution that is not required to report under the Home Mortgage Disclosure Act (HMDA) makes affordable home mortgage loans that would be HMDA-reportable home mortgage loans if it were a reporting institution, or if a small institution that is not required to collect and report loan data under CRA makes small business and small farm loans and consumer loans that would be collected and/or reported if the institution were a large institution, may the institution have these loans considered as community development loans?*

A2. No. Although small institutions are not required to report or collect information on small business and small farm loans and consumer loans, and some institutions are not required to report information about their home mortgage loans under HMDA, if these institutions are retail institutions, the agencies will consider in their CRA evaluations the institutions' originations and purchases of loans that would have been collected or reported as small business, small farm, consumer or home mortgage loans, had the institution been a collecting and reporting institution under the CRA or the HMDA. Therefore, these loans will not be considered as community development loans. Multifamily dwelling loans, however, may be considered as community development loans as well as home mortgage loans. *See also* § ____.42(b)(2)–2.

§§ ____.12(i) & 563e.12(h)–3: *Do secured credit cards or other credit card programs targeted to low- or moderate-income individuals qualify as community development loans?*

A3. No. Credit cards issued to low- or moderate-income individuals for household, family, or other personal expenditures, whether as part of a program targeted to such individuals or otherwise, do not qualify as community development loans because they do not have as their primary purpose any of the activities included in the definition of ''community development.''

§§ ____.12(i) & 563e.12(h)–4: *The regulation indicates that community development includes ''activities that revitalize or stabilize low- or moderate-income geographies.'' Do all loans in a low- to moderate-income geography have a stabilizing effect?*

A4. No. Some loans may provide only indirect or short-term benefits to low- or moderate-income individuals in a low- or moderate-income geography. These loans are not considered to have a community development purpose. For example, a loan for upper-income housing in a distressed area is not considered to have a community development purpose simply because of the indirect benefit to low- or moderate-income persons from construction jobs or the increase in the local tax base that supports enhanced services to low- and moderate-income area residents. On the other hand, a loan for an anchor business in a distressed area (or a nearby area), that employs or serves residents of the area, and thus stabilizes the area, may be considered to have a community development purpose. For example, in an underserved, distressed area, a loan for a pharmacy that employs, and provides supplies to, residents of the area promotes community development.

§§ ____.12(i) & 563e.12(h)–5: *Must there be some immediate or direct benefit to the institution's assessment area(s) to satisfy the regulations' requirement that qualified investments and community development loans or services benefit an institution's assessment area(s) or a broader statewide or regional area that includes the institution's assessment area(s)?*

A5. No. The regulations, for example, recognize that community development organizations and programs are frequently efficient and effective ways for institutions to promote community development. These organizations and programs often operate on a statewide or even multi-state basis. Therefore, an institution's activity is considered a community development loan or service or a qualified investment if it supports an organization or activity that covers an area that is larger than, but includes, the institution's assessment area(s). The institution's assessment area need not receive an immediate or direct benefit from the institution's specific participation in the broader organization or activity, provided the purpose, mandate, or function of the organization or activity includes serving geographies or individuals located within the institution's assessment area. Furthermore, the regulations permit a wholesale or limited purpose institution to consider community development loans, community development services, and qualified investments wherever they are located, as long as the institution has otherwise adequately addressed the credit needs within its assessment area(s).

§§ ____.12(i) & 563e.12(h)–6: *What is meant by a ''regional area'' in the requirement that a community development loan must benefit the institution's assessment area(s) or a broader statewide or regional area that includes the institution's assessment area(s)?*

A6. A ''regional area'' may be as small as a city or county or as large as a multistate area. For example, the ''mid-Atlantic states'' may comprise a regional area. When examiners evaluate community development loans that benefit a regional area that includes the institution's assessment area, however, the examiners will consider the size of the regional area and the actual or potential benefit to the institution's assessment area(s). In most cases, the larger the regional area, the more diffuse the benefit will be to the institution's assessment area(s). Examiners may view loans with more direct benefits to an institution's assessment area(s) as more responsive to the credit needs of the area(s) than loans for which the actual benefit to the assessment area(s) is uncertain or for which the benefit is diffused throughout a larger area that includes the assessment area(s).

§§____.12(i) & 563e.12(h)–7: *What is meant by the term ''primary purpose'' as that term is used to define what constitutes a community development loan, a qualified investment or a community development service?*

A7. A loan, investment or service has as its primary purpose community development when it is designed for the express purpose of revitalizing or stabilizing low- or moderate-income areas, providing affordable housing for, or community services targeted to, low- or moderate-income persons, or promoting economic development by financing small businesses and farms that meet the requirements set forth in §§____.12(h) or 563e.12(g). To determine whether an activity is designed for an express community development purpose, the agencies apply one of two approaches. First, if a majority of the dollars or beneficiaries of the activity are identifiable to one or more of the enumerated community development purposes, then the activity will be considered to possess the requisite primary purpose. Alternatively, where the measurable portion of any benefit bestowed or dollars applied to the community development purpose is less than a majority of the entire activity's benefits or dollar value, then the activity may still be considered to possess the requisite primary purpose if (1) the express, bona fide intent of the activity, as stated, for example, in a prospectus, loan proposal, or community action plan, is primarily one or more of the enumerated community development purposes; (2) the activity is specifically structured (given any relevant market or legal constraints or performance context factors) to achieve the expressed community development purpose; and (3) the activity accomplishes, or is reasonably certain to accomplish, the community development purpose involved. The fact that an activity provides indirect or short-term benefits to low- or moderate-income persons does not make the activity community development, nor does the mere presence of such indirect or short-term benefits constitute a primary purpose of community development. Financial institutions that want examiners to consider certain activities under either approach should be prepared to demonstrate the activities' qualifications.

§§____.12(j) & 563e.12(i) Community Development Service

§§____.12(j) & 563e.12(i)–1: *In addition to meeting the definition of ''community development'' in the regulation, community development services must also be related to the provision of financial services. What is meant by ''provision of financial services''?*

A1. Providing financial services means providing services of the type generally provided by the financial services industry. Providing financial services often involves informing community members about how to get or use credit or otherwise providing credit services or information to the community. For example, service on the board of directors of an organization that promotes credit availability or finances affordable housing is related to the provision of financial services. Providing technical assistance about financial services to community-based groups, local or tribal government agencies, or intermediaries that help to meet the credit needs of low- and moderate-income individuals or small businesses and farms is also providing financial services. By contrast, activities that do not take advantage of the employees' financial expertise, such as neighborhood cleanups, do not involve the provision of financial services.

§§____.12(j) & 563e.12(i)–2: *Are personal charitable activities provided by an institution's employees or*

directors outside the ordinary course of their employment considered community development services?

A2. No. Services must be provided as a representative of the institution. For example, if a financial institution's director, on her own time and not as a representative of the institution, volunteers one evening a week at a local community development corporation's financial counseling program, the institution may not consider this activity a community development service.

§§____.12(j) & 563e.12(i)–3: *What are examples of community development services?*

A3. Examples of community development services include, but are not limited to, the following:

- Providing technical assistance on financial matters to nonprofit, tribal or government organizations serving low- and moderate-income housing or economic revitalization and development needs;
- Providing technical assistance on financial matters to small businesses or community development organizations, including organizations and individuals who apply for loans or grants under the Federal Home Loan Banks' Affordable Housing Program;
- Lending employees to provide financial services for organizations facilitating affordable housing construction and rehabilitation or development of affordable housing;
- Providing credit counseling, home-buyer and home-maintenance counseling, financial planning or other financial services education to promote community development and affordable housing;
- Establishing school savings programs and developing or teaching financial education curricula for low- or moderate-income individuals;
- Providing electronic benefits transfer and point of sale terminal systems to improve access to financial services, such as by decreasing costs, for low- or moderate-income individuals; and
- Providing other financial services with the primary purpose of community development, such as low-cost bank accounts, including ''Electronic Transfer Accounts'' provided pursuant to the Debt Collection Improvement Act of 1996, or free government check cashing that increases access to financial services for low- or moderate-income individuals.

Examples of technical assistance activities that might be provided to community development organizations include:

- Serving on a loan review committee;
- Developing loan application and underwriting standards;
- Developing loan processing systems;
- Developing secondary market vehicles or programs;
- Assisting in marketing financial services, including development of advertising and promotions, publications, workshops and conferences;
- Furnishing financial services training for staff and management;
- Contributing accounting/bookkeeping services; and
- Assisting in fund raising, including soliciting or arranging investments.

§§ ____.12(k) & 563e.12(j) Consumer Loan

§§ ____.12(k) & 563e.12(j)–1: *Are home equity loans considered ''consumer loans''?*

A1. Home equity loans made for purposes other than home purchase, home improvement or refinancing home purchase or home improvement loans are consumer loans if they are extended to one or more individuals for household, family, or other personal expenditures.

§§ ____.12(k) & 563e.12(j)–2: *May a home equity line of credit be considered a ''consumer loan'' even if part of the line is for home improvement purposes?*

A2. If the predominant purpose of the line is home improvement, the line may only be reported under HMDA and may not be considered a consumer loan. However, the full amount of the line may be considered a ''consumer loan'' if its predominant purpose is for household, family, or other personal expenditures, and to a lesser extent home improvement, and the full amount of the line has not been reported under HMDA. This is the case even though there may be ''double counting'' because part of the line may also have been reported under HMDA.

§§ ____.12(k) & 563e.12(j)–3: *How should an institution collect or report information on loans the proceeds of which will be used for multiple purposes?*

A3. If an institution makes a single loan or provides a line of credit to a customer to be used for both consumer and small business purposes, consistent with the Call Report and TFR instructions, the institution should determine the major (predominant) component of the loan or the credit line and collect or report the entire loan or credit line in accordance with the regulation's specifications for that loan type.

§§ ____.12(m) & 563e.12(l) Home Mortgage Loan

§§ ____.12(m) & 563e.12(l)–1: *Does the term ''home mortgage loan'' include loans other than ''home purchase loans''?*

A1. Yes. ''Home mortgage loan'' includes a ''home improvement loan'' as well as a ''home purchase loan,'' as both terms are defined in the HMDA regulation, Regulation C, 12 CFR part 203. This definition also includes multifamily (five-or-more families) dwelling loans, loans for the purchase of manufactured homes, and refinancings of home improvement and home purchase loans.

§§ ____.12(m) & 563e.12(l)–2: *Some financial institutions broker home mortgage loans.* They typically take the borrower's application and perform other settlement activities; however, they do not make the credit decision. The broker institutions may also initially fund these mortgage loans, then immediately assign them to another lender. Because the broker institution does not make the credit decision, under Regulation C (HMDA), they do not record the loans on their HMDA–LARs, even if they fund the loans. May an institution receive any consideration under CRA for its home mortgage loan brokerage activities?

A2. Yes. A financial institution that funds home mortgage loans but immediately assigns the loans to the lender that made the credit decisions may present information about these loans to examiners for consideration under the lending test as ''other loan data.'' Under Regulation C, the broker institution does not record the loans on its HMDA–LAR because it does not make the credit decisions, even if it funds the loans. An institution electing to have these home mortgage loans considered must maintain information about all of the home mortgage loans that it has funded in this way. Examiners will consider this other loan data using the same criteria by which home mortgage loans originated or purchased by an institution are evaluated.

Institutions that do not provide funding but merely take applications and provide settlement services for another lender that makes the credit decisions will receive consideration for this service as a retail banking service. Examiners will consider an institution's mortgage brokerage services when evaluating the range of services provided to low-, moderate-, middle- and upper-income geographies and the degree to which the services are tailored to meet the needs of those geographies.

Alternatively, an institution's mortgage brokerage service may be considered a community development service if the primary purpose of the service is community development. An institution wishing to have its mortgage brokerage service considered as a community development service must provide sufficient information to substantiate that its primary purpose is community development and to establish the extent of the services provided.

§§ ____.12(n) & 563e.12(m) Income Level

§§ ____.12(n) & 563e.12(m)–1: *Where do institutions find income level data for geographies and individuals?*

A1. The income levels for geographies, i.e., census tracts and block numbering areas, are derived from Census Bureau information and are updated every ten years. Institutions may contact their regional Census Bureau office or the Census Bureau's Income Statistics Office at (301) 763–8576 to obtain income levels for geographies. *See* Appendix A of these Interagency Questions and Answers for a list of the regional Census Bureau offices. The income levels for individuals are derived from information calculated by the Department of Housing and Urban Development (HUD) and updated annually. Institutions may contact HUD at (800) 245–2691 to request a copy of ''FY [year number, e.g., 1996] Median Family Incomes for States and their Metropolitan and Nonmetropolitan Portions.''

Alternatively, institutions may obtain a list of the 1990 Census Bureau-calculated and the annually updated HUD median family incomes for metropolitan statistical areas (MSAs) and statewide nonmetropolitan areas by calling the Federal Financial Institution Examination Council's (FFIEC's) HMDA Help Line at (202) 452–2016. A free copy will be faxed to the caller through the ''fax-back'' system. Institutions may also call this number to have ''faxed-back'' an order form, from which they may order a list providing the median family income level, as a percentage of the appropriate MSA or nonmetropolitan median family income, of every census tract and block numbering area (BNA). This list costs $50. Institutions may also obtain the list of MSA and statewide nonmetropolitan area median family incomes or an order form through the FFIEC's home page on the Internet at 'http://www.ffiec.gov/'.

§§ ____.12(o) & 563e.12(n) Limited Purpose Institution

§§ ____.12(o) & 563e.12(n)–1: *What constitutes a ''narrow product line'' in the definition of ''limited purpose institution''?*

A1. An institution offers a narrow product line by limiting its lending activities to a product line other than a traditional retail product line required to be evaluated under the lending test (i.e., home mortgage, small business, and small farm loans). Thus, an institution engaged only in making credit card or motor vehicle loans offers a narrow product line, while an institution limiting its lending activities to home mortgages is not offering a narrow product line.

§§ ____.12(o) & 563e.12(n)–2: *What factors will the agencies consider to determine whether an institution that, if limited purpose, makes loans outside a narrow product line, or, if wholesale, engages in retail lending, will lose its limited purpose or wholesale designation because of too much other lending?*

A2. Wholesale institutions may engage in some retail lending without losing their designation if this activity is incidental and done on an accommodation basis. Similarly, limited purpose institutions continue to meet the narrow product line requirement if they provide other types of loans on an infrequent basis. In reviewing other lending activities by these institutions, the agencies will consider the following factors:

- Is the other lending provided as an incident to the institution's wholesale lending?
- Are the loans provided as an accommodation to the institution's wholesale customers?
- Are the loans made only infrequently to the limited purpose institution's customers?
- Does only an insignificant portion of the institution's total assets and income result from the other lending?
- How significant a role does the institution play in providing that type(s) of loan(s) in the institution's assessment area(s)?
- Does the institution hold itself out as offering that type(s) of loan(s)?
- Does the lending test or the community development test present a more accurate picture of the institution's CRA performance?

§§ ____.12(o) & 563e.12(n)–3: *Do ''niche institutions'' qualify as limited purpose (or wholesale) institutions?*

A3. Generally, no. Institutions that are in the business of lending to the public, but specialize in certain types of retail loans (for example, home mortgage or small business loans) to certain types of borrowers (for example, to high-end income level customers or to corporations or partnerships of licensed professional practitioners) (''niche institutions'') generally would not qualify as limited purpose (or wholesale) institutions.

§§ ____.12(s) & 563e.12(r) Qualified Investment

§§ ____.12(s) & 563e.12(r)–1: *Does the CRA regulation provide authority for institutions to make investments?*

A1. No. The CRA regulation does not provide authority for institutions to make investments that are not otherwise allowed by Federal law.

§§ ____.12(s) & 563e.12(r)–2: *Are mortgage-backed securities or municipal bonds ''qualified investments''?*

A2. As a general rule, mortgage-backed securities and municipal bonds are not qualified investments because they do not have as their primary purpose community development, as defined in the CRA regulations. Nonetheless, mortgage-backed securities or municipal bonds designed primarily to finance community development generally are qualified investments. Municipal bonds or other securities with a primary purpose of community development need not be housing-related. For example, a bond to fund a community facility or park or to provide sewage services as part of a plan to redevelop a low-income neighborhood is a qualified investment. Housing-related bonds or securities must primarily address affordable housing (including multifamily rental housing) needs in order to qualify. See also § ____.23(b)–2.

§§ ____.12(s) & 563e.12(r)–3: *Are Federal Home Loan Bank stocks and membership reserves with the Federal Reserve Banks ''qualified investments''?*

A3. No. Federal Home Loan Bank (FHLB) stock and membership reserves with the Federal Reserve Banks do not have a sufficient connection to community development to be qualified investments. However, FHLB member institutions may receive CRA consideration for technical assistance they provide on behalf of applicants and recipients of funding from the FHLB's Affordable Housing Program. See §§ ____.12(j) & 563e.12(i)–3.

§§ ____.12(s) & 563e.12(r)–4: *What are examples of qualified investments?*

A4. Examples of qualified investments include, but are not limited to, investments, grants, deposits or shares in or to:

- Financial intermediaries (including, Community Development Financial Institutions (CDFIs), Community Development Corporations (CDCs), minority- and women-owned financial institutions, community loan funds, and

low-income or community development credit unions) that primarily lend or facilitate lending in low- and moderate-income areas or to low- and moderate-income individuals in order to promote community development, such as a CDFI that promotes economic development on an Indian reservation;

• Organizations engaged in affordable housing rehabilitation and construction, including multifamily rental housing;

• Organizations, including, for example, Small Business Investment Companies (SBICs) and specialized SBICs, that promote economic development by financing small businesses;

• Facilities that promote community development in low- and moderate-income areas for low- and moderate-income individuals, such as youth programs, homeless centers, soup kitchens, health care facilities, battered women's centers, and alcohol and drug recovery centers;

• Projects eligible for low-income housing tax credits;

• State and municipal obligations, such as revenue bonds, that specifically support affordable housing or other community development;

• Not-for-profit organizations serving low- and moderate-income housing or other community development needs, such as counseling for credit, home-ownership, home maintenance, and other financial services education; and

• Organizations supporting activities essential to the capacity of low-and moderate-income individuals or geographies to utilize credit or to sustain economic development, such as, for example, day care operations and job training programs that enable people to work.

§§ ____.12(s) & 563e.12(r)–5: *Will an institution receive consideration for charitable contributions as ''qualified investments''?*

A5. Yes, provided they have as their primary purpose community development as defined in the regulations. A charitable contribution, whether in cash or an in-kind contribution of property, is included in the term ''grant.'' A qualified investment is not disqualified because an institution receives favorable treatment for it (for example, as a tax deduction or credit) under the Internal Revenue Code.

§§ ____.12(s) & 563e.12(r)–6: *An institution makes or participates in a community development loan. The institution provided the loan at below-market interest rates or ''bought down'' the interest rate to the borrower. Is the lost income resulting from the lower interest rate or buy-down a qualified investment?*

A6. No. The agencies will, however, consider the innovativeness and complexity of the community development loan within the bounds of safe and sound banking practices.

§§ ____.12(s) & 563e.12(r)–7: *Will the agencies consider as a qualified investment the wages or other compensation of an employee or director who provides assistance to a community development organization on behalf of the institution?*

A7. No. However, the agencies will consider donated labor of employees or directors of a financial institution in the service test if the activity is a community development service.

§§ ____.12(t) & 563e.12(s) Small Institution

§§ ____.12(t) & 563e.12(s)–1: *How are the ''total bank and thrift assets'' of a holding company determined?*

A1. ''Total banking and thrift assets'' of a holding company are determined by combining the total assets of all banks and/or thrifts that are majority-owned by the holding company. An institution is majority-owned if the holding company directly or indirectly owns more than 50 percent of its outstanding voting stock.

§§ ____.12(t) & 563e.12(s)–2: *How are Federal and State branch assets of a foreign bank calculated for purposes of the CRA?*

A2. A Federal or State branch of a foreign bank is considered a small institution if the Federal or State branch has less than $250 million in assets and the total assets of the foreign bank's or its holding company's U.S. bank and thrift subsidiaries that are subject to the CRA are less than $1 billion. This calculation includes not only FDIC-insured bank and thrift subsidiaries, but also the assets of any FDIC-insured branch of the foreign bank and the assets of any uninsured Federal or State branch (other than a limited branch or a Federal agency) of the foreign bank that results from an acquisition described in section 5(a)(8) of the International Banking Act of 1978 (12 U.S.C. § 3103(a)(8)).

§§ ____.12(u)&563e.12(t)Small Business Loan

§§ ____.12(u)&563e.12(t)–1: *Are loans to nonprofit organiz ations considered small business loans or are they considered community development loans?*

A1. To be considered a small business loan, a loan must meet the definition of ''loan to small business'' in the instructions in the ''Consolidated Reports of Conditions and Income'' (Call Report) and ''Thrift Financial Reports'' (TFR). In general, a loan to a nonprofit organization, for business or farm purposes, where the loan is secured by nonfarm nonresidential property and the original amount of the loan is $1 million or less, if a business loan, or $500,000 or less, if a farm loan, would be reported in the Call Report and TFR as a small business or small farm loan. If a loan to a nonprofit organization is reportable as a small business or small farm loan, it cannot also be considered as a community development loan, except by a wholesale or limited purpose institution. Loans to nonprofit organizations that are not small business or small farm loans for Call Report and TFR purposes may be considered as community development loans if they meet the regulatory definition.

§§ ____.12(u) & 563e.12(t)–2: *Are loans secured by commercial real estate considered small business loans?*

A2. Yes, depending on their principal amount. Small business loans include loans secured by ''nonfarm nonresidential properties,'' as defined in the Call Report and TFR, in amounts less than $1 million.

§§ ____.12(u) & 563e.12(t)–3: *Are loans secured by nonfarm residential real estate to finance small businesses ''small business loans''?*

A3. No. Loans secured by nonfarm residential real estate that are used to finance small businesses are not included as ''small business'' loans for Call Report and TFR purposes. The agencies recognize that many small businesses are financed by loans secured by residential real estate. If these loans promote community development, as defined in the regulation, they may be considered as community development loans. Otherwise, at an institution's option, the institution may collect and maintain data separately concerning these loans and request that the data be considered in its CRA evaluation as ''Other Secured Lines/Loans for Purposes of Small Business.''

§§ ____.12(u) & 563e.12(t)–4: *Are credit cards issued to small businesses considered ''small business loans''?*

A4. Credit cards issued to a small business or to individuals to be used, with the institution's knowledge, as business accounts are small business loans if they meet the definitional requirements in the Call Report or TFR instructions.

§§ ____.12(w) & 563e.12(v) Wholesale Institution

§§ ____.12(w) & 563e.12(v)–1: *What factors will the agencies consider in*

determining whether an institution is in the business of extending home mortgage, small business, small farm, or consumer loans to retail customers?

A1. The agencies will consider whether:

- The institution holds itself out to the retail public as providing such loans; and
- The institution's revenues from extending such loans are significant when compared to its overall operations.

A wholesale institution may make some retail loans without losing its wholesale designation as described above in §§ ____.12(o) & 563e.12(n)–2.

§ ____.21—Performance Tests, Standards, and Ratings, in General

§ ____.21(a) Performance Tests and Standards

§ ____.21(a)–1: *Are all community development activities weighted equally by examiners?*

A1. No. Examiners will consider the responsiveness to credit and community development needs, as well as the innovativeness and complexity of an institution's community development lending, qualified investments, and community development services. These criteria include consideration of the degree to which they serve as a catalyst for other community development activities. The criteria are designed to add a qualitative element to the evaluation of an institution's performance.

§ ____.21(b) Performance Context

§ ____.21(b)–1: *Is the performance context essentially the same as the former regulation's needs assessment?*

A1. No. The performance context is a broad range of economic, demographic, and institution-and community-specific information that an examiner reviews to understand the context in which an institution's record of performance should be evaluated. The agencies will provide examiners with much of this information prior to the examination. The performance context is not a formal or written assessment of community credit needs.

§ ____.21(b)(2) *Information maintained by the institution or obtained from community contacts.*

§ ____.21(b)(2)–1: *Will examiners consider performance context information provided by institutions?*

A1. Yes. An institution may provide examiners with any information it deems relevant, including information on the lending, investment, and service opportunities in its assessment area(s). This information may include data on the business opportunities addressed by lenders not subject to the CRA. Institutions are not required, however, to prepare a needs assessment. If an institution provides information to examiners, the agencies will not expect information other than what the institution normally would develop to prepare a business plan or to identify potential markets and customers, including low-and moderate-income persons and geographies in its assessment area(s). The agencies will not evaluate an institution's efforts to ascertain community credit needs or rate an institution on the quality of any information it provides.

§ ____.21(b)(2)–2: *Will examiners conduct community contact interviews as part of the examination process?*

A2. Yes. Examiners will consider information obtained from interviews with local community, civic, and government leaders. These interviews provide examiners with knowledge regarding the local community, its economic base, and community development initiatives. To ensure that information from local leaders is considered—particularly in areas where the number of potential contacts may be limited—examiners may use information obtained through an interview with a single community contact for examinations of more than one institution in a given market. In addition, the agencies will consider information obtained from interviews conducted by other agency staff and by the other agencies. In order to augment contacts previously used by the agencies and foster a wider array of contacts, the agencies will share community contact information.

§ ____.21(b)(4) Institutional capacity and constraints.

§ ____.21(b)(4)–1: *Will examiners consider factors outside of an institution's control that prevent it from engaging in certain activities?*

A1. Yes. Examiners will take into account statutory and supervisory limitations on an institution's ability to engage in any lending, investment, and service activities. For example, a savings association that has made few or no qualified investments due to its limited investment authority may still receive a low satisfactory rating under the investment test if it has a strong lending record.

§ ____.21(b)(5) Institution's past performance and the performance of similarly situated lenders.

§ ____.21(b)(5)–1: *Can an institution's assigned rating be adversely affected by poor past performance?*

A1. Yes. The agencies will consider an institution's past performance in its overall evaluation. For example, an institution's past performance may support a rating of ''substantial noncompliance'' if the institution has not improved performance rated as ''needs to improve.''

§ ____.21(b)(5)–2: *How will examiners consider the performance of similarly situated lenders?*

A2. The performance context section of the regulation permits the performance of similarly situated lenders to be considered, for example, as one of a number of considerations in evaluating the geographic distribution of an institution's loans to low-, moderate-, middle-, and upper-income geographies. This analysis, as well as other analyses, may be used, for example, where groups of contiguous geographies within an institution's assessment area(s) exhibit abnormally low penetration. In this regard, the performance of similarly situated lenders may be analyzed if such an analysis would provide accurate insight into the institution's lack of performance in those areas. The regulation does not require the use of a specific type of analysis under these circumstances. Moreover, no ratio developed from any type of analysis is linked to any lending test rating.

§ ____.22—Lending Test

§ ____.22(a) Scope of Test

§ ____.22(a)(1) Types of loans considered.

§ ____.22(a)(1)–1: *If a large retail institution is not required to collect and report home mortgage data under the HMDA, will the agencies still evaluate the institution's home mortgage lending performance?*

A1. Yes. The agencies will sample the institution's home mortgage loan files in order to assess its performance under the lending test criteria.

§ ____.22(a)(1)–2: *When will examiners consider consumer loans as part of an institution's CRA evaluation?*

A2. Consumer loans will be evaluated if the institution so elects; and an institution that elects not to have its consumer loans evaluated will not be viewed less favorably by examiners than one that does. However, if consumer loans constitute a substantial majority of the institution's business, the agencies will evaluate them even if the institution does not so elect. The agencies interpret ''substantial majority'' to be so significant a portion of the institution's lending activity by number or dollar volume of loans that the lending test evaluation would not meaningfully reflect its lending

performance if consumer loans were excluded.

§ ____.22(a)(2) Loan originations and purchases/other loan data.

§ ____.22(a)(2)–1: *How are lending commitments (such as letters of credit) evaluated under the regulation?*

A1. The agencies consider lending commitments (such as letters of credit) only at the option of the institution. Commitments must be legally binding between an institution and a borrower in order to be considered. Information about lending commitments will be used by examiners to enhance their understanding of an institution's performance.

§ ____.22(a)(2)–2: *Will examiners review application data as part of the lending test?*

A2. Application activity is not a performance criterion of the lending test. However, examiners may consider this information in the performance context analysis because this information may give examiners insight on, for example, the demand for loans.

§ ____.22(a)(2)–3: *May a financial institution receive consideration under CRA for modification, extension, and consolidation agreements (MECAs), in which it obtains loans from other institutions without actually purchasing or refinancing the loans, as those terms have been interpreted under CRA?*

A3. Yes. In some states, MECAs, which are not considered loan refinancings because the existing loan obligations are not satisfied and replaced, are common. Although these transactions are not considered to be purchases or refinancings, as those terms have been interpreted under CRA, they do achieve the same results. An institution may present information about its MECA activities to examiners for consideration under the lending test as ''other loan data.''

§ ____.22(a)(2)–4: *Do institutions receive consideration for originating or purchasing loans that are fully guaranteed?*

A4: Yes. The lending test evaluates an institution's record of helping to meet the credit needs of its assessment area(s) through the origination or purchase of specified types of loans. The test does not take into account whether or not such loans are guaranteed.

§ ____.22(b) Performance Criteria

§ ____.22(b)–1: *How will examiners apply the performance criteria in the lending test?*

A1. Examiners will apply the performance criteria reasonably and fairly, in accord with the regulations, the examination procedures, and this Guidance. In doing so, examiners will disregard efforts by an institution to manipulate business operations or present information in an artificial light that does not accurately reflect an institution's overall record of lending performance.

§ ____.22(b)(1) *Lending activity.*

§ ____.22(b)(1)–1: *How will the agencies apply the lending activity criterion to discourage an institution from originating loans that are viewed favorably under CRA in the institution itself and referring other loans, which are not viewed as favorably, for origination by an affiliate?*

A1. Examiners will review closely institutions with (1) a small number and amount of home mortgage loans with an unusually good distribution among low- and moderate-income areas and low- and moderate-income borrowers and (2) a policy of referring most, but not all, of their home mortgage loans to affiliated institutions. If an institution is making loans mostly to low- and moderate-income individuals and areas and referring the rest of the loan applicants to an affiliate for the purpose of receiving a favorable CRA rating, examiners may conclude that the institution's lending activity is not satisfactory because it has inappropriately attempted to influence the rating. In evaluating an institution's lending, examiners will consider legitimate business reasons for the allocation of the lending activity.

§ ____.22(b)(2) & (3) Geographic distribution and borrower characteristics.

§ ____.22(b)(2) & (3)–1: *How do the geographic distribution of loans and the distribution of lending by borrower characteristics interact in the lending test?*

A1. Examiners generally will consider both the distribution of an institution's loans among geographies of different income levels and among borrowers of different income levels and businesses of different sizes. The importance of the borrower distribution criterion, particularly in relation to the geographic distribution criterion, will depend on the performance context. For example, distribution among borrowers with different income levels may be more important in areas without identifiable geographies of different income categories. On the other hand, geographic distribution may be more important in areas with the full range of geographies of different income categories.

§ ____.22(b)(2) & (3)–2: *Must an institution lend to all portions of its assessment area?*

A2. The term ''assessment area'' describes the geographic area within which the agencies assess how well an institution has met the specific performance tests and standards in the rule. The agencies do not expect that simply because a census tract or block numbering area is within an institution's assessment area(s) the institution must lend to that census tract or block numbering area. Rather the agencies will be concerned with conspicuous gaps in loan distribution that are not explained by the performance context. Similarly, if an institution delineated the entire county in which it is located as its assessment area, but could have delineated its assessment area as only a portion of the county, it will not be penalized for lending only in that portion of the county, so long as that portion does not reflect illegal discrimination or arbitrarily exclude low- or moderate-income geographies. The capacity and constraints of an institution, its business decisions about how it can best help to meet the needs of its assessment area(s), including those of low- and moderate-income neighborhoods, and other aspects of the performance context, are all relevant to explain why the institution is serving or not serving portions of its assessment area(s).

§ ____.22(b)(2) & (3)–3: *Will examiners take into account loans made by affiliates when evaluating the proportion of an institution's lending in its assessment area(s)?*

A3. Examiners will not take into account loans made by affiliates when determining the proportion of an institution's lending in its assessment area(s), even if the institution elects to have its affiliate lending considered in the remainder of the lending test evaluation. However, examiners may consider an institution's business strategy of conducting lending through an affiliate in order to determine whether a low proportion of lending in the assessment area(s) should adversely affect the institution's lending test rating.

§ ____.22(b)(2) & (3)–4: *When will examiners consider loans (other than community development loans) made outside an institution's assessment area(s)?*

A4. Consideration will be given for loans to low- and moderate-income persons and small business and farm loans outside of an institution's assessment area(s), provided the institution has adequately addressed the needs of borrowers within its assessment area(s). The agencies will apply this consideration not only to loans made by large retail institutions being evaluated under the lending test, but also to loans made by small

institutions being evaluated under the small institution performance standards. Loans to low- and moderate-income persons and small businesses and farms outside of an institution's assessment area(s), however, will not compensate for poor lending performance within the institution's assessment area(s).

§ ____.22(b)(2) & (3)–5: *Under the lending test, how will examiners evaluate home mortgage loans to middle- or upper-income individuals in a low- or moderate-income geography?*

A5. Examiners will consider these home mortgage loans under the performance criteria of the lending test, i.e., by number and amount of home mortgage loans, whether they are inside or outside the financial institution's assessment area(s), their geographic distribution, and the income levels of the borrowers. Examiners will use information regarding the financial institution's performance context to determine how to evaluate the loans under these performance criteria. Depending on the performance context, examiners could view home mortgage loans to middle-income individuals in a low-income geography very differently. For example, if the loans are for homes or multifamily housing located in an area for which the local, state, tribal, or Federal government or a community-based development organization has developed a revitalization or stabilization plan (such as a Federal enterprise community or empowerment zone) that includes attracting mixed-income residents to establish a stabilized, economically diverse neighborhood, examiners may give more consideration to such loans, which may be viewed as serving the low- or moderate-income community's needs as well as serving those of the middle- or upper-income borrowers. If, on the other hand, no such plan exists and there is no other evidence of governmental support for a revitalization or stabilization project in the area and the loans to middle- or upper-income borrowers significantly disadvantage or primarily have the effect of displacing low- or moderate-income residents, examiners may view these loans simply as home mortgage loans to middle- or upper-income borrowers who happen to reside in a low- or moderate-income geography and weigh them accordingly in their evaluation of the institution.

§ ____.22(b)(4) Community development lending.

§ ____.22(b)(4)–1: *When evaluating an institution's record of community development lending, may an examiner distinguish among community development loans on the basis of the actual amount of the loan that advances the community development purpose?*

A1. Yes. When evaluating the institution's record of community development lending under § ____.22(b)(4), it is appropriate to give greater weight to the amount of the loan that is targeted to the intended community development purpose. For example, consider two $10 million projects (with a total of 100 units each) that have as their express primary purpose affordable housing and are located in the same community. One of these projects sets aside 40 percent of its units for low-income residents and the other project allocates 65 percent of its units for low-income residents. An institution would report both loans as $10 million community development loans under the § ____.42(b)(2) aggregate reporting obligation. However, transaction complexity, innovation and all other relevant considerations being equal, an examiner should also take into account that the 65 percent project provides more affordable housing for more people per dollar expended.

Under § ____.22(b)(4), the extent of CRA consideration an institution receives for its community development loans should bear a direct relation to the benefits received by the community and the innovation or complexity of the loans required to accomplish the activity, not simply to the dollar amount expended on a particular transaction. By applying all lending test performance criteria, a community development loan of a lower dollar amount could meet the credit needs of the institution's community to a greater extent than a community development loan with a higher dollar amount, but with less innovation, complexity, or impact on the community.

§ ____.22(b)(5) Innovative or flexible lending practices.

§ ____.22(b)(5)–1: *What is the range of practices that examiners may consider in evaluating the innovativeness or flexibility of an institution's lending?*

A1. In evaluating the innovativeness or flexibility of an institution's lending practices (and the complexity and innovativeness of its community development lending), examiners will not be limited to reviewing the overall variety and specific terms and conditions of the credit products themselves. In connection with the evaluation of an institution's lending, examiners also may give consideration to related innovations when they augment the success and effectiveness of the institution's lending under its community development loan programs or, more generally, its lending under its loan programs that address the credit needs of low- and moderate-income geographies or individuals. For example:

- In connection with a community development loan program, a bank may establish a technical assistance program under which the bank, directly or through third parties, provides affordable housing developers and other loan recipients with financial consulting services. Such a technical assistance program may, by itself, constitute a community development service eligible for consideration under the service test of the CRA regulations. In addition, the technical assistance may be favorably considered as an innovation that augments the success and effectiveness of the related community development loan program.
- In connection with a small business lending program in a low- or moderate-income area and consistent with safe and sound lending practices, a bank may implement a program under which, in addition to providing financing, the bank also contracts with the small business borrowers. Such a contracting arrangement would not, standing alone, qualify for CRA consideration. However, it may be favorably considered as an innovation that augments the loan program's success and effectiveness, and improves the program's ability to serve community development purposes by helping to promote economic development through support of small business activities and revitalization or stabilization of low- or moderate-income geographies.

§ ____.22(c) Affiliate Lending.

§ ____.22(c)(1) In general.

§ ____.22(c)(1)–1: *If an institution elects to have loans by its affiliate(s) considered, may it elect to have only certain categories of loans considered?*

A1. Yes. An institution may elect to have only a particular category of its affiliate's lending considered. The basic categories of loans are home mortgage loans, small business loans, small farm loans, community development loans, and the five categories of consumer loans (motor vehicle loans, credit card loans, home equity loans, other secured loans, and other unsecured loans).

§ ____.22(c)(2) Constraints on affiliate lending.

§ ____.22(c)(2)(i) No affiliate may claim a loan origination or loan purchase if another institution claims the same loan origination or purchase.

§ ____.22(c)(2)(i)–1: *How is this constraint on affiliate lending applied*?

A1. This constraint prohibits one affiliate from claiming a loan origination or purchase claimed by another affiliate. However, an institution can count as a

purchase a loan originated by an affiliate that the institution subsequently purchases, or count as an origination a loan later sold to an affiliate, provided the same loans are not sold several times to inflate their value for CRA purposes.

§ ____.22(c)(2)(ii) If an institution elects to have its supervisory agency consider loans within a particular lending category made by one or more of the institution's affiliates in a particular assessment area, the institution shall elect to have the agency consider all loans within that lending category in that particular assessment area made by all of the institution's affiliates.

§ ____.22(c)(2)(ii)–1: *How is this constraint on affiliate lending applied*?

A1. This constraint prohibits ''cherry-picking'' affiliate loans within any one category of loans. The constraint requires an institution that elects to have a particular category of affiliate lending in a particular assessment area considered to include all loans of that type made by all of its affiliates in that particular assessment area. For example, assume that an institution has one or more affiliates, such as a mortgage bank that makes loans in the institution's assessment area. If the institution elects to include the mortgage bank's home mortgage loans, it must include all of mortgage bank's home mortgage loans made in its assessment area. The institution cannot elect to include only those low- and moderate-income home mortgage loans made by the mortgage bank affiliate and not home mortgage loans to middle- and upper-income individuals or areas.

§ ____.22(c)(2)(ii)–2: *How is this constraint applied if an institution's affiliates are also insured depository institutions subject to the CRA*?

A2. Strict application of this constraint against ''cherry-picking'' to loans of an affiliate that is also an insured depository institution covered by the CRA would produce the anomalous result that the other institution would, without its consent, not be able to count its own loans. Because the agencies did not intend to deprive an institution subject to the CRA of receiving consideration for its own lending, the agencies read this constraint slightly differently in cases involving a group of affiliated institutions, some of which are subject to the CRA and share the same assessment area(s). In those circumstances, an institution that elects to include all of its mortgage affiliate's home mortgage loans in its assessment area would not automatically be required to include all home mortgage loans in its assessment area of another affiliate institution subject to the CRA. However, all loans of a particular type made by any affiliate in the institution's assessment area(s) must either be counted by the lending institution or by another affiliate institution that is subject to the CRA. This reading reflects the fact that a holding company may, for business reasons, choose to transact different aspects of its business in different subsidiary institutions. However, the method by which loans are allocated among the institutions for CRA purposes must reflect actual business decisions about the allocation of banking activities among the institutions and should not be designed solely to enhance their CRA evaluations.

§ ____.22(d) Lending by a Consortium or a Third Party

§ ____.22(d)–1: *Will equity and equity-type investments in a third party receive consideration under the lending test*?

A1. If an institution has made an equity or equity-type investment in a third party, community development loans made by the third party may be considered under the lending test. On the other hand, asset-backed and debt securities that do not represent an equity-type interest in a third party will not be considered under the lending test unless the securities are booked by the purchasing institution as a loan. For example, if an institution purchases stock in a community development corporation (''CDC'') that primarily lends in low- and moderate-income areas or to low- and moderate-income individuals in order to promote community development, the institution may claim a pro rata share of the CDC's loans as community development loans. The institution's pro rata share is based on its percentage of equity ownership in the CDC. § ____.23(b)–1 provides information concerning consideration of an equity or equity-type investment under the investment test and both the lending and investment tests.

§ ____.22(d)–2: *How will examiners evaluate loans made by consortia or third parties under the lending test?*

A2. Loans originated or purchased by consortia in which an institution participates or by third parties in which an institution invests will only be considered if they qualify as community development loans and will only be considered under the community development criterion of the lending test. However, loans originated directly on the books of an institution or purchased by the institution are considered to have been made or purchased directly by the institution, even if the institution originated or purchased the loans as a result of its participation in a loan consortium. These loans would be considered under all the lending test criteria appropriate to them depending on the type of loan.

§ ____.22(d)–3: *In some circumstances, an institution may invest in a third party, such as a community development bank, that is also an insured depository institution and is thus subject to CRA requirements. If the investing institution requests its supervisory agency to consider its pro rata share of community development loans made by the third party, as allowed under 12 CFR § ____.22(d), may the third party also receive consideration for these loans*?

A3. Yes, as long as the financial institution and the third party are not affiliates. The regulations state, at 12 CFR § ____.22(c)(2)(i), that two affiliates may not both claim the same loan origination or loan purchase. However, if the financial institution and the third party are not affiliates, the third party may receive consideration for the community development loans it originates, and the financial institution that invested in the third party may also receive consideration for its pro rata share of the same community development loans under 12 CFR § ____.22(d).

§ ____.23–Investment Test

§ ____.23(a) Scope of Test

§ ____.23(a)–1: *May an institution receive consideration under the CRA regulations if it invests indirectly through a fund, the purpose of which is community development, as that is defined in the CRA regulations*?

A1: Yes, the direct or indirect nature of the qualified investment does not affect whether an institution will receive consideration under the CRA regulations because the regulations do not distinguish between ''direct'' and ''indirect'' investments. Thus, an institution's investment in an equity fund that, in turn, invests in projects that, for example, provide affordable housing to low- and moderate-income individuals, would receive consideration as a qualified investment under the CRA regulations, provided the investment benefits one or more of the institution's assessment area(s) or a broader statewide or regional area(s) that includes one or more of the institution's assessment area(s). Similarly, an institution may receive consideration for a direct qualified investment in a nonprofit organization that, for example, supports affordable housing for low- and moderate-income individuals in the institution's assessment area(s) or a broader

statewide or regional area(s) that includes the institution's assessment area(s).

§ ____.23(b) Exclusion

§ ____.23(b)–1: *Even though the regulations state that an activity that is considered under the lending or service tests cannot also be considered under the investment test, may parts of an activity be considered under one test and other parts be considered under another test*?

A1. Yes, in some instances the nature of an activity may make it eligible for consideration under more than one of the performance tests. For example, certain investments and related support provided by a large retail institution to a CDC may be evaluated under the lending, investment, and service tests. Under the service test, the institution may receive consideration for any community development services that it provides to the CDC, such as service by an executive of the institution on the CDC's board of directors. If the institution makes an investment in the CDC that the CDC uses to make community development loans, the institution may receive consideration under the lending test for its pro-rata share of community development loans made by the CDC. Alternatively, the institution's investment may be considered under the investment test, assuming it is a qualified investment. In addition, an institution may elect to have a part of its investment considered under the lending test and the remaining part considered under the investment test. If the investing institution opts to have a portion of its investment evaluated under the lending test by claiming a share of the CDC's community development loans, the amount of investment considered under the investment test will be offset by that portion. Thus, the institution would only receive consideration under the investment test for the amount of its investment multiplied by the percentage of the CDC's assets that meet the definition of a qualified investment.

§ ____.23(b)–2: *If home mortgage loans to low- and moderate-income borrowers have been considered under an institution's lending test, may the institution that originated or purchased them also receive consideration under the investment test if it subsequently purchases mortgage-backed securities that are primarily or exclusively backed by such loans*?

A2. No. Because the institution received lending test consideration for the loans that underlie the securities, the institution may not also receive consideration under the investment test for its purchase of the securities. Of course, an institution may receive investment test consideration for purchases of mortgage-backed securities that are backed by loans to low- and moderate-income individuals as long as the securities are not backed primarily or exclusively by loans that the same institution originated or purchased.

§ ____.23(e) *Performance criteria*

§ ____.23(e)–1: *When applying the performance criteria of § ____.23(e), may an examiner distinguish among qualified investments based on how much of the investment actually supports the underlying community development purpose*?

A1. Yes. Although § ____.23(e)(1) speaks in terms of the dollar amount of qualified investments, the criterion permits an examiner to weight certain investments differently or to make other appropriate distinctions when evaluating an institution's record of making qualified investments. For instance, an examiner should take into account that a targeted mortgage-backed security that qualifies as an affordable housing issue that has only 60 percent of its face value supported by loans to low- or moderate-income borrowers would not provide as much affordable housing for low- and moderate-income individuals as a targeted mortgage-backed security with 100 percent of its face value supported by affordable housing loans to low- and moderate-income borrowers. The examiner should describe any differential weighting (or other adjustment), and its basis in the Public Evaluation. However, no matter how a qualified investment is handled for purposes of § ____.23(e)(1), it will also be evaluated with respect to the qualitative performance criteria set forth in § ____.23(e)(2), (3) and (4) . By applying all criteria, a qualified investment of a lower dollar amount may be weighed more heavily under the Investment Test than a qualified investment with a higher dollar amount, but with fewer qualitative enhancements.

§ ____.23(e)–2: *How do examiners evaluate an institution's qualified investment in a fund, the primary purpose of which is community development, as that is defined in the CRA regulations?*

A2: When evaluating qualified investments that benefit an institution's assessment area(s) or a broader statewide or regional area that includes its assessment area(s), examiners will look at the following four performance criteria:

(1) The dollar amount of qualified investments;

(2) The innovativeness or complexity of qualified investments;

(3) The responsiveness of qualified investments to credit and community development needs; and

(4) The degree to which the qualified investments are not routinely provided by private investors.

With respect to the first criterion, examiners will determine the dollar amount of qualified investments by relying on the figures recorded by the institution according to generally accepted accounting principles (GAAP). Although institutions may exercise a range of investment strategies, including short-term investments, long-term investments, investments that are immediately funded, and investments with a binding, up-front commitment that are funded over a period of time, institutions making the same dollar amount of investments over the same number of years, all other performance criteria being equal, would receive the same level of consideration. Examiners will include both new and outstanding investments in this determination. The dollar amount of qualified investments also will include the dollar amount of legally binding commitments recorded by the institution according to GAAP.

The extent to which qualified investments receive consideration, however, depends on how examiners evaluate the investments under the remaining three performance criteria—innovativeness and complexity, responsiveness, and degree to which the investment is not routinely provided by private investors. Examiners also will consider factors relevant to the institution's CRA performance context, such as the effect of outstanding long-term qualified investments, the pay-in schedule, and the amount of any cash call, on the capacity of the institution to make new investments.

§ ____.24—Service Test

§ ____.24(d) Performance Criteria—Retail Banking Services

§ ____.24(d)–1: *How do examiners evaluate the availability and effectiveness of an institution's systems for delivering retail banking services?*

A1. Convenient access to full service branches within a community is an important factor in determining the availability of credit and non-credit services. Therefore, the service test performance standards place primary emphasis on full service branches while still considering alternative systems, such as automated teller machines (''ATMs''). The principal focus is on an institution's current distribution of branches; therefore, an institution is not required to expand its branch network or operate unprofitable branches. Under

the service test, alternative systems for delivering retail banking services, such as ATMs, are considered only to the extent that they are effective alternatives in providing needed services to low- and moderate-income areas and individuals.

§ ____.24(d)–2: *How do examiners evaluate an institution's activities in connection with Individual Development Accounts (IDAs)?*

A2: Although there is no standard IDA program, IDAs typically are deposit accounts targeted to low- and moderate-income families that are designed to help them accumulate savings for education or job-training, down-payment and closing costs on a new home, or start-up capital for a small business. Once participants have successfully funded an IDA, their personal IDA savings are matched by a public or private entity. Financial institution participation in IDA programs comes in a variety of forms, including providing retail banking services to IDA account holders, providing matching dollars or operating funds to an IDA program, designing or implementing IDA programs, providing consumer financial education to IDA account holders or prospective account holders, or other means. The extent of financial institutions' involvement in IDAs and the products and services they offer in connection with the accounts will vary. Thus, subject to § ____.23(b), examiners evaluate the actual services and products provided by an institution in connection with IDA programs as one or more of the following: community development services, retail banking services, qualified investments, home mortgage loans, small business loans, consumer loans, or community development loans.

§ ____.24(d)(3) Availability and effectiveness of alternative systems for delivering retail banking services.

§ ____.24(d)(3)–1: *How will examiners evaluate alternative systems for delivering retail banking services?*

A1. The regulation recognizes the multitude of ways in which an institution can provide services, for example, ATMs, banking by telephone or computer, and bank-by-mail programs. Delivery systems other than branches will be considered under the regulation to the extent that they are effective alternatives to branches in providing needed services to low- and moderate-income areas and individuals. The list of systems in the regulation is not intended to be inclusive.

§ ____.24(d)(3)–2: *Are debit cards considered under the service test as an alternative delivery system?*

A2. By themselves, no. However, if debit cards are a part of a larger combination of products, such as a comprehensive electronic banking service, that allows an institution to deliver needed services to low- and moderate-income areas and individuals in its community, the overall delivery system that includes the debit card feature would be considered an alternative delivery system.

§ ____.25 Community Development Test for Wholesale or Limited Purpose Institutions

§ ____.25(d) Indirect Activities

§ ____.25(d)–1: *How are investments in third party community development organizations considered under the community development test?*

A1. Similar to the lending test for retail institutions, investments in third party community development organizations may be considered as qualified investments or as community development loans or both (provided there is no double counting), at the institution's option, as described above in the discussion regarding §§ ____.22(d) and ____.23(b).

§ ____.25(e) Benefit to Assessment Area(s)

§ ____.25(e)–1: *How do examiners evaluate a wholesale or limited purpose institution's qualified investment in a fund that invests in projects nationwide and which has a primary purpose of community development, as that is defined in the regulations?*

A1: If examiners find that a wholesale or limited purpose institution has adequately addressed the needs of its assessment area(s), they will give consideration to qualified investments, as well as community development loans and community development services, by that institution nationwide. In determining whether an institution has adequately addressed the needs of its assessment area(s), examiners will consider qualified investments that benefit a broader statewide or regional area that includes the institution's assessment area(s).

§ ____.25(f) Community Development Performance Rating

§ ____.25(f)–1: *Must a wholesale or limited purpose institution engage in all three categories of community development activities (lending, investment and service) to perform well under the community development test?*

A1. No, a wholesale or limited purpose institution may perform well under the community development test by engaging in one or more of these activities.

§ ____.26—Small Institution Performance Standards

§ ____.26(a) Performance Criteria

§____.26(a)–1: *May examiners consider, under one or more of the performance criteria of the small institution performance standards, lending-related activities, such as community development loans and lending-related qualified investments, when evaluating a small institution?*

A1. Yes. Examiners can consider ''lending-related activities,'' including community development loans and lending-related qualified investments, when evaluating the first four performance criteria of the small institution performance test. Although lending-related activities are specifically mentioned in the regulation in connection with only the first three criteria (i.e., loan-to-deposit ratio, percentage of loans in the institution's assessment area, and lending to borrowers of different incomes and businesses of different sizes), examiners can also consider these activities when they evaluate the fourth criteria—geographic distribution of the institution's loans.

§____.26(a)–2: *What is meant by ''as appropriate'' when referring to the fact that lending-related activities will be considered, ''as appropriate,'' under the various small institution performance criteria?*

A2. ''As appropriate'' means that lending-related activities will be considered when it is necessary to determine whether an institution meets or exceeds the standards for a satisfactory rating. Examiners will also consider other lending-related activities at an institution's request.

§____.26(a)–3: *When evaluating a small institution's lending performance, will examiners consider, at the institution's request, community development loans originated or purchased by a consortium in which the institution participates or by a third party in which the institution has invested?*

A3. Yes. However, a small institution that elects to have examiners consider community development loans originated or purchased by a consortium or third party must maintain sufficient information on its share of the community development loans so that the examiners may evaluate these loans under the small institution performance criteria.

§____.26(a)–4: *Under the small institution performance standards, will examiners consider both loan originations and purchases?*

A4. Yes, consistent with the other assessment methods in the regulation, examiners will consider both loans originated and purchased by the institution. Likewise, examiners may consider any other loan data the small institution chooses to provide, including data on loans outstanding, commitments and letters of credit.

§____.26(a)–5: *Under the small institution performance standards, how will qualified investments be considered for purposes of determining whether a small institution receives a satisfactory CRA rating?*

A5. The small institution performance standards focus on lending and other lending-related activities. Therefore, examiners will consider only lending-related qualified investments for the purposes of determining whether the small institution receives a satisfactory CRA rating.

§____.26(a)(1) *Loan-to-deposit ratio.*

§____.26(a)(1)–1: *How is the loan-to-deposit ratio calculated?*

A1. A small institution's loan-to-deposit ratio is calculated in the same manner that the Uniform Bank Performance Report/Uniform Thrift Performance Report (UBPR/UTPR) determines the ratio. It is calculated by dividing the institution's net loans and leases by its total deposits. The ratio is found in the Liquidity and Investment Portfolio section of the UBPR and UTPR. Examiners will use this ratio to calculate an average since the last examination by adding the quarterly loan-to-deposit ratios and dividing the total by the number of quarters.

§____.26(a)(1)–2: *How is the ''reasonableness'' of a loan-to-deposit ratio evaluated?*

A2. No specific ratio is reasonable in every circumstance, and each small institution's ratio is evaluated in light of information from the performance context, including the institution's capacity to lend, demographic and economic factors present in the assessment area, and the lending opportunities available in the assessment area(s). If a small institution's loan-to-deposit ratio appears unreasonable after considering this information, lending performance may still be satisfactory under this criterion taking into consideration the number and the dollar volume of loans sold to the secondary market or the number and amount and innovativeness or complexity of community development loans and lending-related qualified investments.

§____.26(a)(1)–3: *If an institution makes a large number of loans off-shore, will examiners segregate the domestic loan-to-deposit ratio from the foreign loan-to-deposit ratio?*

A3. No. Examiners will look at the institution's net loan-to-deposit ratio for the whole institution, without any adjustments.

§____.26(a)(2) Percentage of lending within assessment area(s).

§____.26(a)(2)–1: *Must a small institution have a majority of its lending in its assessment area(s) to receive a satisfactory performance rating?*

A1. No. The percentage of loans and, as appropriate, other lending-related activities located in the bank's assessment area(s) is but one of the performance criteria upon which small institutions are evaluated. If the percentage of loans and other lending related activities in an institution's assessment area(s) is less than a majority, then the institution does not meet the standards for satisfactory performance only under this criterion. The effect on the overall performance rating of the institution, however, is considered in light of the performance context, including information regarding economic conditions, loan demand, the institution's size, financial condition and business strategies, and branching network and other aspects of the institution's lending record.

§____.26(a)(3) & (4) Distribution of lending within assessment area(s) by borrower income and geographic location.

§____.26(a)(3) & (4)–1: *How will a small institution's performance be assessed under these lending distribution criteria?*

A1. Distribution of loans, like other small institution performance criteria, is considered in light of the performance context. For example, a small institution is not required to lend evenly throughout its assessment area(s) or in any particular geography. However, in order to meet the standards for satisfactory performance under this criterion, conspicuous gaps in a small institution's loan distribution must be adequately explained by performance context factors such as lending opportunities in the institution's assessment area(s), the institution's product offerings and business strategy, and institutional capacity and constraints. In addition, it may be impracticable to review the geographic distribution of the lending of an institution with few demographically distinct geographies within an assessment area. If sufficient information on the income levels of individual borrowers or the revenues or sizes of business borrowers is not available, examiners may use proxies such as loan size for estimating borrower characteristics, where appropriate.

§____.26(b) Performance Rating

§____.26(b)–1: *How can a small institution achieve an ''outstanding'' performance rating?*

A1. A small institution that meets each of the standards for a ''satisfactory'' rating and exceeds some or all of those standards may warrant an ''outstanding'' performance rating. In assessing performance at the ''outstanding'' level, the agencies consider the extent to which the institution exceeds each of the performance standards and, at the institution's option, its performance in making qualified investments and providing services that enhance credit availability in its assessment area(s). In some cases, a small institution may qualify for an ''outstanding'' performance rating solely on the basis of its lending activities, but only if its performance materially exceeds the standards for a ''satisfactory'' rating, particularly with respect to the penetration of borrowers at all income levels and the dispersion of loans throughout the geographies in its assessment area(s) that display income variation. An institution with a high loan-to-deposit ratio and a high percentage of loans in its assessment area(s), but with only a reasonable penetration of borrowers at all income levels or a reasonable dispersion of loans throughout geographies of differing income levels in its assessment area(s), generally will not be rated ''outstanding'' based only on its lending performance. However, the institution's performance in making qualified investments and its performance in providing branches and other services and delivery systems that enhance credit availability in its assessment area(s) may augment the institution's satisfactory rating to the extent that it may be rated ''outstanding.''

§____.26(b)–2: *Will a small institution's qualified investments, community development loans, and community development services be considered if they do not directly benefit its assessment area(s)?*

A2. Yes. These activities are eligible for consideration if they benefit a broader statewide or regional area that includes a small institution's assessment area(s), as discussed more fully in §§____.12(i) & 563e.12(h)–6.

§____.27–Strategic Plan

§____.27(c) Plans in General

§ ____.27(c)–1: *To what extent will the agencies provide guidance to an*

institution during the development of its strategic plan?

A1. An institution will have an opportunity to consult with and provide information to the agencies on a proposed strategic plan. Through this process, an institution is provided guidance on procedures and on the information necessary to ensure a complete submission. For example, the agencies will provide guidance on whether the level of detail as set out in the proposed plan would be sufficient to permit agency evaluation of the plan. However, the agencies' guidance during plan development and, particularly, prior to the public comment period, will not include commenting on the merits of a proposed strategic plan or on the adequacy of measurable goals.

§ ____.27(c)–2: *How will a joint strategic plan be reviewed if the affiliates have different primary Federal supervisors?*

A2. The agencies will coordinate review of and action on the joint plan. Each agency will evaluate the measurable goals for those affiliates for which it is the primary regulator.

§ ____.27(f) Plan Content

§ ____.27(f)(1) Measurable goals.

§ ____.27(f)(1)–1: *How should ''measurable goals'' be specified in a strategic plan?*

A1. Measurable goals (*e.g.*, number of loans, dollar amount, geographic location of activity, and benefit to low- and moderate-income areas or individuals) must be stated with sufficient specificity to permit the public and the agencies to quantify what performance will be expected. However, institutions are provided flexibility in specifying goals. For example, an institution may provide ranges of lending amounts in different categories of loans. Measurable goals may also be linked to funding requirements of certain public programs or indexed to other external factors as long as these mechanisms provide a quantifiable standard.

§ ____.27(g) Plan Approval

§ ____.27(g)(2) Public participation.

§ ____.27(g)(2)–1: *How will the public receive notice of a proposed strategic plan?*

A1. An institution submitting a strategic plan for approval by the agencies is required to solicit public comment on the plan for a period of thirty (30) days after publishing notice of the plan at least once in a newspaper of general circulation. The notice should be sufficiently prominent to attract public attention and should make clear that public comment is desired. An institution may, in addition, provide notice to the public in any other manner it chooses.

§ ____.28—Assigned Ratings

§ ____.28–1: *Are innovative lending practices, innovative or complex qualified investments, and innovative community development services required for a ''satisfactory'' or ''outstanding'' CRA rating?*

A1: No. Moreover, the lack of innovative lending practices, innovative or complex qualified investments, or innovative community development services alone will not result in a ''needs to improve'' CRA rating. However, the use of innovative lending practices, innovative or complex qualified investments, and innovative community development services may augment the consideration given to an institution's performance under the quantitative criteria of the regulations, resulting in a higher level of performance rating.

§ ____.28–2: *How is performance under the quantitative and qualitative performance criteria weighed when examiners assign a CRA rating?*

A2: The lending, investment, and service tests each contain a number of performance criteria designed to measure whether an institution is effectively helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, in a safe and sound manner. Some of these performance criteria are quantitative, such as number and amount, and others, such as the use of innovative or flexible lending practices, the innovativeness or complexity of qualified investments, and the innovativeness and responsiveness of community development services, are qualitative. The performance criteria that deal with these qualitative aspects of performance recognize that these loans, qualified investments, and community development services sometimes require special expertise and effort on the part of the institution and provide a benefit to the community that would not otherwise be possible. As such, the agencies consider the qualitative aspects of an institution's activities when measuring the benefits received by a community. An institution's performance under these qualitative criteria may augment the consideration given to an institution's performance under the quantitative criteria of the regulations, resulting in a higher level of performance and rating.

§ ____.28(a) Ratings in General

§ ____.28(a)–1: *How are institutions with domestic branches in more than one state assigned a rating?*

A1. The evaluation of an institution that maintains domestic branches in more than one state (''multistate institution'') will include a written evaluation and rating of its CRA record of performance as a whole and in each state in which it has a domestic branch. The written evaluation will contain a separate presentation on a multistate institution's performance for each metropolitan statistical area and the nonmetropolitan area within each state, if it maintains one or more domestic branch offices in these areas. This separate presentation will contain conclusions, supported by facts and data, on performance under the performance tests and standards in the regulation. The evaluation of a multistate institution that maintains a domestic branch in two or more states in a multistate metropolitan area will include a written evaluation (containing the same information described above) and rating of its CRA record of performance in the multistate metropolitan area. In such cases, the statewide evaluation and rating will be adjusted to reflect performance in the portion of the state not within the multistate metropolitan statistical area.

§ ____.28(a)–2: *How are institutions that operate within only a single state assigned a rating?*

A2. An institution that operates within only a single state (''single-state institution'') will be assigned a rating of its CRA record based on its performance within that state. In assigning this rating, the agencies will separately present a single-state institution's performance for each metropolitan area in which the institution maintains one or more domestic branch offices. This separate presentation will contain conclusions, supported by facts and data, on the single-state institution's performance under the performance tests and standards in the regulation.

§ ____.28(a)–3: *How do the agencies weight performance under the lending, investment and service test for large retail institutions?*

A3. A rating of ''outstanding,'' ''high satisfactory,'' ''low satisfactory,'' ''needs to improve,'' or ''substantial noncompliance,'' based on a judgment supported by facts and data, will be assigned under each performance test. Points will then be assigned to each rating as described in the first matrix set forth below. A large retail institution's overall rating under the lending, investment and service tests will then

be calculated in accordance with the second matrix set forth below, which incorporates the rating principles in the regulation.

POINTS ASSIGNED FOR PERFORMANCE UNDER LENDING, INVESTMENT AND SERVICE TESTS

	Lending	Service	Investment
Outstanding	12	6	6
High Satisfactory	9	4	4
Low Satisfactory	6	3	3
Needs to Improve	3	1	1
Substantial Noncompliance	0	0	0

COMPOSITE RATING POINT REQUIREMENTS

[Add points for three tests]

Rating	Total points
Outstanding	20 or over.
Satisfactory	11 through 19.
Needs to Improve	5 through 10.
Substantial Noncompliance	0 through 4.

Note: There is one exception to the Composite Rating matrix. An institution may not receive a rating of ''satisfactory'' unless it receives at least ''low satisfactory'' on the lending test. Therefore, the total points are capped at three times the lending test score.

§____.29—Effect of CRA Performance on Applications

§____.29(a) CRA Performance

§____.29(a)–1: *What weight is given to an institution's CRA performance examination in reviewing an application?*

A1. In cases in which CRA performance is a relevant factor, information from a CRA performance examination of the institution is a particularly important consideration in the applications process because it represents a detailed evaluation of the institution's CRA performance by its Federal supervisory agency. In this light, an examination is an important, and often controlling, factor in the consideration of an institution's record. In some cases, however, the examination may not be recent or a specific issue raised in the application process, such as progress in addressing weaknesses noted by examiners, progress in implementing commitments previously made to the reviewing agency, or a supported allegation from a commenter, is relevant to CRA performance under the regulation and was not addressed in the examination. In these circumstances, the applicant should present sufficient information to supplement its record of performance and to respond to the substantive issues raised in the application proceeding.

§____.29(a)–2: *What consideration is given to an institution's commitments for future action in reviewing an application by those agencies that consider such commitments?*

A2. Commitments for future action are not viewed as part of the CRA record of performance. In general, institutions cannot use commitments made in the applications process to overcome a seriously deficient record of CRA performance. However, commitments for improvements in an institution's performance may be appropriate to address specific weaknesses in an otherwise satisfactory record or to address CRA performance when a financially troubled institution is being acquired.

§____.29(b) Interested Parties

§____.29(b)–1: *What consideration is given to comments from interested parties in reviewing an application?*

A1. Materials relating to CRA performance received during the applications process can provide valuable information. Written comments, which may express either support for or opposition to the application, are made a part of the record in accordance with the agencies' procedures, and are carefully considered in making the agencies' decision. Comments should be supported by facts about the applicant's performance and should be as specific as possible in explaining the basis for supporting or opposing the application. These comments must be submitted within the time limits provided under the agencies' procedures.

§____.29(b)–2: *Is an institution required to enter into agreements with private parties?*

A2. No. Although communications between an institution and members of its community may provide a valuable method for the institution to assess how best to address the credit needs of the community, the CRA does not require an institution to enter into agreements with private parties. These agreements are not monitored or enforced by the agencies.

§____.41—Assessment Area Delineation

§____.41(a) In General

§____.41(a)–1: *How do the agencies evaluate ''assessment areas'' under the revised CRA regulations compared to how they evaluated ''local communities'' that institutions delineated under the original CRA regulations?*

A1. The revised rule focuses on the distribution and level of an institution's lending, investments, and services rather than on how and why an institution delineated its ''local community'' or assessment area(s) in a particular manner. Therefore, the agencies will not evaluate an institution's delineation of its assessment area(s) as a separate performance criterion as they did under the original regulation. Rather, the agencies will only review whether the assessment area delineated by the institution complies with the limitations set forth in the regulations at §____.41(e).

§____.41(a)–2: *If an institution elects to have the agencies consider affiliate lending, will this decision affect the institution's assessment area(s)?*

A2. If an institution elects to have the lending activities of its affiliates considered in the evaluation of the institution's lending, the geographies in which the affiliate lends do not affect the institution's delineation of assessment area(s).

§____.41(a)–3: *Can a financial institution identify a specific ethnic group rather than a geographic area as its assessment area?*

A3. No, assessment areas must be based on geography.

§____.41(c) Geographic Area(s) for Institutions Other Than Wholesale or Limited Purpose Institutions

§____.41(c)(1) Generally consist of one or more MSAs or one or more contiguous political subdivisions.

§ ____.41(c)(1)–1: *Besides cities, towns, and counties, what other units of local government are political subdivisions for CRA purposes?*

A1. Townships and Indian reservations are political subdivisions for CRA purposes. Institutions should be aware that the boundaries of townships and Indian reservations may not be consistent with the boundaries of the census tracts or block numbering areas (''geographies'') in the area. In these cases, institutions must ensure that their assessment area(s) consists only of whole geographies by adding any portions of the geographies that lie outside the political subdivision to the delineated assessment area(s).

§ ____.41(c)(1)–2: *Are wards, school districts, voting districts, and water districts political subdivisions for CRA purposes?*

A2. No. However, an institution that determines that it predominantly serves an area that is smaller than a city, town or other political subdivision may delineate as its assessment area the larger political subdivision and then, in accordance with § ____.41(d), adjust the boundaries of the assessment area to include only the portion of the political subdivision that it reasonably can be expected to serve. The smaller area that the institution delineates must consist of entire geographies, may not reflect illegal discrimination, and may not arbitrarily exclude low- or moderate-income geographies.

§ ____.41(d) Adjustments to Geographic Area(s)

§ ____.41(d)–1: *When may an institution adjust the boundaries of an assessment area to include only a portion of a political subdivision?*

A1. Institutions must include whole geographies (i.e., census tracts or block numbering areas) in their assessment areas and generally should include entire political subdivisions. Because census tracts and block numbering areas are the common geographic areas used consistently nationwide for data collection, the agencies require that assessment areas be made up of whole geographies. If including an entire political subdivision would create an area that is larger than the area the institution can reasonably be expected to serve, an institution may, but is not required to, adjust the boundaries of its assessment area to include only portions of the political subdivision. For example, this adjustment is appropriate if the assessment area would otherwise be extremely large, of unusual configuration, or divided by significant geographic barriers (such as a river, mountain, or major highway system). When adjusting the boundaries of their assessment areas, institutions must not arbitrarily exclude low- or moderate-income geographies or set boundaries that reflect illegal discrimination.

§ ____.41(e) Limitations on Delineation of an Assessment Area

§ ____.41(e)(3) May not arbitrarily exclude low- or moderate-income geographies.

§ ____.41(e)(3)–1: How will examiners determine whether an institution has arbitrarily excluded low- or moderate-income geographies?

A1. Examiners will make this determination on a case-by-case basis after considering the facts relevant to the institution's assessment area delineation. Information that examiners will consider may include:

- Income levels in the institution's assessment area(s) and surrounding geographies;
- Locations of branches and deposit-taking ATMs;
- Loan distribution in the institution's assessment area(s) and surrounding geographies;
- The institution's size;
- The institution's financial condition; and
- The business strategy, corporate structure and product offerings of the institution.

§ ____.41(e)(4) May not extend substantially beyond a CMSA boundary or beyond a state boundary unless located in a multistate MSA.

§ ____.41(e)(4)–1: *What are the maximum limits on the size of an assessment area?*

A1. An institution shall not delineate an assessment area extending substantially across the boundaries of a consolidated metropolitan statistical area (CMSA) or the boundaries of an MSA, if the MSA is not located in a CMSA. Similarly, an assessment area may not extend substantially across state boundaries unless the assessment area is located in a multistate MSA. An institution may not delineate a whole state as its assessment area unless the entire state is contained within a CMSA. These limitations apply to wholesale and limited purpose institutions as well as other institutions.

An institution shall delineate separate assessment areas for the areas inside and outside a CMSA (or MSA if the MSA is not located in a CMSA) if the area served by the institution's branches outside the CMSA (or MSA) extends substantially beyond the CMSA (or MSA) boundary. Similarly, the institution shall delineate separate assessment areas for the areas inside and outside of a state if the institution's branches extend substantially beyond the boundary of one state (unless the assessment area is located in a multistate MSA). In addition, the institution should also delineate separate assessment areas if it has branches in areas within the same state that are widely separate and not at all contiguous. For example, an institution that has its main office in New York City and a branch in Buffalo, New York, and each office serves only the immediate areas around it, should delineate two separate assessment areas.

§ ____.41(e)(4)–2: *Can an institution delineate one assessment area that consists of an MSA and two large counties that abut the MSA but are not adjacent to each other?*

A2. As a general rule, an institution's assessment area should not extend substantially beyond the boundary of an MSA if the MSA is not located in a CMSA. Therefore, the MSA would be a separate assessment area, and because the two abutting counties are not adjacent to each other and, in this example, extend substantially beyond the boundary of the MSA, the institution would delineate each county as a separate assessment area (so, in this example, there would be three assessment areas). However, if the MSA and the two counties were in the same CMSA, then the institution could delineate only one assessment area including them all.

§ ____.42—Data Collection, Reporting, and Disclosure

§ ____.42–1: *When must an institution collect and report data under the CRA regulations?*

A1. All institutions except small institutions are subject to data collection and reporting requirements. A small institution is a bank or thrift that, as of December 31 of *either* of the prior two calendar years, had total assets of less than $250 million and was independent or an affiliate of a holding company that, as of December 31 of either of the prior two calendar years, had total banking and thrift assets of less than $1 billion.

For example:

Date	Institution's asset size (in millions)	Data collection required for following calendar year?
12/31/94	$240	No.
12/31/95	260	No.
12/31/96	230	No.
12/31/97	280	No.
12/31/98	260	Yes, beginning 1/01/99.

All institutions that are subject to the data collection and reporting requirements must report the data for a calendar year by March 1 of the subsequent year. In the example, above, the institution would report the data collected for calendar year 1999 by March 1, 2000.

The Board of Governors of the Federal Reserve System is handling the processing of the reports for all of the primary regulators. The reports should be submitted in a prescribed electronic format on a timely basis. The mailing address for submitting these reports is: Attention: CRA Processing, Board of Governors of the Federal Reserve System, 1709 New York Avenue, N.W., 5th Floor, Washington, DC 20006.

§ ____.42–2: *Should an institution develop its own program for data collection, or will the regulators require a certain format?*

A2. An institution may use the free software that is provided by the FFIEC to reporting institutions for data collection and reporting or develop its own program. Those institutions that develop their own programs must follow the precise format for the new CRA data collection and reporting rules. This format may be obtained by contacting the CRA Assistance Line at (202) 872–7584.

§ ____.42–3: *How should an institution report data on lines of credit?*

A3. Institutions must collect and report data on lines of credit in the same way that they provide data on loan originations. Lines of credit are considered originated at the time the line is approved or increased; and an increase is considered a new origination. Generally, the full amount of the credit line is the amount that is considered originated. In the case of an increase to an existing line, the amount of the increase is the amount that is considered originated and that amount should be reported.

§ ____.42–4: *Should renewals of lines of credit be collected and/or reported?*

A4. *Applicable to data collected in 2000 and reported in 2001:* No. Similar to loan renewals, renewals of lines of credit are not considered loan originations and should not be collected or reported.

A4. *Applicable to data collected in 2001 and subsequent years:* Renewals of lines of credit for small business, small farm or consumer purposes should be collected and reported, if applicable, in the same manner as renewals of small business or small farm loans. *See* § ____.42(a)–5. Institutions that are HMDA reporters continue to collect and report home equity lines of credit at their option in accordance with the requirements of 12 CFR part 203.

§ ____.42–5: *When should merging institutions collect data?*

A5. Three scenarios of data collection responsibilities for the calendar year of a merger and subsequent data reporting responsibilities are described below.

- Two institutions are exempt from CRA collection and reporting requirements because of asset size. The institutions merge. No data collection is required for the year in which the merger takes place, regardless of the resulting asset size. Data collection would begin after two consecutive years in which the combined institution had year-end assets of at least $250 million or was part of a holding company that had year-end banking and thrift assets of at least $1 billion.
- Institution A, an institution required to collect and report the data, and Institution B, an exempt institution, merge. Institution A is the surviving institution. For the year of the merger, data collection is required for Institution A's transactions. Data collection is optional for the transactions of the previously exempt institution. For the following year, all transactions of the surviving institution must be collected and reported.
- Two institutions that each are required to collect and report the data merge. Data collection is required for the entire year of the merger and for subsequent years so long as the surviving institution is not exempt. The surviving institution may file either a consolidated submission or separate submissions for the year of the merger but must file a consolidated report for subsequent years.

§ ____.42–6: *Can small institutions get a copy of the data collection software even though they are not required to collect or report data?*

A6. Yes. Any institution that is interested in receiving a copy of the software may send a written request to: Attn.: CRA Processing, Board of Governors of the Federal Reserve System, 1709 New York Ave, N.W., 5th Floor, Washington, DC 20006.

They may also call the CRA Assistance Line at (202) 872–7584 or send Internet e-mail to CRAHELP@FRB.GOV.

§ ____.42–7: *If a small institution is designated a wholesale or limited purpose institution, must it collect data that it would not otherwise be required to collect because it is a small institution?*

A7. No. However, small institutions must be prepared to identify those loans, investments and services to be evaluated under the community development test.

§ ____.42(a) Loan Information Required To Be Collected and Maintained

§ ____.42(a)–1: *Must institutions collect and report data on all commercial loans under $1 million at origination?*

A1. No. Institutions that are not exempt from data collection and reporting are required to collect and report only those commercial loans that they capture in the Call Report, Schedule RC–C, Part II, and in the TFR, Schedule SB. Small business loans are defined as those whose original amounts are $1 million or less *and* that were reported as either ''Loans secured by nonfarm or nonresidential real estate'' or ''Commercial and Industrial loans'' in Part I of the Call Report or TFR.

§ ____.42(a)–2: *For loans defined as small business loans, what information should be collected and maintained?*

A2. Institutions that are not exempt from data collection and reporting are required to collect and maintain in a standardized, machine readable format information on each small business loan originated or purchased for each calendar year:

- A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;
- The loan amount at origination;
- The loan location; and

• An indicator whether the loan was to a business with gross annual revenues of $1 million or less.

The location of the loan must be maintained by census tract or block numbering area. In addition, supplemental information contained in the file specifications includes a date associated with the origination or purchase and whether a loan was originated or purchased by an affiliate. The same requirements apply to small farm loans.

§ ____.42(a)–3: *Will farm loans need to be segregated from business loans?*

A3. Yes.

§ ____.42(a)–4: *Should institutions collect and report data on all agricultural loans under $500,000 at origination?*

A4. Institutions are to report those farm loans that they capture in the Call Report, Schedule RC–C, Part II and Schedule SB of the TFR. Small farm loans are defined as those whose original amounts are $500,000 or less *and* were reported as either ''Loans to finance agricultural production and other loans to farmers'' or ''Loans secured by farmland'' in Part I of the Call Report and TFR.

§ ____.42(a)–5: *Should institutions collect and report data about small business and small farm loans that are refinanced or renewed?*

A5. *Applicable to data collected in 2000 and reported in 2001:* An institution collects and reports information about refinancings but does not collect and report information about renewals. A *refinancing* typically involves the satisfaction of an existing obligation that is replaced by a new obligation undertaken by the same borrower. When an institution refinances a loan, it is considered a new origination, and loan data should be collected and reported, if otherwise required. Consistent with HMDA, however, if under the original loan agreement, the institution is unconditionally obligated to refinance the loan subject to conditions within the borrower's control, the institution should not report these events as originations.

For purposes of CRA data collection and reporting requirements, the extension of the maturity of an existing loan is a *renewal,* and is not considered a loan origination. Therefore, institutions should not collect and report data on loan renewals.

A5. *Applicable to data collected in 2001 and subsequent years:* An institution should collect information about small business and small farm loans that it refinances or renews as loan originations. (A *refinancing* generally occurs when the existing loan obligation or note is satisfied and a new note is written, while a *renewal* refers to an extension of the term of a loan. However, for purposes of small business and small farm CRA data collection and reporting, it is no longer necessary to distinguish between the two.) When reporting small business and small farm data, however, an institution may only report one origination (including a renewal or refinancing treated as an origination) per loan per year, unless an increase in the loan amount is granted.

If an institution increases the amount of a small business or small farm loan when it extends the term of the loan, it should always report the amount of the increase as a small business or small farm loan origination. The institution should report only the amount of the increase if the original or remaining amount of the loan has already been reported one time that year. For example, a financial institution makes a term loan for $25,000; principal payments have resulted in a present outstanding balance of $15,000. In the next year, the customer requests an additional $5,000, which is approved, and a new note is written for $20,000. In this example, the institution should report both the $5,000 increase and the renewal or refinancing of the $15,000 as originations for that year.

§ ____.42(a)–6: *Does a loan to the ''fishing industry'' come under the definition of a small farm loan?*

A6. Yes. Instructions for Part I of the Call Report and Schedule SB of the TFR include loans ''made for the purpose of financing fisheries and forestries, including loans to commercial fishermen'' as a component of the definition for ''Loans to finance agricultural production and other loans to farmers.'' Part II of Schedule RC–C of the Call Report and Schedule SB of the TFR, which serve as the basis of the definition for small business and small farm loans in the revised regulation, capture both ''Loans to finance agricultural production and other loans to farmers'' and ''Loans secured by farmland.''

§ ____.42(a)–7: *How should an institution report a home equity line of credit, part of which is for home improvement purposes, but the predominant part of which is for small business purposes?*

A7. The institution has the option of reporting the portion of the home equity line that is for home improvement purposes under HMDA. That portion of the loan would then be considered when examiners evaluate home mortgage lending. If the line meets the regulatory definition of a ''community development loan,'' the institution should collect and report information on the entire line as a community development loan. If the line does not qualify as a community development loan, the institution has the option of collecting and maintaining (but not reporting) the entire line of credit as ''Other Secured Lines/Loans for Purposes of Small Business.''

§ ____.42(a)–8: *When collecting small business and small farm data for CRA purposes, may an institution collect and report information about loans to small businesses and small farms located outside the United States?*

A8. At an institution's option, it may collect data about small business and small farm loans located outside the United States; however, it cannot report this data because the CRA data collection software will not accept data concerning loan locations outside the United States.

§ ____.42(a)–9: *Is an institution that has no small farm or small business loans required to report under CRA?*

A9. Each institution subject to data reporting requirements must, at a minimum, submit a transmittal sheet, definition of its assessment area(s), and a record of its community development loans. If the institution does not have community development loans to report, the record should be sent with ''0'' in the community development loan composite data fields. An institution that has not purchased or originated any small business or small farm loans during the reporting period would not submit the composite loan records for small business or small farm loans.

§ ____.42(a)–10: *How should an institution collect and report the location of a loan made to a small business or farm if the borrower provides an address that consists of a post office box number or a rural route and box number?*

A10. Prudent banking practices dictate that an institution know the location of its customers and loan collateral. Therefore, institutions typically will know the actual location of their borrowers or loan collateral beyond an address consisting only of a post office box.

Many borrowers have street addresses in addition to post office box numbers or rural route and box numbers. Institutions should ask their borrowers to provide the street address of the main business facility or farm or the location where the loan proceeds otherwise will be applied. Moreover, in many cases in which the borrower's address consists only of a rural route number or post office box, the institution knows the

location (i.e., the census tract or block numbering area) of the borrower or loan collateral. Once the institution has this information available, it should assign a census tract or block numbering area to that location (geocode) and report that information as required under the regulation.

For loans originated or purchased in 1998 or later, if the institution cannot determine the borrower's street address, and does not know the census tract or block numbering area, the institution should report the borrower's state, county, MSA, if applicable, and ''NA,'' for ''not available,'' in lieu of a census tract or block numbering area code.

§ ____.42(a)(2) *Loan amount at origination.*

§ ____.42(a)(2)–1: *When an institution purchases a small business or small farm loan, which amount should the institution collect and report—the original amount of the loan or the amount at purchase?*

A1. When collecting and reporting information on purchased small business and small farm loans, an institution collects and reports the amount of the loan at origination, not at the time of purchase. This is consistent with the Call Report's and TFR's use of the ''original amount of the loan'' to determine whether a loan should be reported as a ''loan to a small business'' or a ''loan to a small farm'' and in which loan size category a loan should be reported. When assessing the volume of small business and small farm loan purchases for purposes of evaluating lending test performance under CRA, however, examiners will evaluate an institution's activity based on the amounts at purchase.

§ ____.42(a)(2)–2: *How should an institution collect data about multiple loan originations to the same business?*

A2. If an institution makes multiple originations to the same business, the loans should be collected and reported as separate originations rather than combined and reported as they are on the Call Report or TFR, which reflect loans outstanding, rather than originations. However, if institutions make multiple originations to the same business solely to inflate artificially the number or volume of loans evaluated for CRA lending performance, the agencies may combine these loans for purposes of evaluation under the CRA.

§ ____.42(a)(2)–3: *How should an institution collect data pertaining to credit cards issued to small businesses?*

A3. If an institution agrees to issue credit cards to a business' employees, all of the credit card lines opened on a particular date for that single business should be reported as one small business loan origination rather than reporting each individual credit card line, assuming the criteria in the ''small business loan'' definition in the regulation are met. The credit card program's ''amount at origination'' is the sum of all of the employee/business credit cards'' credit limits opened on a particular date. If subsequently issued credit cards increase the small business credit line, the added amount is reported as a new origination.

§ ____.42(a)(3) *The loan location.*

§ ____.42(a)(3)–1: *Which location should an institution record if a small business loan's proceeds are used in a variety of locations?*

A1. The institution should record the loan location by either the location of the business headquarters or the location where the greatest portion of the proceeds are applied, as indicated by the borrower.

§ ____.42(a)(4) *Indicator of gross annual revenue.*

§ ____.42(a)(4)–1: *When indicating whether a small business borrower had gross annual revenues of $1 million or less, upon what revenues should an institution rely?*

A1. Generally, an institution should rely on the revenues that it considered in making its credit decision. For example, in the case of affiliated businesses, such as a parent corporation and its subsidiary, if the institution considered the revenues of the entity's parent or a subsidiary corporation of the parent as well, then the institution would aggregate the revenues of both corporations to determine whether the revenues are $1 million or less. Alternatively, if the institution considered the revenues of only the entity to which the loan is actually extended, the institution should rely solely upon whether gross annual revenues are above or below $1 million for that entity. However, if the institution considered and relied on revenues or income of a cosigner or guarantor that is not an affiliate of the borrower, such as a sole proprietor, the institution should not adjust the borrower's revenues for reporting purposes.

§ ____.42(a)(4)–2: *If an institution that is not exempt from data collection and reporting does not request or consider revenue information to make the credit decision regarding a small business or small farm loan, must the institution collect revenue information in connection with that loan?*

A2. No. In those instances, the institution should enter the code indicating ''revenues not known'' on the individual loan portion of the data collection software or on an internally developed system. Loans for which the institution did not collect revenue information may not be included in the loans to businesses and farms with gross annual revenues of $1 million or less when reporting this data.

§ ____.42(a)(4)–3: *What gross revenue should an institution use in determining the gross annual revenue of a start-up business?*

A3. The institution should use the actual gross annual revenue to date (including $0 if the new business has had no revenue to date). Although a start-up business will provide the institution with pro forma projected revenue figures, these figures may not accurately reflect actual gross revenue.

§ ____.42(a)(4)–4: *When collecting and reporting the gross annual revenue of small business or farm borrowers, do institutions collect and report the gross annual revenue or the adjusted gross annual revenue of its borrowers?*

A4. Institutions collect and report the gross annual revenue, rather than the adjusted gross annual revenue, of their small business or farm borrowers. The purpose of this data collection is to enable examiners and the public to judge whether the institution is lending to small businesses and farms or whether it is only making small loans to larger businesses and farms.

The regulation does not require institutions to request or consider revenue information when making a loan; however, if institutions do gather this information from their borrowers, the agencies expect them to collect and report the borrowers' gross annual revenue for purposes of CRA. The CRA regulations similarly do not require institutions to verify revenue amounts; thus, institutions may rely on the gross annual revenue amount provided by borrowers in the ordinary course of business. If an institution does not collect gross annual revenue information for its small business and small farm borrowers, the institution would not indicate on the CRA data collection software that the gross annual revenues of the borrower are $1 million or less. (*See* § ____.42(a)(4)–2.)

§ ____.42(b) Loan Information Required To Be Reported

§ ____.42(b)(1) *Small business and small farm loan data.*

§ ____.42(b)(1)–1: *For small business and small farm loan information that is collected and maintained, what data should be reported?*

A1. Each institution that is not exempt from data collection and reporting is required to report in machine-readable form annually by March 1 the following information,

aggregated for each census tract or block numbering area in which the institution originated or purchased at least one small business or small farm loan during the prior year:

- The number and amount of loans originated or purchased with original amounts of $100,000 or less;
- The number and amount of loans originated or purchased with original amounts of more than $100,000 but less than or equal to $250,000;
- The number and amount of loans originated or purchased with original amounts of more than $250,000 but not more than $1 million, as to small business loans, or $500,000, as to small farm loans; and
- To the extent that information is available, the number and amount of loans to businesses and farms with gross annual revenues of $1 million or less (using the revenues the institution considered in making its credit decision).

§ ____.42(b)(2) *Community development loan data.*

§ ____.42(b)(2)–1: *What information about community development loans must institutions report?*

A1. Institutions subject to data reporting requirements must report the aggregate number and amount of community development loans originated and purchased during the prior calendar year.

§ ____.42(b)(2)–2: *If a loan meets the definition of a home mortgage, small business, or small farm loan AND qualifies as a community development loan, where should it be reported? Can FHA, VA and SBA loans be reported as community development loans?*

A2. Except for multifamily affordable housing loans, which may be reported by retail institutions both under HMDA as home mortgage loans and as community development loans, in order to avoid double counting, retail institutions must report loans that meet the definitions of home mortgage, small business, or small farm loans only in those respective categories even if they also meet the definition of community development loans. As a practical matter, this is not a disadvantage for retail institutions because any affordable housing mortgage, small business, small farm or consumer loan that would otherwise meet the definition of a community development loan will be considered elsewhere in the lending test. Any of these types of loans that occur outside the institution's assessment area can receive consideration under the borrower characteristic criteria of the lending test. *See* § ____.22(b)(2) & (3)–4.

Limited purpose and wholesale institutions also must report loans that meet the definitions of home mortgage, small business, or small farm loans in those respective categories; however, they must also report any loans from those categories that meet the regulatory definition of ''community development loans'' as community development loans. There is no double counting because wholesale and limited purpose institutions are not subject to the lending test and, therefore, are not evaluated on their level and distribution of home mortgage, small business, small farm and consumer loans.

§ ____.42(b)(2)–3: *When the primary purpose of a loan is to finance an affordable housing project for low- or moderate-income individuals, but, for example, only 40 percent of the units in question will actually be occupied by individuals or families with low or moderate incomes, should the entire loan amount be reported as a community development loan?*

A3. Yes. As long as the primary purpose of the loan is a community development purpose, the full amount of the institution's loan should be included in its reporting of aggregate amounts of community development lending. However, as noted in § ____.22(b)(4)–1, examiners may make qualitative distinctions among community development loans on the basis of the extent to which the loan advances the community development purpose.

§ ____.42(b)(3) Home mortgage loans.

§ ____.42(b)(3)–1: *Mustinstitutions that are not required to collect home mortgage loan data by the HMDA collect home mortgage loan data for purposes of the CRA?*

A1. No. If an institution is not required to collect home mortgage loan data by the HMDA, the institution need not collect home mortgage loan data under the CRA. Examiners will sample these loans to evaluate the institution's home mortgage lending. If an institution wants to ensure that examiners consider all of its home mortgage loans, the institution may collect and maintain data on these loans.

§ ____.42(c) Optional Data Collection and Maintenance

§ ____.42(c)(1) Consumer loans.

§ ____.42(c)(1)–1: *What are the data requirements regarding consumer loans?*

A1. There are no data reporting requirements for consumer loans. Institutions may, however, opt to collect and maintain data on consumer loans. If an institution chooses to collect information on consumer loans, it may collect data for one or more of the following categories of consumer loans: motor vehicle, credit card, home equity, other secured, and other unsecured. If an institution collects data for loans in a certain category, it must collect data for all loans originated or purchased within that category. The institution must maintain these data separately for each category for which it chooses to collect data. The data collected and maintained should include for each loan:

- A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;
- The loan amount at origination or purchase;
- The loan location; and
- The gross annual income of the borrower that the institution considered in making its credit decision.

Generally, guidance given with respect to data collection of small business and small farm loans, including, for example, guidance regarding collecting loan location data, and whether to collect data in connection with refinanced or renewed loans, will also apply to consumer loans.

§ ____.42(c)(1)(iv) Income of borrower.

§ ____.42(c)(1)(iv)–1: *If an institution does not consider income when making an underwriting decision in connection with a consumer loan, must it collect income information?*

A1. No. Further, if the institution routinely collects, but does not verify, a borrower's income when making a credit decision, it need not verify the income for purposes of data maintenance.

§ ____.42(c)(1)(iv)–2: *May an institution list ''0'' in the income field on consumer loans made to employees when collecting data for CRA purposes as the institution would be permitted to do under HMDA?*

A2. Yes.

§ ____.42(c)(1)(iv)–3: *When collecting the gross annual income of consumer borrowers, do institutions collect the gross annual income or the adjusted gross annual income of the borrowers?*

A3. Institutions collect the gross annual income, rather than the adjusted gross annual income, of consumer borrowers. The purpose of income data collection in connection with consumer loans is to enable examiners to determine the distribution, particularly in the institution's assessment area(s), of the institution's consumer loans, based on borrower characteristics, including the number and amount of consumer loans to low-, moderate-, middle-, and upper-income borrowers, as determined on the basis of gross annual income.

The regulation does not require institutions to request or consider income information when making a loan; however, if institutions do gather this information from their borrowers, the agencies expect them to collect the borrowers' gross annual income for purposes of CRA. The CRA regulations similarly do not require institutions to verify income amounts; thus, institutions may rely on the gross annual income amount provided by borrowers in the ordinary course of business.

§§ ____.42(c)(1)(iv)–4: *Whose income does an institution collect when a consumer loan is made to more than one borrower?*

A4. An institution that chooses to collect and maintain information on consumer loans collects the gross annual income of all primary obligors for consumer loans, to the extent that the institution considered the income of the obligors when making the decision to extend credit. Primary obligors include co-applicants and co-borrowers, including co-signers. An institution does not, however, collect the income of guarantors on consumer loans, because guarantors are only secondarily liable for the debt.

§ ____.42(c)(2) Other loan data.

§ ____.42(c)(2)–1: *Schedule RC–C, Part II of the Call Report and schedule SB of the TFR do not allow financial institutions to report loans for commercial and industrial purposes that are secured by residential real estate. Loans extended to small businesses with gross annual revenues of $1 million or less may, however, be secured by residential real estate. Is there a way to collect this information on the software to supplement an institution's small business lending data at the time of examination?*

A1. Yes. If these loans promote community development, as defined in the regulation, the institution should collect and report information about these loans as community development loans. Otherwise, *at an institution's option*, it may collect and maintain data concerning loans, purchases, and lines of credit extended to small businesses and secured by residential real estate for consideration in the CRA evaluation of its small business lending. To facilitate this optional data collection, the software distributed free-of-charge by the FFIEC provides that an institution may collect this information to supplement its small business lending data by choosing loan type, ''Other Secured Lines/Loans for Purposes of Small Business,'' in the individual loan data. (The title of the loan type, ''Other Secured Lines of Credit for Purposes of Small Business,'' which was found in the instructions accompanying the 1996 data collection software, is being changed to ''Other Secured Lines/Loans for Purposes of Small Business'' in order to accurately reflect that lines of credit *and* loans may be reported under this loan type.) This information should be maintained at the institution but should *not* be submitted for central reporting purposes.

§ ____.42(c)(2)–2: *Must an institution collect data on loan commitments and letters of credit?*

A2. No. Institutions are not required to collect data on loan commitments and letters of credit. Institutions may, however, provide for examiner consideration information on letters of credit and commitments.

§ ____.42(c)(2)–3: *Are commercial and consumer leases considered loans for purposes of CRA data collection?*

A3. Commercial and consumer leases are not considered small business or small farm loans or consumer loans for purposes of the data collection requirements in 12 CFR § ____.42(a) & (c)(1). However, if an institution wishes to collect and maintain data about leases, the institution may provide this data to examiners as ''other loan data'' under 12 CFR § ____.42(c)(2) for consideration under the lending test.

§ ____.42(d) Data on Affiliate Lending

§ ____.42(d)–1: *If an institution elects to have an affiliate's home mortgage lending considered in its CRA evaluation, what data must the institution make available to examiners?*

A1. If the affiliate is a HMDA reporter, the institution must identify those loans reported by its affiliate under 12 CFR part 203 (Regulation C, implementing HMDA). At its option, the institution may either provide examiners with the affiliate's entire HMDA Disclosure Statement or just those portions covering the loans in its assessment area(s) that it is electing to consider. If the affiliate is not required by HMDA to report home mortgage loans, the institution must provide sufficient data concerning the affiliate's home mortgage loans for the examiners to apply the performance tests.

§ ____.43—Content and Availability of Public File

§ ____.43(a) Information Available to the Public

§ ____.43(a)(1) Public Comments.

§ ____.43(a)(1)–1: *What happens to comments received by the agencies?*

A1. Comments received by a Federal financial supervisory agency will be on file at the agency for use by examiners. Those comments are also available to the public unless they are exempt from disclosure under the Freedom of Information Act.

§ ____.43(a)(1)–2: *Is an institution required to respond to public comments?*

A2. No. All institutions should review comments and complaints carefully to determine whether any response or other action is warranted. A small institution subject to the small institution performance standards is specifically evaluated on its record of taking action, if warranted, in response to written complaints about its performance in helping to meet the credit needs in its assessment area(s) (§ ____.26(a)(5)). For all institutions, responding to comments may help to foster a dialogue with members of the community or to present relevant information to an institution's Federal financial supervisory agency. If an institution responds in writing to a letter in the public file, the response must also be placed in that file, unless the response reflects adversely on any person or placing it in the public file violates a law.

§ ____.43(a)(1)–3: *May an institution include a response to its CRA Performance Evaluation in its public file?*

A3. Yes. However, the format and content of the evaluation, as transmitted by the supervisory agency, may not be altered or abridged in any manner. In addition, an institution that received a less than satisfactory rating during it most recent examination must include in its public file a description of its current efforts to improve its performance in helping to meet the credit needs of its entire community. The institution must update the description on a quarterly basis.

§ ____.43(b) Additional Information Available to the Public

§ ____.43(b)(1) Institutions other than small institutions.

§ ____.43(b)(1)–1: *Must an institution that elects to have affiliate lending considered include data on this lending in its public file?*

A1. Yes. The lending data to be contained in an institution's public file covers the lending of the institution's affiliates, as well as of the institution itself, considered in the assessment of the institution's CRA performance. An institution that has elected to have mortgage loans of an affiliate considered must include either the affiliate's HMDA Disclosure Statements for the two prior years or the parts of the Disclosure Statements that relate to the institution's assessment area(s), at the institution's option.

§ ____.43(b)(1)–2: *May an institution retain the compact disc provided by the Federal Financial Institution Examination Council that contains its CRA Disclosure Statement in its public file, rather than printing a hard copy of the CRA Disclosure Statement for retention in its public file?*

A2. Yes, if the institution can readily print out from the compact disc (or a duplicate of the compact disc) its CRA Disclosure Statement for a consumer when the public file is requested. If the request is at a branch other than the main office or the one designated branch in each state that holds the complete public file, the bank should provide the CRA Disclosure Statement in a paper copy, or in another format acceptable to the requestor, within 5 calendar days, as required by § ____.43(c)(2)(ii).

§ ____.43(c) Location of Public Information

§ ____.43(c)–1: *What is an institution's ''main office''?*

A1. An institution's main office is the main, home, or principal office as designated in its charter.

§ ____.44—Public Notice by Institutions

§ ____.44–1: *Are there any placement or size requirements for an institution's public notice?* A1. The notice must be placed in the institution's public lobby, but the size and placement may vary. The notice should be placed in a location and be of a sufficient size that customers can easily see and read it.

§ ____.45—Publication of Planned Examination Schedule

§ ____.45–1: *Where will the agencies publish the planned examination schedule for the upcoming calendar quarter?*

A1. The agencies may use the **Federal Register**, a press release, the Internet, or other existing agency publications for disseminating the list of the institutions scheduled to for CRA examinations during the upcoming calendar quarter. Interested parties should contact the appropriate Federal financial supervisory agency for information on how the agency is publishing the planned examination schedule.

§ ____.45–2: *Is inclusion on the list of institutions that are scheduled to undergo CRA examinations in the next calendar quarter determinative of whether an institution will be examined in that quarter?*

A2. No. The agencies attempt to determine as accurately as possible which institutions will be examined during the upcoming calendar quarter. However, whether an institution's name appears on the published list does not conclusively determine whether the institution will be examined during that quarter. The agencies may need to defer a planned examination or conduct an unforeseen examination because of scheduling difficulties or other circumstances.

Appendix A to Part____—Ratings

Appendix A to Part____–1: *Must an institution's performance fit each aspect of a particular rating profile in order to receive that rating?*

A1. No. Exceptionally strong performance in some aspects of a particular rating profile may compensate for weak performance in others. For example, a retail institution that uses non-branch delivery systems to obtain deposits and to deliver loans may have almost all of its loans outside the institution's assessment area. Assume that an examiner, after consideration of performance context and other applicable regulatory criteria, concludes that the institution has weak performance under the lending test criteria applicable to lending activity, geographic distribution, and borrower characteristics within the assessment area. The institution may compensate for such weak performance by exceptionally strong performance in community development lending in its assessment area or a broader statewide or regional area that includes its assessment area.

Appendix B to Part____—CRA Notice

Appendix B to Part____–1: *What agency information should be added to the CRA notice form?*

A1. The following information should be added to the form:

OCC-supervised institutions only: The address of the deputy comptroller of the district in which the institution is located should be inserted in the appropriate blank. These addresses can be found at 12 CFR § 4.5(a).

OCC-, FDIC-, and Board-supervised institutions: ''Officer in Charge of Supervision'' is the title of the responsible official at the appropriate Federal Reserve Bank.

Appendix A

Regional Offices of the Bureau of the Census

To obtain median family income levels of census tracts, MSAs, block numbering areas and statewide nonmetropolitan areas, contact the appropriate regional office of the Bureau of the Census as indicated below. The list shows the states covered by each regional office.

Atlanta

(404) 730–3833
Alabama, Florida, Georgia

Boston

(617) 424–0510
Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

Charlotte

(704) 344–6144
District of Columbia, Kentucky, North Carolina, South Carolina, Tennessee, Virginia

Chicago

(708) 562–1740
Illinois, Indiana, Wisconsin

Dallas

(214) 640–4470 or (800) 835–9752
Louisiana, Mississippi, Texas

Denver

(303) 969–7750
Arizona, Colorado, Nebraska, New Mexico, North Dakota, South Dakota, Utah, Wyoming

Detroit

(313) 259–1875
Michigan, Ohio, West Virginia

Kansas City

(913) 551–6711
Arkansas, Iowa, Kansas, Minnesota, Missouri, Oklahoma

Los Angeles

(818) 904–6339
California

New York

(212) 264–4730
New York, Puerto Rico

Philadelphia

(215) 597–8313 or (215) 597–8312
Delaware, Maryland, New Jersey, Pennsylvania

Seattle

(206) 728–5314
Alaska, Hawaii, Idaho, Montana, Nevada, Oregon, Washington

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	§ ____.22(c)(1)–1.
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End of text of the Interagency Questions and Answers.

Dated: April 20, 2000.

Keith J. Todd,

Executive Secretary, Federal Financial Institutions Examination Council.

[FR Doc. 00–10343 Filed 4–27–00; 8:45 am]

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Federal Register

Friday,
April 28, 2000

Part IV

Environmental Protection Agency

Final Modification of the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges From Construction Activities; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6586–3]

Final Modification of the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges From Construction Activities

AGENCY: Environmental Protection Agency (EPA), Region 4.

ACTION: Notice of final modification of NPDES general permit for storm water discharges from construction activities.

SUMMARY: Section 405 of the Water Quality Act of 1987 (WQA) added section 402(p) of the Clean Water Act (CWA) which requires the Environmental Protection Agency (EPA) to develop a phased approach to regulate storm water discharges under the National Pollutant Discharge Elimination System (NPDES) program. EPA published a final regulation on November 16, 1990, (55 FR 47990) establishing permit application requirements for storm water discharges associated with industrial activity. EPA defined the term ''storm water discharge associated with industrial activity'' in a comprehensive manner to cover a wide variety of facilities. This definition greatly expanded the number of industrial facilities subject to the NPDES program. Construction activities that disturb at least five acres of land and have point source discharges to waters of the U.S. are defined as an ''industrial activity'' per 40 CFR 122.26(b)(14)(x).

40 CFR 122.4(d) and (i) prohibit EPA from authorizing discharges which will cause or contribute to the impaired use of waters of the U.S. Currently, facilities discharging to waters listed in accordance with the requirements of Section 303(d) of the Clean Water Act would most likely be required to apply for individual permit coverage, which is resource intensive for both the applicant and the NPDES permit issuing authority. Therefore, EPA Region 4 has concluded that additional permitting measures in the existing storm water general permit for construction activities are necessary to assure that storm water discharges to 303(d) waters, listed for TSS, do not cause or contribute to the impaired designated use of a water body.

The following provides notice for a final modification of the NPDES general permit, accompanying response to comments, and fact sheet for storm water discharges from construction activities in the following areas of Region 4:

Indian Country Lands within the State of Alabama
The State of Florida
Indian Country Lands within the State of Florida
Indian Country Lands within the State of Mississippi
Indian Country Lands within the State of North Carolina

DATES: This general permit modification shall be effective on July 1, 2000. Deadlines for compliance with the modification conditions are included in today's notice.

ADDRESSES: Notices of Intent (NOIs) submitted in accordance with this permit to receive coverage under this permit and Notices of Termination (NOTs) to terminate coverage under this permit must be sent to Storm Water Notice of Intent (4203), 401 M Street, SW, Room 2104 Northeast Mail, Washington, DC 20460. The complete administrative record is available from the U.S. Environmental Protection Agency, Region 4, Freedom of Information Officer, 61 Forsyth St. S.W., Atlanta, GA 30303. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Floyd Wellborn, telephone number (404) 562–9296, or Mr. Michael Mitchell, telephone number (404) 562–9303, or at the following address: United States Environmental Protection Agency, Region 4, Water Management Division, NPDES and Biosolids Permits Section, Atlanta Federal Center, 61 Forsyth Street S.W., Atlanta, GA 30303.

SUPPLEMENTARY INFORMATION:

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I. Introduction

In 1972, the Federal Water Pollution Control Act (also referred to as the Clean Water Act (CWA)) was amended to provide that the discharge of any pollutants to waters of the United States from any point source is unlawful, except if the discharge is in compliance with a National Pollutant Discharge Elimination System (NDPES) permit. In 1987, § 402(p) was added to the CWA to establish a comprehensive framework for addressing storm water discharges under the NPDES program. Section 402(p)(4) of the CWA clarifies the requirements for EPA to issue NPDES permits for storm water discharges associated with industrial activity. On November 16, 1990 (55 FR 47990), EPA published final regulations which define the term ''storm water discharge associated with industrial activity.''

On March 31, 1998, EPA Region 4 issued a general permit for discharges of storm water from construction activities ''associated with industrial activity'' to reduce the administrative burden of issuing an individual NDPES permit to each construction activity.

II. Coverage of General Permit

Section 402(p) of the Clean Water Act (CWA) clarifies that storm water discharges associated with industrial activity to waters of the United States must be authorized by an NPDES permit. On November 16, 1990, EPA published regulations under the NPDES program which defined the term ''storm water discharge associated with industrial activity'' to include storm water discharges from construction activities (including clearing, grading, and excavation activities) that result in the disturbance of five or more acres of total land area, including areas that are part of a larger common plan of development or sale (40 CFR 122.26(b)(14)(x)). The term ''storm water discharge from construction activities'' will be used in this document to refer to storm water discharges from construction sites that meet the definition of a storm water discharge associated with industrial activity.

This modification of the general permit may authorize storm water discharges to waters listed on the 1998 EPA approved 303(d) list (or any subsequently approved list, hereafter referenced as the EPA approved 303(d) list), for Total Suspended Solids (TSS), or other parameters associated with sediments, from existing construction sites (facilities where construction activities began before the effective date of this modification, and final stabilization is to occur after the effective date of this modification) and new construction sites. New construction sites are those facilities where disturbances associated construction activities commence after the effective date of this modification. To obtain authorization under the general permit, a discharger must submit a complete NOI and comply with the terms of the permit. The terms and conditions of this modification are applicable to all qualifying facilities even if coverage under the permit began prior to the effective date of the modification.

III. Changes From the July 21, 1999 Proposed Permit Modification (Amended August 25, 1999)

- Applicants are now required to contact the permit issuing authority for help in determining if they are discharging to 303(d) listed waters.
- The final issuance will only include the 1998 EPA approved 303(d) list for water segments listed for TSS.
- The entire general permit with the modification's are being reprinted in today's notice. The species list in Appendix C, however, has not been reprinted and can be found in the March 31, 1998 Federal Register notice (63 FR 15621) or at the following web site: http://www.epa.gov/owm/esalst2.htm
- The proposed modification in the July 21, 1999 **Federal Register** (64 FR 39136) incorrectly identified a change in Part I.C. ''Authorization.'' Today's Notice correctly changes Part II.B. ''Contents of Notice of Intent.'' Part II.B.9. of today's permit asks for certification of eligibility under Part I.B.3.e.(2) (Endangered Species) and I.B.3.f. (Historic Preservation).
- Typographical errors in Parts II.B.10. and VII.G.2.d. were corrected to properly identify the signature requirements of Part VII.G. Previously, the permit had incorrectly indicated Part VI.G which does not exist.
- The qualified personnel has been further defined in Part V.D.4. as a State certified storm water operator. A State certified storm water operator is one who has completed the Florida Storm water, Erosion and Sediment Control Training and Certification Program for Inspectors and Contractors. Furthermore they have passed the course examination.

IV. Summary of Modification Conditions

For Facilities in Florida

In order to get construction general permit coverage, applicants must determine if the facility discharges to waters listed on the EPA approved 303(d) list for impairment due to Total Suspended Solids.

For Facilities on Indian Country Lands

In order to get construction general permit coverage, applicants must determine if the facility discharges to waters impaired for either Total Suspended Solids, Turbidity, Silt or Sediment. It is incumbent upon the applicant to contact the Environmental Coordinator of the Tribe on whose lands the discharge occurs if you are unsure whether or not the facility will be discharging to impaired waters for either of the above referenced parameters.

What To Do Next

For all facilities, if the determination is made that you will be discharging to waters impaired because of either Total Suspended Solids or other parameters associated with sediments (or in the case of discharges on Indian Country lands; TSS, Turbidity, Silt or Sediment) the facility must comply with the terms and conditions of Part III.C. of the permit.

- The permittee shall monitor, during regular working hours, once per month within the first 30 minutes of a qualifying storm event or within the first 30 minutes of the beginning of the discharge of a previously collected qualifying event for Settleable Solids (ml/l), Total Suspended Solids (mg/l), Turbidity (NTUs) and Flow (MGD). A qualifying event is defined as a rain event of 0.5 inches or greater in a 24-hour period.
- Where the receiving water has flow upstream from the discharge, a background sample for Settleable Solids, Total Suspended Solids and Turbidity shall be taken instream at middepth and immediately upstream from the influence of the discharge of storm water from the site. If there is no upstream flow, instream monitoring is not required.
- The soil type and average slope of the drainage area for each outfall shall be reported with the Discharge Monitoring Report submitted in accordance with Part III.C.5. of the permit.

This permit does not authorize the discharge of storm water, from construction activities, which causes or contributes to the impairment of the designated use of waters of the United States.

V. Cost Estimates

The two major costs associated with monitoring requirements. One is the acquisition of monitoring equipment and the other is the fee incurred for laboratory analysis of the sample. While EPA recognizes that this is an increased cost from the general permit prior to its modification, it is no more expensive than an individual permit which would most likely have similar requirements. In addition, the cost of compliance with a general permit is lower than that of an individual permit. Therefore, there is a comparative financial benefit to coverage under the general permit even with monitoring requirements from coverage under an individual permit.

VI. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under UMA section 202, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, UMA section 205 generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of UMA section 205 do not apply when they are inconsistent with applicable law. Moreover, UMA section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes an explanation with the final rule why the alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under UMA section 203 a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating and advising small governments on compliance with the regulatory requirements.

A. UMA Section 202 and the Construction General Permit

UMA section 202 requires a written statement containing certain assessments, estimates and analyses prior to the promulgation of certain general notices of proposed rulemaking (2 U.S.C. 1532). UMA section 421(10) defines ''rule'' based on the definition of rule in the Regulatory Flexibility Act. Section 601 of the Regulatory Flexibility Act defines ''rule'' to mean any rule for which an agency publishes a general notice of proposed rulemaking pursuant to section 553 of the Administrative Procedure Act. EPA does not propose to issue NPDES general permits based on

APA section 553. Instead, EPA relies on publication of general permits in the **Federal Register** in order to provide ''an opportunity for a hearing'' under CWA section 402(a), 33 U.S.C. 1342(a). Nonetheless, EPA has evaluated permitting alternatives for regulation of storm water discharges associated with construction activity. The general permit that EPA proposes to modify would be virtually the same NPDES general permit for discharges of storm water from construction activities that many construction operators have used over the past year since most will not be discharging to 303(d) listed waters. For those who are discharging to 303(d) listed waters and come under the new monitoring and reporting requirements, general permits provide a more cost and time efficient alternative for the regulated community to obtain NPDES permit coverage than that provided through individually drafted permits.

B. UMA Section 203 and the Construction General Permit

Agencies are required to prepare small government agency plans under UMA section 203 prior to establishing any regulatory requirement that might significantly or uniquely affect small governments. ''Regulatory requirements'' might, for example, include the requirements of this NPDES general permit for discharges associated with construction activity. EPA envisions that some municipalities—those with municipal separate storm sewer systems serving a population over 100,000—may elect to seek coverage under this general permit where they are the operators of construction activities. For municipalities with a population of less than 100,000, however, a permit application is not required until August 7, 2001, for a storm water discharge associated with construction activity where the construction site is owned or operated by a municipality. (See 40 CFR 122.26(e)(1)(ii)&(g)).

In any event, any such permit requirements would not significantly affect small governments because most State laws already provide for the control of sedimentation and erosion in a similar manner as today's general permit. Permit requirements also would not uniquely affect small governments because compliance with the permit's conditions affects small governments in the same manner as any other entity seeking coverage under the permit; thus, UMA section 203 would not apply.

VII. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities in this final general permit under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et. seq.* EPA did not prepare an Information Collection Request (ICR) document for today's permit because the information collection requirements in this permit have already been approved by the Office of Management and Budget (OMB) in submissions made for the NPDES permit program under the provisions of the Clean Water Act.

VIII. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, U.S.C. 601 *et. seq.,* EPA is required to prepare a Regulatory Flexibility Analysis to assess the impact of rules on small entities. No Regulatory Flexibility Analysis is required, however, where the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Today's permit modification provides small entities with an application option that is less burdensome than individual applications. The other requirements have been designed to minimize significant economic impacts of the rule on small entities and does not have a significant impact on industry. In addition, the permit reduces significant administrative burdens on regulated sources. Accordingly, I hereby certify pursuant to the provisions of the Regulatory Flexibility Act, that this permit will not have a significant impact on a substantial number of small entities.

IX. Responses to Comments

The following is a summary of the issues identified by EPA that were raised regarding the modification of the general permit for storm water from construction activities and EPA's response to those issues.

Several commenters asked for a clarification of the definition of a qualifying event. Specifically, is a qualifying event measured within the 24 hours of a calendar day or is it a rolling 24 hours? EPA's intent is to require monitoring of one event that produces 0.5 inches of rain fall in a rolling 24 hour period, during a calendar month.

Several commenters asked how one would know to take a grab in the first 30 minutes of the rain event if you don't know if the storm is a qualifying event yet. If the retention on the site delays the discharge, then collection of a sample during the first 30 minutes is not required. EPA acknowledges that the facility may take samples in anticipation of a qualifying event, that are never sent to the lab because the event did not qualify for sampling.

One commenter asked how would one know when to sample if there was a fairly continuous discharge from current and previously collected events since the first thirty minutes of discharge may not be discernable. In the case of the rain events being close together, a sample would be collected within the first 30 minutes after the start of the qualifying event. Since only one sample per month is required, monitoring of any subsequent discharge is not required.

Comments were submitted on how is monitoring conducted during off hours or if the monitoring stations are too far away to monitor during the first 30 minutes. It is incumbent on the permittee to plan for monitoring during regular working. This of course may mean that all discharges from a qualifying event in a given month may occur during non-regular working hours. In such a case, the permittee should indicate ''no discharge from a qualifying event occurred during regular working hours'' in lieu of sampling results on the Discharge Monitoring Report (DMR) form and submit it to the EPA. If the facility is too big to collect samples from all the outfalls on the same day, subsequent events within the month should be considered for other outfalls. This does not release the permittee from compliance responsibility should there be only one qualifying event during a given month. The document NPDES Storm Water Sampling Guidance Document (EPA 833–F–92–001, July 1992) discusses this in Part 2.9 of the document beginning on page 31.

Comments were submitted asking if the permit requires the installation of an automatic sampler to comply with the sampling requirements. The permit does not require the installation of an automatic sampler but it does require compliance with the monitoring conditions. It is up to the permittee to determine if the only way for the facility to comply with the permit is to install an automatic sampler.

Several commenters indicated that the cost of monitoring would be excessive without any real benefit to the environment. One commenter suggested that a more effective approach to sediment control would be requiring a ''qualified person'' to conduct the sediment and erosion control onsite. While EPA understands that the monitoring in the modified general permit is an increase over the conditions of the March 31, 1998 reissued general permit, the cost is no more than would be for compliance with an individual permit. In addition, EPA's evaluation of the cost, based on

EPA's own lab expenses, is significantly less that the estimation of the commenters.

One commenter requested clarification of when a facility is discharging directly to a 303(d) listed water body segment. Only those discharges whose collection systems overflowed or release discharges directly to listed segments would be required to monitor. Discharges which flow through tributaries, which themselves are not listed, or local collection systems, such as Municipal Separate Storm Sewer Systems (MS4), are not required to monitor under the modified permit. Co-permittees who discharge to another permittee's collection system which then discharges to a listed segment may be required to monitor. Such a determination would be conducted at the request of the permittee discharging directly to the listed segment. Discharges to piped MS4s which are ultimately discharging to 303(d) listed waters are not required to monitor.

One commenter asserted that the EPA's decision to include protective monitoring appears unsupported by sufficient data demonstrating that additional protection of waters is required. The introduction in the July 21, 1999 **Federal Register** (64 FR 39136) justifies the inclusion of monitoring based on the requirements of 40 CFR Part 122.4 (d) and (i), which disallow the authorization of discharges which contribute to the impaired use of a receiving water. No previously existing data is required to conclude that the addition of particulates from a construction site has the potential to contribute to the impaired use of a receiving water when it is currently impaired due to particulate pollution. If the permit issuing authority determines that an individual facility contributes to the impaired use of a water segment, an individual permit will be required for the discharges from that facility. EPA suspects that the majority of sites will not contribute to the impairment. It would be unreasonable to leave it to assumption though. The purpose of the monitoring is, in fact, to aid in the determination of whether an individual facility is contributing to the impairment. In addition, the CWA, section 308(a) allows for monitoring to determine if a violation of a prohibition, such as 40 CFR 122.4(d) or (i), has occurred.

One commenter perceived and objected to the notion that the construction industry was being made to bearing the cost of stream monitoring for the development of Florida's Total Maximum Daily Loads (TMDL) and further contends that the construction industry is not the only contributor of solids to the waters of the State. EPA is not including this monitoring to develop stream data for a TMDL. As stated previously, it is included to determine compliance with 40 CFR 122.4. However, since the data is being collected anyway, an additional benefit will be the availability of the data once development of a TMDL is underway. It is common practice in developing a TMDL to use available data collected by many sources. EPA does concur that the construction industry is not the sole source of solids to water bodies and therefore not the sole cause of impairment to a 303(d) listed water. It is certain, though, that it is a possible source and is essential to determine what individual facilities may contribute to the impaired use of a listed water segment.

One commenter expressed concern over using Florida's 303(d) list since it is continually updated to include newly listed water segments making it difficult to know in advance if the construction site will discharge to a listed water body. EPA acknowledges this concern and has changed the final permit to require monitoring only at facilities discharging to water segments listed on the EPA approved 303(d) list. Contact the EPA for information on updates to the list.

One commenter contended that EPA Region 4's proposal to include monitoring in the general permit conflicts with EPA Headquarter's proposal to develop effluent guidelines for the construction industry which wouldn't include numerical limits but simply Best Management Practices (BMP). Currently, there is no effluent guideline for this activity; however, effluent guidelines have technology based requirements and are not usually protective of state water quality standards.

One commenter believes that the monitoring requirements place an unfair burden on facilities discharging to waters known to be impaired since all the waters in the State have not yet been assessed. Revisions have been made in the final permit to ensure currently listed waters and any added in the future are protected by the requirements of this permit.

One commenter challenged EPA's consideration of the Unfunded Mandates Reform Act which requires Federal Agencies to consider least costly, more cost-effective and/or least burdensome alternatives. The commenter pointed out that EPA contended that the evaluation performed regarding permitting options for the regulation of storm water discharges form construction activities is sufficient to meet this requirement since it will be virtually the same NPDES general permit (see Part VI of this notice). One should understand that the general permit is a voluntary permit. Any time a facility deems compliance with the general permit too burdensome or costly, they are free to apply for an individual permit. For those sites discharging to 303(d) listed waters, the alternative to this modification would be an individual NPDES permit which would be more costly to comply with. Therefore, the EPA chosen alternative of modifying the general permit to include conditions on construction sites discharging to 303(d) listed waters is considerate of the Unfunded Mandates Reform Act.

One commenter was confused about the pollutant to look for in the EPA Approved 303(d) list. In one **Federal Register**, the pollutant which triggered monitoring was silt and/or sediment and in the other it was total suspended solids. At this point the 303(d) list expresses impairment due to solids as the pollutant total suspended solids. So, TSS is the one which currently triggers monitoring. However, should subsequent approved lists contain other indicators of solids transportation to the receiving waters, those parameters would trigger the monitoring requirements as well.

Several commenters proposed the delay of the issuance of the modification which requires monitoring until the Total Maximum Daily Load (TMDL) management proposal is finalized. One commenter believes that the EPA's proposal for managing TMDLs to impaired waters would be sufficient to assess the contribution of solids in the discharges of storm water runoff from construction activities to waters of the United States which are impaired because of TSS, turbidity, silt or sedimentation. And another commenter suggested that monitoring in the general permit to determine Best Management Practice (BMP) effectiveness is premature. While it may be true that the TMDL program may adequately assess the over arching contribution from such facilities, it cannot assess an individual facility's contribution and whether or not the discharges from a particular facility cause or contribute to the further impairment of the receiving water. And while other EPA efforts are ongoing to set national standards, effluent guidelines and design criteria do not prevent mishaps and the improper instillation and maintenance of BMPs. In addition, the Clean Water Act (1987, as amended) and 40 CFR Part 122

compels EPA to address the site specific discharges of pollutants to waters of the U.S. and particularly the discharges of a pollutant to waters impaired because of that pollutant. EPA continues to believe that including conditions in the general permit addressing the discharges of solids to waters impaired because of solids is the least burden on the regulated community and on EPA while remaining consistent with the requirements of the CWA.

On this point, the commenters, believe that the proposed monitoring conditions would be inadequate to determine the effect on an impaired water of solids in the storm water discharge. One commenter suggested that the nebulous difference between point and non-point source discharges under EPA's wet weather programs made monitoring ineffective in determining whether or not a discharge causes or contributes to the impairment of a water body. EPA reserves the right to terminate coverage under the general permit for facilities which demonstrate that the discharges from the site have the reasonable potential to cause or contribute to the impairment in the listed water body. In such a case, EPA may at its discretion require the permittee to cease discharging to the impaired water body or to apply for an individual permit so that facility specific discharge limitations and pollution prevention plan requirements could be established. Non-point source contributions of sediments are addressed under Section 319 of the Clean Water Act.

X. Section 401 Certification

Certification of the proposed permit modification was requested from the State of Florida by letter dated January 22, 1999. The Florida Department of Environmental Protection (FDEP) waived certification of the proposed permit modification via a letter dated July 13, 1999. The State did include comments on the permit modification in the waiver letter. Certification of the proposed permit was requested from the Miccosukee Tribe of Indians of Florida by letter dated June 23, 1997. Certification of the proposed permit is deemed waived in accordance with the provisions of 40 CFR 124.53(c). Certification of the proposed permit modification was requested from the Seminole Tribe of Florida by letter dated February 8, 1999. The Seminole Tribe of Florida provided certification of the proposed permit modification via a letter dated April 15, 1999.

XI. Official Signatures

Accordingly, I hereby certify pursuant to the provisions of the Regulatory Flexibility Act, that this permit will not have a significant impact on a substantial number of small entities.

Authority: Clean Water Act, 33 U.S.C 1251 *et seq.*

Dated: April 20, 2000.

John H. Hankinson, Jr.,

Regional Administrator, Region 4.

Appendix A

From the effective date of this permit, applicants are to use the existing Notice of Intent form (EPA 3510–9, published in the March 6, 1998 **Federal Register**, 63 FR 11253) referenced in this Appendix to obtain permit coverage. According to the provisions in Part II.B. of this permit, applicants are reminded that they are certifying that they meet all eligibility requirements of Part I.B. of this permit and are informing the Director of their intent to be covered by, and comply with, those terms and conditions. These conditions include certifications that the applicant's storm water discharges and storm water-related discharge activities will not adversely affect listed endangered or threatened species, their critical habitat, or places either listed or eligible for listing on the National Register of Historic Places.

Appendix B

From the effective date of this permit, permittees are to use the existing Notice of Termination form (EPA Form 3510–7) contained in this Addendum until they are instructed by the Director (EPA) to use a revised version. Permittees are to complete, sign and submit the form in accordance with Part VII.G of the permit when terminating permit coverage at a construction project when one or more or the conditions contained in Part IX have been met.

Appendix C—Endangered Species Guidance

I. Instructions

A list of species that EPA has determined may be affected by the activities covered by the construction general permit will be included in the final issued permit. These species will be listed by county. In order to get construction general permit coverage, applicants must:

- Indicate in the box provided on the NOI whether any species listed in this Appendix are in proximity to the facility, and
- Certify pursuant to Section I.B.3.e. of the construction general permit that their storm water discharges, and BMPs constructed to control storm water runoff, are not likely, and will not be likely to adversely affect species identified in Appendix C of this permit. The species list can be found in the March 31, 1998 **Federal Register** notice (63 FR 15621) or at the following web site: http://www.epa.gov/owm/esalst2.htm

To do this, please follow steps 1 through 4 below.

Step 1: Review the County Species List Below to Determine if Any Species are Located in the Discharging Facility County

If the facility is within one (1) mile of the county line, a review of the bordering county's list must be made a well to determine the presence of species. If no species are listed in a facility's county, or adjacent county as mentioned in the previous sentence, or if a facility's county is not found on the list, an applicant is eligible for construction general permit coverage and may indicate in the NOI that no species are found in proximity and provide the necessary certification. If species are located in the county, or in the adjacent county as mentioned above, follow step 2 below. Where a facility is located in more than one county, the lists for all counties should be reviewed.

Step 2: Determine if any Species May Be Found "In Proximity" to the Facility

A species is in proximity to a facility's storm water discharge when the species is:

- Located in the path or immediate area through which or over which contaminated point source storm water flows from industrial activities to the point of discharge into the receiving water.
- Located in the immediate vicinity of, or nearby, the point of discharge into receiving waters.
- Located in the area of a site where storm water BMPs are planned or are to be constructed.

The area in proximity to be searched/surveyed for listed species will vary with the size of the facility, the nature and quantity of the storm water discharges, and the type of receiving waters. Given the number of facilities potentially covered by the construction general permit, no specific method to determine whether species are in proximity is required for permit coverage under the construction general permit. Instead, applicants should use the method or methods which best allow them to determine to the best of their knowledge whether species are in

proximity to their particular facility. These methods may include:

• *Conducting visual inspections:* This method may be particularly suitable for facilities that are smaller in size, facilities located in non-natural settings such as highly urbanized areas or industrial parks where there is little or no nature habitat; and facilities that discharge directly into municipal storm water collection systems. For other facilities, a visual survey of the facility site and storm water drainage areas may be insufficient to determine whether species are likely to be located in proximity to the discharge.

• *Contacting the nearest State Wildlife Agency or U.S. Fish and Wildlife Service (FWS) or National Marine Fisheries Service (NMFS) offices.* Many endangered and threatened species are found in well-defined areas or habitats. That information is frequently known to state or federal wildlife agencies. FWS has offices in every state. NMFS has a regional office in St. Petersburg, Florida.

• *Contacting local/regional conservation groups.* These groups inventory species and their locations and maintain lists of sightings and habitats.

• *Conducting a formal biological survey.* Larger facilities with extensive storm water discharges may choose to conduct biological surveys as the most effective way to assess whether species are located in proximity and whether there are likely adverse effects.

If no species are in proximity, an applicant is eligible for construction general permit coverage and may indicate that in the NOI and provide the necessary certification. If listed species are found in proximity to a facility, applicants must follow step 3 below.

Step 3: Determine if Species Could be Adversely Affected by the Facility's Storm Water Discharges or by BMPS to Control Those Discharges

Scope of Adverse Effects: Potential adverse effects from storm water include:

• *Hydrological.* Storm water may cause siltation, sedimentation or induce other changes in the receiving waters such as temperature, salinity or pH. These effects will vary with the amount of storm water discharged and the volume and condition of the receiving water. Where a storm water discharge constitutes a minute portion of the total volume of the receiving water, adverse hydrological effects are less likely.

• *Habitat.* Storm water may drain or inundate listed species habitat.

• *Toxicity.* In some cases, pollutants in storm water may have toxic effects on listed species.

The scope of effects to consider will vary with each site. Applicants must also consider the likelihood of adverse effects on species from any BMPs to control storm water. Most adverse impacts from BMPs are likely to occur from the construction activities.

Using earlier ESA authorizations for construction general permit eligibility: In some cases, a facility may be eligible for construction general permit coverage because actual or potential adverse affects were addressed or discounted through an earlier ESA authorization. Examples of such authorization include:

• An earlier ESA section 7 consultation for that facility.

• A section 10(a) permit issued for the facility.

• An area-wide Habitat Conservation Plan applicable to that facility.

• A clearance letter from the Services (which discounts the possibility of an adverse impacts from the facility).

In order for applicants to use an earlier ESA authorization to meet eligibility requirements: (1) The authorization must adequately address impacts for storm water discharges and BMPs from the facility on endangered and threatened species, (2) it must be current because there have been no subsequent changes in facility operations or circumstances which might impact species in ways not considered in the earlier authorization, and (3) the applicant must comply with any requirements from those authorizations to avoid or mitigate adverse effects to species. Applicants who wish to pursue this approach should carefully review documentation for those authorizations ensure that the above conditions are met.

If adverse effects are not likely, an applicant is eligible for construction general permit coverage and may indicate in the NOI that species are found in proximity and provide the necessary certification. If adverse effects are likely, follow step 4 below.

Step 4: Determine if Measures Can be Implemented to Avoid any Adverse Effects

If an applicant determines that adverse effects are likely, it can receive coverage if appropriate measures are undertaken to avoid or eliminate any actual or potential adverse affects prior to applying for permit coverage. These measures may involve relatively simple changes to facility operations such as re-routing a storm water discharge to bypass an area where species are located.

At this stage, applicants may wish to contact the FWS and/or NMFS to see what appropriate measures might be suitable to avoid or eliminate adverse impacts to species.

If applicants adopt these measures, they must continue to abide by them during the course of permit coverage.

If appropriate measures are not available, the applicant is not eligible at that time for coverage under the construction general permit. Applicants should contact the appropriate EPA regional office about either:

• Entering into Section 7 consultation in order to obtain construction general permit coverage, or

• Obtaining an individual NPDES storm water permit.

Appendix D—Discharging to Impaired Waters Guidance

I. Instructions

For Facilities in Florida

In order to get coverage under this NPDES permit for storm water discharges from construction sites, applicants must determine if the facility discharges to waters listed on the EPA approved 303(d) list for impairment due to Total Suspended Solids.

For Facilities on Indian Country Lands

In order to get coverage under this NPDES permit for storm water discharges from construction sites, applicants must determine if the facility discharges to waters impaired for either TSS, turbidity, silt or sediment. It is incumbent upon the applicant to contact the Environmental Coordinator of the Tribe on whose lands the discharge occurs if you are unsure whether or not the facility will be discharging to impaired waters for either of the above referenced parameters.

Next Steps

For all facilities, if the determination is made that you will be discharging waters impaired because of either TSS, turbidity, silt or sediment, the facility must comply with the terms and conditions of Part III.C. of the permit.

APPENDIX E—EPA APPROVED 303(D) LIST

HUC name	Water segment	MAPID	WBID	Parameters of concern
ALAFIA RIVER	TURKEY CK AB LTL ALAFI	24	1578B	Coliforms, Nutrients, Turbidity.
ALAFIA RIVER	POLEY CREEK	25	1583	Coliforms, Nutrients, Turbidity.
APALACHICOLA RIVER	APALACHICOLA RIVER	10	375D	Turbidity.
APALACHICOLA RIVER	GREGORY MILL CREEK	13	1135	Dissolved Oxygen, Nutrients, Turbidity, Total Suspended Solids.
APALACHICOLA RIVER	EQUILOXIC CREEK	14	1109A	Dissolved Oxygen, Turbidity, Mercury (Based on Fish Consumption Advisory).
APALACHICOLA RIVER	LITTLE GULLY CREEK	15	1039	Coliforms, Dissolved Oxygen, Turbidity.
APALACHICOLA RIVER	FLAT CREEK	26	487	Coliforms, Nutrients, Turbidity, Total Suspended Solids.
BLACKWATER RIVER	BLACKWATER RIVER	4	24A	Total Suspended Solids, Coliforms, Mercury (Based on Fish Consumption Advisory).
BLACKWATER RIVER	EAST FORK	53	18A	Coliforms, Total Suspended Solids.
BLACKWATER RIVER	MANNING CREEK	59	127	Coliforms, Turbidity, Total Suspended Solids.
BLACKWATER RIVER	MARE CREEK	79	88	Dissolved Oxygen, Turbidity.
BLACKWATER RIVER	BIG JUNIPER CREEK	84	19	Coliforms, Turbidity.
BLACKWATER RIVER	BIG COLDWATER CREEK	96	18	Coliforms, Total Suspended Solids.
CHARLOTTE HARBOR	NO. PRONG ALLIGATOR CR	30	2071	Dissolved Oxygen, Coliforms, Turbidity.
CHIPOLA RIVER	CHIPOLA RIVER (Dead Lakes)	1	51A	Coliforms, Turbidity, Mercury (Based on Fish Consumption Advisory).
CHOCTAWHATC HEE BAY	CHOCTAWHATC HEE BAY AB C	24	78C	Biochemical Oxygen. Demand, Coliforms, Nutrients, Turbidity, Total Suspended Solids, Mercury (Based on Fish Consumption Advisory).
CHOCTAWHATC HEE RIVER	CHOCTAWHATC HEE RIVER	0	49E	Coliforms, Turbidity, Total Suspended Solids.
CHOCTAWHATC HEE RIVER	BRUCE CREEK	11	343	Coliforms, Turbidity.
CHOCTAWHATC HEE RIVER	CHOCTAWHATC HEE RIVER	14	49	Coliforms, Turbidity, Total Suspended Solids, Mercury (Based on Fish Consumption Advisory).
CHOCTAWHATC HEE RIVER	CAMP BRANCH	21	251	Coliforms, Nutrients, Turbidity.
CHOCTAWHATC HEE RIVER	CHOCTAWHATC HEE RIVER	24	49F	Coliforms, Nutrients, Total Suspended Solids, Turbidity, Mercury (Based on Fish Consumption Advisory).
CHOCTAWHATC HEE RIVER	ALLIGATOR CREEK	26	123	Coliforms, Biological Oxygen Demand, Dissolved Oxygen, Nutrients, Turbidity
CHOCTAWHATC HEE RIVER	SIKES CREEK	27	142	Coliforms, Dissolved Oxygen, Total Suspended Solids, Turbidity.
CHOCTAWHATC HEE RIVER	FISH BRANCH	28	130	Coliforms, Dissolved Oxygen, Total Suspended Solids, Turbidity.
CRYSTAL RIVER TO ST. PETE	ST JOE CREEK	6	1668A	Dissolved Oxygen, Coliforms, Nutrients, Total Suspended Solids, Biochemical Oxygen Demand.
CRYSTAL RIVER TO ST. PETE	BONN CREEK	8	1668B	Dissolved Oxygen, Coliforms, Nutrients, Turbidity, Biochemical Oxygen Demand.
ECONFINA-FENH OLLOWAY	ROCKY CREEK	0	3489	Turbidity, Coliforms.
ECONFINA-FENH OLLOWAY	FENHOLLOWAY BL PULP	14	3473B	Dissolved Oxygen, Nutrients, Total Suspended Solids, Un-ionized Ammonia, Biochemical Oxygen Demand, Mercury (Based on Fish Consumption Advisory).
ESCAMBIA RIVER	SCAMBIA RIVER	2	10F	Coliforms, Total Suspended Solids, Turbidity, Mercury (Based on Fish Consumption Advisory).
ESCAMBIA RIVER	ESCAMBIA RIVER	4	10E	Coliforms, Dissolved Oxygen, Turbidity, Mercury (Based on Fish Consumption Advisory).
ESCAMBIA RIVER	ESCAMBIA RIVER	6	10D	Coliforms, Total Suspended Solids, Turbidity, Mercury (Based on Fish Consumption Advisory).
ESCAMBIA RIVER	PINE BARREN CREEK	28	5	Coliforms, Turbidity.
ESCAMBIA RIVER	LITTLE PINE BARREN CR	31	87	Coliforms, Turbidity.

APPENDIX E—EPA APPROVED 303(D) LIST—Continued

HUC name	Water segment	MAPID	WBID	Parameters of concern
ESCAMBIA RIVER	ESCAMBIA RIVER	42	10C	Coliforms, Total Suspended Solids, Turbidity, Mercury (Based on Fish Consumption Advisory).
ESCAMBIA RIVER	BIG ESCAMBIA CREEK	43	10	Coliforms, Total Suspended Solids, Turbidity.
HILLSBOROUGH RIVER	TWO HOLE BRANCH	0	1489	Nutrients, Turbidity, Biochemical Oxygen Demand, Coliforms.
HILLSBOROUGH RIVER	SPARKMAN BRANCH	2	1561	Dissolved Oxygen, Coliforms, Nutrients, Turbidity, Total Suspended Solids.
HILLSBOROUGH RIVER	HILLSBOROUGH RIVER	5	1443 A	Dissolved Oxygen, Coliforms, Nutrients, Total Suspended Solids, Mercury (Based on Fish Consumption Advisory).
HILLSBOROUGH RIVER	BAKER CREEK	10	1522C	Dissolved Oxygen, Coliforms, Lead, Nutrients, Turbidity.
HILLSBOROUGH RIVER	COW HOUSE CREEK	17	1534	Dissolved Oxygen, Coliforms, Nutrients, Turbidity, Total Suspended Solids.
HILLSBOROUGH RIVER	FLINT CREEK	18	1522A	Dissolved Oxygen, Coliforms, Lead, Nutrients, Turbidity, Biochemical Oxygen Demand.
HILLSBOROUGH RIVER	BLACKWATER CREEK	27	1482	Dissolved Oxygen, Coliforms, Nutrients, Turbidity, Biochemical Oxygen Demand
HILLSBOROUGH RIVER	BIG DITCH	30	1469	Coliforms, Nutrients, Turbidity.
HILLSBOROUGH RIVER	NEW RIVER	38	1442	Dissolved Oxygen, Coliforms, Nutrients, Turbidity, Total Suspended Solids.
INDIAN RIVER, SOUTH	FELSMERE CANAL	20	3136	Dissolved Oxygen, Nutrients, Total Suspended Solids.
INDIAN RIVER, SOUTH	NO. PRONG SEBASTIAN R	26	3128	Dissolved Oxygen, Copper, Nutrients, Turbidity, Total Suspended Solids.
KISSIMMEE RIVER	LAKE KISSIMMEE NORTH	47	3183A	Nutrients, Turbidity, Mercury (Based on Fish Consumption Advisory).
KISSIMMEE RIVER	DEAD RIVER	55	1472C	Nutrients, Turbidity.
KISSIMMEE RIVER	CANOE CREEK	56	3181	Turbidity.
KISSIMMEE RIVER	REEDY CREEK	58	3170A	Nutrients, Turbidity.
KISSIMMEE RIVER	REEDY CREEK	66	3170C	Dissolved Oxygen, Nutrients, Turbidity, Coliforms.
KISSIMMEE RIVER	BONNET CREEK	73	3170D	Nutrients, Turbidity.
KISSIMMEE RIVER	SHINGLE CREEK	75	3169A	Dissolved Oxygen, Coliforms, Nutrients, Turbidity, Biochemical Oxygen Demand.
MANATEE RIVER	CEDAR CREEK	3	1926	Dissolved Oxygen, Coliforms, Nutrients, Total Suspended Solids.
MANATEE RIVER	BRADEN RIVER AB WARD L	5	1914	Dissolved Oxygen, Coliforms, Nutrients, Total Suspended Solids.
MANATEE RIVER	UNNAMED STREAM	8	1913	Dissolved Oxygen, Coliforms, Total Suspended Solids.
MANATEE RIVER	GAMBLE CREEK	35	1819	Dissolved Oxygen, Coliforms, Turbidity, Nutrients.
MYAKKA RIVER	MYAKKA RIVER	44	1981B	Dissolved Oxygen, Coliforms, Nutrients, Total Suspended Solids.
MYAKKA RIVER	MUD LAKE SLOUGH	46	1958	Dissolved Oxygen, Coliforms, Nutrients, Turbidity, Total Suspended Solids.
MYAKKA RIVER	OWEN CREEK	60	1933	Dissolved Oxygen, Coliforms, Turbidity, Nutrients, Total Suspended Solids.
NASSAU RIVER	LITTLE MILL CREEK	0	2157	Turbidity, Coliforms, Nutrients.
NASSAU RIVER	NASSAU RIVER	11	2148B	Dissolved Oxygen, Nutrients, Turbidity, Total Suspended Solids, Coliforms.
NASSAU RIVER	PLUMMER CREEK	16	2130	Nutrients, Turbidity, Dissolved Oxygen, Coliforms.
OCHLOCKONEE RIVER	OCHLOCKONEE RIVER	9	1297B	Dissolved Oxygen, Coliforms, Nutrients, Turbidity.
OCHLOCKONEE RIVER	MEGGINNIS ARM RUN	33	809	Nutrients, Turbidity, Total Suspended Solids, Biochemical Oxygen Demand, Dissolved Oxygen.

APPENDIX E—EPA APPROVED 303(D) LIST—Continued

HUC name	Water segment	MAPID	WBID	Parameters of concern
OCHLOCKONEE RIVER	HARBINWOOD ESTATES DN	46	746	Nutrients, Turbidity, Total Suspended Solids, Biochemical Oxygen Demand.
OCHLOCKONEE RIVER	LITTLE RIVER	51	424	Coliforms, Nutrients, Turbidity, Total Suspended Solids.
OCHLOCKONEE RIVER	JUNIPER CREEK	60	682	Coliforms, Nutrients, Turbidity.
OCHLOCKONEE RIVER	OCHLOCKONEE RIVER	88	1297F	Coliforms, Nutrients, Turbidity, Mercury (Based on Fish Consumption Advisory).
OCHLOCKONEE RIVER	SWAMP CREEK	94	427	Coliforms, Nutrients, Turbidity, Total Suspended Solids.
OKLAWAHA RIVER	DORA CANAL	0	2772	Nutrients, Turbidity, Biochemical Oxygen Demand.
OKLAWAHA RIVER	APOPKA MARSH	22	2856	Dissolved Oxygen, Nutrients, Turbidity, Un-ionized Ammonia.
OKLAWAHA RIVER	LAKE APOPKA OUTLET	25	2835A	Dissolved Oxygen, Nutrients, Turbidity, Total Suspended Solids, Biochemical Oxygen.
OKLAWAHA RIVER	HELENA RUN	33	2832	Dissolved Oxygen, Nutrients, Turbidity, Un-ionized Ammonia, Total Suspended.
OKLAWAHA RIVER	HAYNES CREEK REACH	43	2817A	Dissolved Oxygen, Coliforms, Nutrients, Turbidity, Total Suspended Solids,
OKLAWAHA RIVER	NONCONTRIBUTING AREA	45	2809	Dissolved Oxygen, Nutrients, Turbidity.
OKLAWAHA RIVER	IRRIGATED FARM	47	2811	Dissolved Oxygen, Nutrients, Turbidity.
OKLAWAHA RIVER	OKLAWAHA RIV AB DAISY	68	2740D	Dissolved Oxygen, Coliforms, Nutrients, Turbidity, Biochemical Oxygen.
OKLAWAHA RIVER	DAISY CREEK	90	2769	Dissolved Oxygen, Nutrients, Turbidity, Coliforms, Iron.
OKLAWAHA RIVER	OKLAWAHA R/SUNNYHILL	111	2740F	Dissolved Oxygen, Nutrients,
				Turbidity, Total Suspended Solids, Biochemical Oxygen Demand, Coliforms.
OKLAWAHA RIVER	CROSS CREEK	112	2754	Dissolved Oxygen, Nutrients, Total Suspended Solids, Biochemical Oxygen Demand.
PEACE RIVER	PRAIRIE CREEK	20	1962	Dissolved Oxygen, Nutrients, Turbidity.
PEACE RIVER	PEACE R AB JOSHUA CK	30	1623C	Dissolved Oxygen, Nutrients, Total Suspended Solids, Mercury (Based on Fish Consumption Advisory).
PEACE RIVER	LIMESTONE CREEK	37	1921	Dissolved Oxygen, Coliforms, Nutrients, Total Suspended Solids.
PEACE RIVER	PEACE R AB CHARLIE CK	39	1623D	Coliforms, Nutrients, Turbidity, Total Suspended Solids, Mercury (Based on Fish Consumption Advisory).
PEACE RIVER	PEACE R AB OAK CK	41	1623E	Nutrients, Turbidity, Total Suspended Solids, Mercury (Based on Fish Consumption Advisory).
PEACE RIVER	WHIDDEN CREEK	61	1751	Nutrients, Turbidity, Total Suspended Solids, Dissolved Oxygen.
PEACE RIVER	PEACE R AB BOWLEGS CK	66	1623J	Dissolved Oxygen, Coliforms, Nutrients, Turbidity, Total Suspended Solids.
PEACE RIVER	PEACE CR TRIB CANAL	68	1613	Dissolved Oxygen, Coliforms, Nutrients, Turbidity. Total Suspended Solids,
PEACE RIVER	WEST WALES DRAINAGE CA	71	1626	Dissolved Oxygen, Nutrients, Turbidity.
PEACE RIVER	SADDLE CK BE L HANCOCK	74	1623K	Dissolved Oxygen, Coliforms, Unionized Ammonia, Nutrients, Turbidity, Total
PEACE RIVER	WAHNETA FARMS DRAIN CANAL	81	1580	Dissolved Oxygen, Coliforms, Nutrients, Turbidity.

APPENDIX E—EPA APPROVED 303(D) LIST—Continued

HUC name	Water segment	MAPID	WBID	Parameters of concern
PEACE RIVER	BANANA LAKE CANAL	92	1549A	Dissolved Oxygen, Coliforms, Nutrients, Turbidity, Total Suspended Solids.
PEACE RIVER	LAKE LENA RUN	96	1501A	Dissolved Oxygen, Coliforms, Nutrients, Turbidity, Total Suspended Solids.
PEACE RIVER	PEACE CREEK DR CANAL	97	1539	Dissolved Oxygen, Coliforms, Nutrients, Turbidity, Total Suspended Solids,
PENSACOLA BAY	PENSACOLA BAY	2	548E	Copper, Lead, Biological Oxygen Demand, Nutrients, Turbidity, Total Suspended.
PENSACOLA BAY	JONES CREEK	8	846A	Coliforms, Dissolved Oxygen, Nutrients, Turbidity.
PENSACOLA BAY	JACKSON CREEK	14	846B	Dissolved Oxygen, Coliforms, Nutrients, Total Suspended Solids, Turbidity.
PENSACOLA BAY	EAST RIVER BAY	18	701	Coliforms, Turbidity.
PENSACOLA BAY	ESCAMBIA BAY (S)	23	548B	Dissolved Oxygen, Coliforms, Nutrients, Total Suspended Solids, Turbidity.
PENSACOLA BAY	ESCAMBIA BAY	36	548A	Dissolved Oxygen, Coliforms, Nutrients, Total Suspended Solids, Turbidity.
PENSACOLA BAY	PACE MILL CREEK	46	420	Coliforms, Dissolved Oxygen, Total Suspended Solids, Turbidity.
PERDIDO BAY	EIGHTMILE CREEK	21	624	Coliforms, Turbidity.
PERDIDO BAY	ELEVENMILE CREEK	22	489	Nutrients, Turbidity, Total Suspended Solids, Biochemical Oxygen Demand, Dissolved Oxygen, Coliforms, Un-ionized Ammonia.
PERDIDO RIVER	JACKS BRANCH	11	291	Coliforms, Dissolved Oxygen, Turbidity.
PERDIDO RIVER	BRUSHY CREEK	36	4	Coliforms, Dissolved Oxygen, Total Suspended Solids, Turbidity.
SARASOTA BAY	CLOWERS CREEK	41	1975A	Nutrients, Turbidity, Coliforms.
SOUTHEAST FLORIDA COAST	E. HOLLOWAY CANAL	48	3277B	Nutrients, Dissolved Oxygen, Total Suspended Solids, Biochemical Oxygen Demand, Coliforms.
SOUTHEAST FLORIDA COAST	S–7	70	3263	Dissolved Oxygen, Mercury, Nutrients, Turbidity, Mercury (Based on Fish Consumption Advisory).
SOUTHEAST FLORIDA COAST	WCA1 NORTH SECTOR	83	3252C	Dissolved Oxygen, Coliforms, Nutrients, Total Suspended Solids.
SOUTHEAST FLORIDA COAST	CANAL E–4	93	3256D	Coliforms, Turbidity, Nutrients.
SOUTHEAST FLORIDA COAST	N. NEW RIVER CANAL	94	3248	Dissolved Oxygen, Nutrients, Turbidity, Total Suspended Solids, Mercury (Based on Fish Consumption Advisory).
SOUTHEAST FLORIDA COAST	HILSSBORO CANAL	95	3248A	Dissolved Oxygen, Coliforms, Un-ionized Ammonia, Nutrients, Turbidity.
SOUTHEAST FLORIDA COAST	S–3	96	3251	Dissolved Oxygen, Nutrients, Turbidity, Mercury (Based on Fish Consumption Advisory).
SOUTHEAST FLORIDA COAST	WEST PALM BEACH CANAL	102	3238	Dissolved Oxygen, Coliforms, Un-ionized Ammonia, Nutrients, Turbidity, Total Suspended Solids, Mercury (Based on Fish Consumption Advisory).
SOUTHEAST FLORIDA COAST	715 FARMS	106	3247	Dissolved Oxygen, Un-ionized Ammonia, Nutrients, Turbidity, Total Suspended Solids.
SOUTHEAST FLORIDA COAST	EAST BEACH	109	3244	Dissolved Oxygen, Un-ionized Ammonia, Nutrients, Turbidity, Total Suspended Solids.
SOUTHEAST FLORIDA COAST	L–8	111	3233	Dissolved Oxygen, Nutrients, Turbidity, Mercury (Based on Fish Consumption Advisory).
SOUTHEAST FLORIDA COAST	SOUTH FORK ST. LUCIE	133	3210B	Dissolved Oxygen, Nutrients, Total Suspended Solids, Biochemical Oxygen Demand, Coliforms.

APPENDIX E—EPA APPROVED 303(D) LIST—Continued

HUC name	Water segment	MAPID	WBID	Parameters of concern
ST JOHNS RIVER, LOWER	MILL BRANCH	25	2592	Dissolved Oxygen, Coliforms, Nutrients, Turbidity, Biochemical Oxygen Demand.
ST JOHNS RIVER, LOWER	WEST RUN INTERCEPTER D	28	2569	Dissolved Oxygen, Iron, Silver, Nutrients, Turbidity, Total Suspended Solids, Biochemical Oxygen Demand.
ST JOHNS RIVER, LOWER	DOG BRANCH	34	2578	Dissolved Oxygen, Nutrients, Turbidity, Lead.
ST JOHNS RIVER, LOWER	RICE CREEK	36	2567A	Dissolved Oxygen, Iron, Lead, Cadmium, Silver, Nutrients, Turbidity, Total Suspended Solids, Biochemical Oxygen Demand.
ST JOHNS RIVER, LOWER	MILL CREEK	77	2460	Dissolved Oxygen, Coliforms, Nutrients, Turbidity, Iron.
ST JOHNS RIVER, LOWER	STJ RIV AB TROUT RIV	87	2213D	Coliforms, Nutrients, Turbidity, Total Suspended Solids.
ST JOHNS RIVER, LOWER	SWIMMING PEN CREEK	94	2410	Nutrients, Lead, Cadmium, Silver, Zinc, Total Suspended Solids.
ST JOHNS RIVER, LOWER	GROG BRANCH	96	2407	Dissolved Oxygen, Coliforms, Turbidity, Iron, Total Suspended Solids.
ST JOHNS RIVER, LOWER	JULINGTON CREEK	115	2351	Dissolved Oxygen, Coliforms, Nutrients, Turbidity, Total Suspended Solids.
ST JOHNS RIVER, LOWER	GOODBYS CREEK	138	2326	Nutrients, Turbidity, Total Suspended Solids, Biochemical Oxygen.
ST JOHNS RIVER, LOWER	FISHING CREEK	145	2324	Dissolved Oxygen, Copper, Nutrients, Turbidity, Total Suspended Solids.
ST JOHNS RIVER, LOWER	BUTCHER PEN CREEK	151	2322	Coliforms, Copper, Nutrients, Turbidity, Total Suspended Solids, Dissolved Oxygen.
ST JOHNS RIVER, LOWER	POTTSBURG CREEK	170	2265B	Coliforms, Nutrients, Copper, Turbidity.
ST JOHNS RIVER, LOWER	WILLS BRANCH	178	2282	Copper, Nutrients, Turbidity, Total Suspended Solids, Dissolved Oxygen, Coliforms.
ST JOHNS RIVER, LOWER	CEDAR RIVER	181	2262	Dissolved Oxygen, Coliforms, Nutrients, Turbidity, Lead, Zinc, Copper.
ST JOHNS RIVER, LOWER	MCCOY CREEK	182	2262A	Lead, Copper, Zinc, Nutrients, Total Suspended Solids.
ST JOHNS RIVER, LOWER	STJ RIV AB ICWW	211	2213B	Coliforms, Turbidity, Total Suspended Solids.
ST JOHNS RIVER, LOWER	STJ RIV AB DAMES PT	212	2213C	Nutrients, Turbidity, Total Suspended Solids.
ST JOHNS RIVER, LOWER	ORTEGA RIVER	221	2213P	Nutrients, Coliforms, Lead, Copper, Total Suspended Solids, Dissolved Oxygen.
ST JOHNS RIVER, LOWER	STJ RIV AB MOUTH	224	2213A	Fluoride, Total Suspended Solids.
ST JOHNS RIVER, LOWER	LITTLE TROUT RIVER	236	2206	Nutrients, Total Suspended Solids.
ST JOHNS RIVER, UPPER	DRAINED FARMLAND	19	3140	Dissolved Oxygen, Nutrients, Turbidity.
ST JOHNS RIVER, UPPER	STJ RIV AB LK WASHINGT	33	2893P	Dissolved Oxygen, Iron, Lead, Nutrients, Turbidity, Mercury (Based on Fish Consumption Advisory).
ST JOHNS RIVER, UPPER	STJ RIV AB LK POINSETT	40	2893L	Dissolved Oxygen, Nutrients, Turbidity, Mercury (Based on Fish Consumption Advisory).
ST JOHNS RIVER, UPPER	LONG BRANCH	52	3030	Dissolved Oxygen, Coliforms, Iron, Nutrients, Biochemical Oxygen Demand, Turbidity.
ST JOHNS RIVER, UPPER	RAVENNA PARK DITCHES	108	2962	Dissolved Oxygen, Coliforms, Nutrients, Iron, Turbidity.
ST JOHNS RIVER, UPPER	STJ RIV AB WEKIVA R	113	2893C	Dissolved Oxygen, Lead, Nutrients, Total Suspended Solids, Biochemical Oxygen Demand.
ST JOHNS RIVER, UPPER	STJ RIV AB LAKE GEORGE	123	2893Z	Dissolved Oxygen, Nutrients, Total Suspended Solids.

APPENDIX E—EPA APPROVED 303(D) LIST—Continued

HUC name	Water segment	MAPID	WBID	Parameters of concern
ST MARKS RIVER	MUNSON SLOUGH (ABOVE LAKE)	15	807D	Dissolved Oxygen, Coliforms, Nutrients, Turbidity.
ST MARKS RIVER	EAST DRAINAGE DITCH	23	916	Nutrients, Turbidity, Total Suspended Solids, Biochemical Oxygen Demand, Coliforms.
ST MARKS RIVER	ST AUGUSTINE BRANCH	28	865	Nutrients, Turbidity, Total Suspended Solids, Biochemical Oxygen Demand, Coliforms.
ST MARKS RIVER	CENTRAL DRAINAGE DITCH	30	857	Nutrients, Turbidity, Total Suspended Solids, Biochemical Oxygen Demand, Chemical Oxygen Demand, Coliforms.
ST MARKS RIVER	LAKE LAFAYETTE	31	756	Nutrients, Coliforms, Turbidity.
ST MARKS RIVER	GODBY DITCH	36	820	Nutrients, Turbidity, Total Suspended Solids, Biochemical Oxygen Demand.
ST MARYS RIVER	ST. MARYS RIVER	19	2097C	Dissolved Oxygen, Nutrients, Total Suspended Solids, Coliforms.
SUWANNEE RIVER, UPPER	ROARING CREEK	9	3392	Dissolved Oxygen, Nutrients, Total Suspended Solids, Turbidity.
SUWANNEE RIVER, UPPER	SWIFT CREEK	15	3375	Dissolved Oxygen, Nutrients, Total Suspended Solids.
TAMPA BAY	DELANEY CREEK	34	1605	Dissolved Oxygen, Coliforms, Lead, Nutrients, Turbidity, Biochemical Oxygen Demand.
TAMPA BAY	YBOR CITY DRAIN	39	1584A	Nutrients, Total Suspended Solids, Biochemical Oxygen Demand, Chemical Oxygen Demand.
TAMPA BAY	DIRECT RUNOFF TO BAY	42	1603	Nutrients, Total Suspended Solids, Biochemical Oxygen Demand, Chemical Oxygen Demand.
TAMPA BAY	SIXMILE CREEK	48	1536B	Dissolved Oxygen, Coliforms, Nutrients, Turbidity, Biochemical Oxygen Demand.
TAMPA BAY	ROCKY CREEK	60	1507	Dissolved Oxygen, Coliforms, Nutrients, Total Suspended Solids.
TAYLOR CREEK	CHANDLER HAMMOCK SLOUGH	6	3199B	Nutrients, Turbidity, Dissolved Oxygen.
TAYLOR CREEK	TAYLOR CR	7	3205	Dissolved Oxygen, Nutrients, Turbidity.
WITHLACOOCHEE RIVER NORTH	JUMPING GULLY CREEK	0	3318	Dissolved Oxygen, Nutrients, Turbidity.
WITHLACOOCHEE RIVER NORTH	WITHLACOOCHEE RIVER	2	3315	Dissolved Oxygen, Nutrients, Turbidity, Mercury (Based on Fish Consumption Advisory).
YELLOW RIVER	YELLOW RIVER	1	30A	Dissolved Oxygen, Turbidity, Mercury (Based on Fish Consumption Advisory).
YELLOW RIVER	TURKEY CREEK	14	117	Coliforms, Turbidity.
YELLOW RIVER	YELLOW RIVER	21	30	Coliforms, Turbidity, Mercury (Based on Fish Consumption Advisory).

Final Modification of the NPDES General Permit for Storm Water Discharges From Construction Activities Preface

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X. Definitions

The Clean Water Act (CWA) provides that storm water discharges associated with industrial activity from a point source (including discharges through a municipal separate storm sewer system) to waters of the United States are unlawful, unless authorized by a National Pollutant Discharge Elimination System (NPDES) permit. The terms ''storm water discharge associated with industrial activity'', ''point source'' and ''waters of the United States'' are critical to determining whether a facility is subject to this requirement. Complete definitions of these terms are found in the definition section (Part X) of this permit. The following modifies the previously issued NPDES general permit for the discharges of storm water from construction activities.

Part I. Coverage Under This Permit

A. Permit Area

The permit, except the parts listed below, covers all areas administered by Region 4:

All Indian Country Lands within the State of Alabama, except Part IV and

Part V.D.2.a.(1), NPDES Permit No. ALR10*##I

State of Florida, excluding Indian lands, NPDES Permit No. FLR10*###

All Indian Country Lands within the State of Florida, except Part IV and Part V.D.2.a.(1), NPDES Permit No. FLR10*##I

All Indian Country Lands within the State of Mississippi, except Part IV and Part V.D.2.a.(1), NPDES Permit No. MSR10*##I

All Indian Country Lands within the State of North Carolina, except Part IV and Part V.D.2.a.(1), NPDES Permit No. NCR10*##I

B. Eligibility

1. This permit may authorize all discharges identified in the pollution prevention plan of storm water associated with industrial activity from construction sites (those sites or common plans of development or sale, including unpaved roads, that will result in the disturbance of five or more acres total land area or less than five acres if the Director designates the site under Section 402(p)(2)(e) of the CWA; henceforth referred to as storm water discharges from construction activities) occurring after the effective date of this permit (including discharges occurring after the effective date of this permit where the construction activity was initiated before the effective date of this permit), except for discharges identified under paragraph I.B.3.

2. This permit may authorize storm water discharges from construction sites that are mixed with storm water discharges associated with industrial activity from industrial sources other than construction, where:

a. The industrial source other than construction is located on the same site as the construction activity;

b. Storm water discharges associated with industrial activity from the areas of the site where construction activities are occurring are in compliance with the terms of this permit; and

c. Storm water discharges associated with industrial activity from the areas of the site where industrial activities other than construction are occurring (including storm water discharges from dedicated asphalt plants and dedicated concrete plants at the construction site) are in compliance with the terms, including applicable NOI or application requirements, of a different NPDES general permit or individual permit authorizing such discharges.

3. Limitations on Coverage. The following storm water discharges from construction sites are not authorized by this permit:

a. Storm water discharges associated with industrial activity that originate from the site after construction activities have been completed and the site has undergone final stabilization;

b. Discharges that are mixed with sources of non-storm water, other than discharges identified in Part III.A of this permit which are in compliance with Part V.D.5 (non-storm water discharges) of this permit;

c. Storm water discharges associated with construction activities that are subject to an existing NPDES individual or general permit or which are issued a permit in accordance with paragraph VII.N (requiring an individual permit or an alternative general permit) of this permit. Such discharges may be authorized under this permit after an existing permit expires, provided the existing permit did not establish numeric limitations for such discharges;

d. Storm water discharges from construction sites that the Director (EPA) has determined to be or may reasonably be expected to be causing or contributing to a violation of a water quality standard;

e. Storm water discharges from construction sites if the discharges may adversely affect a listed or proposed to be listed endangered or threatened species or its critical habitat;

(1) All applicants must follow the procedures provided at Appendix C of this permit when applying for permit coverage.

(2) A discharge of storm water associated with construction activity may be covered under this permit only if the applicant certifies that they meet at least one of the following criteria. Failure to continue to meet one of these criteria during the term of the permit will result in the storm water discharges associated with construction ineligible for coverage under this permit.

(a) The storm water discharge(s), and the construction and implementation of Best Management Practices (BMPs) to control storm water runoff, are not likely to adversely affect species identified in Appendix C of this permit or critical habitat for a listed species; or

(b) The applicant's activity has received previous authorization under Section 7 or section 10 of the Endangered Species Act and that authorization addressed storm water discharges and/or BMPS to control storm water runoff (*e.g.,* developer included impact of entire project in consultation over a wetlands dredge and fill permit under Section 7 of the Endangered Species Act); or

(c) The applicant's activity was considered as part of a larger, more comprehensive assessment of impacts on endangered species under Section 7 or Section 10 of the Endangered Species Act that which accounts for storm water discharges and BMPs to control storm water runoff (*e.g.,* where an area-wide habitat conservation plan and Section 10 permit is issued which addresses impacts from construction activities including those from storm water, or a National Environmental Policy Act (NEPA) review is conducted which incorporates ESA Section 7 procedures); or

(d) Consultation under Section 7 of the Endangered Species Act is conducted for the applicant's activity which results in either a no jeopardy opinion or a written concurrence on a finding of not likely to adversely affect; or

(e) The applicant's activity was considered as part of a larger, more comprehensive site-specific assessment of impacts on endangered species by the owner or other operator of the site and that permittee certified eligibility under item (a), (b), (c), or (d) above (e.g. owner was able to certify no adverse impacts for the project as a whole under item (a), so the contractor can then certify under item (e)).

(3) The applicant must comply with any terms and conditions imposed under the eligibility requirements of paragraphs (1)(a), (b), (c), (d), or (e) above to ensure that storm water discharges or BMPs to control storm water runoff are protective of listed endangered and threatened species and/or critical habitat. Such terms and conditions must be incorporated in the applicant's storm water pollution prevention plan.

(4) For the purposes of conducting consultation to meet the eligibility requirements of paragraph (1)(d) above, applicants are designated as non-Federal representatives. *See* 50 CFR 402.08. However, applicants who choose to conduct consultation as a non-Federal representative must notify EPA and the appropriate Office of the Fish and Wildlife Service office in writing of that decision.

(5) This permit does not authorize any ''taking'' (as defined under Section 9 of the Endangered Species Act) of endangered or threatened species.

(6) This permit does not authorize any storm water discharges, nor require any BMPs to control storm water runoff, that are likely to jeopardize the continued existence of any species that are listed as endangered or threatened under the Endangered Species Act or result in the adverse modification or destruction of habitat that is designated as critical under the Endangered Species Act.

f. Storm water discharges that would affect a property that is listed or is eligible for listing in the National Historic Register maintained by the Secretary of Interior may be in violation of the National Historic Preservation Act. A discharge of storm water associated with construction activity may be covered under this permit only if the applicant certifies that either:

(1) The storm water discharge(s), and the construction and implementation of BMPs to control storm water runoff, do not affect a property that is listed or is eligible for listing in the National Historic Register maintained by the Secretary of Interior; or,

(2) The applicant consults with the State Historic Preservation Officer (SHPO) or the Tribal Historic Preservation Officer (THPO) on the potential for adverse effects which results in a no effect finding; or

(3) The applicant has obtained and is in compliance with a written agreement between the applicant and the SHPO or THPO that outlines all measures to be undertaken by the applicant to mitigate or prevent adverse effects to the historic property; or

(4) The applicant agrees to implement and comply with the terms of a written agreement between another owner/operator (*e.g.*, subdivision developer, property owner, etc.) and the SHPO or THPO that outlines all measures to be undertaken by operators on the site to mitigate or prevent adverse effects to the historic property; or

(5) The applicant's activity was considered as part of a larger, more comprehensive site-specific assessment of effects on historic properties by the owner or other operator of the site and that permittee certified eligibility under item (1), (2), (3), or (4) above.

g. Discharges of storm water associated with industrial activity from construction sites not specifically identified in the pollution prevention plan in accordance with Part V of this permit. Such discharges not identified in the plan are subject to the upset and bypass rules in Part VII of this permit.

C. Authorization

1. A discharger must submit a Notice of Intent (NOI) in accordance with the requirements of Part II of this permit, using an NOI form provided by the Director (or a photocopy thereof), in order for storm water discharges from construction sites to be authorized to discharge under this general permit.[1]

2. Where a new operator is selected after the submittal of an NOI under Part II, a new NOI must be submitted by the operator in accordance with Part II, using an NOI form provided by the Director (or a photocopy thereof).

3. Unless notified by the Director to the contrary, dischargers who submit an NOI in accordance with the requirements of this permit are authorized to discharge storm water from construction sites under the terms and conditions of this permit 2 days after the date that the NOI is postmarked. The Director may deny coverage under this permit and require submittal of an application for an individual NPDES permit based on a review of the NOI or other information (see Part VII.L of this permit).

Part II. Notice of Intent Requirements

A. Deadlines for Notification.

1. Except as provided in paragraphs II.A.2, II.A.3, II.A.4, and II.A.5, individuals who intend to obtain coverage under this general permit for storm water discharges from a construction site (where disturbances associated with the construction project commence before the effective date of this permit), including unpaved rural roads, shall submit a Notice of Intent (NOI) in accordance with the requirements of this Part within 30 days of the effective date of this permit;

2. Individuals who intend to obtain coverage under this general permit for storm water discharges from a construction site, including unpaved rural roads, where disturbances associated with the construction project commence after April 28, 2000, shall submit an NOI in accordance with the requirements of this Part, at least 2 days prior to the commencement of construction activities (*e.g.* the initial disturbance of soils associated with clearing, grading, excavation activities, or other construction activities). Prior to submitting this NOI, except for owners of facilities located within Indian country, as defined in 18 U.S.C. 1151, the owner of a storm water management system must receive a State of Florida storm water or environmental resource permit from either the Florida Department of Environmental Protection (FDEP) or a Florida Water Management District (FWMD);

3. For storm water discharges from construction sites, including unpaved rural roads, where the operator changes (including projects where an operator is selected after an NOI has been submitted under Parts II.A.1 or II.A.2), an NOI in accordance with the requirements of this Part shall be submitted at least 2 days prior to when the operator commences work at the site; and

4. EPA will accept an NOI in accordance with the requirements of this Part after the dates provided in Parts II.A.1, 2 or 3 of this permit. EPA shall, in such instances, use its discretion in initiating any appropriate enforcement actions.

5. Applicants who have submitted a completed NOI for coverage under the administratively continued previous general permit, issued September 25, 1992 (57 FR 44412), or applicants who have submitted a completed NOI for coverage under the general permit after its expiration shall automatically receive coverage under today's permit. If the applicant cannot certify that they meet all applicable eligibility requirements of Part I.B of today's permit or cannot be covered by, or comply with, the terms and conditions of this permit, then the applicant shall notify the director, in accordance with the requirements of Part IX of this permit, within 90 days of the effective date of this permit.

B. Contents of Notice of Intent

Notices of Intent, as referenced in Appendix A, submitted to the permit issuing authority shall be signed in accordance with Part VII.G of this permit by all of the entities identified in Part II.B.2. The NOI shall include the following information:

1. The mailing address, and location (including the county) of the construction site for which the notification is submitted. Where a mailing address for the site is not available, the location of the approximate center of the site must be described in terms of the latitude and longitude to the nearest 15 seconds, or the section, township and range to the nearest quarter section;

2. The name, address and telephone number of the operator(s) with day to day operational control that have been identified at the time of the NOI submittal, and operator status as a Federal, State, private, public or other entity. Where multiple operators have been selected at the time of the initial NOI submittal, NOIs must be attached and submitted in the same envelope. When an additional operator submits an NOI for a site with a existing NPDES permit, the NOI for the additional operators must indicate the number for the existing NPDES permit;

3. The location of the first outfall in latitude and longitude to the nearest 15 seconds and the name of the receiving water(s) into which that outfall discharges, or if the discharge is through a municipal separate storm sewer, the

[1] A copy of the approved NOI form is provided in Appendix A of this notice.

name of the municipal operator of the storm sewer and the ultimate receiving water(s). (All other outfalls must be listed in the pollution prevention plan as required by Part V.);

4. The permit number of any NPDES permit(s) for any discharge(s) (including any storm water discharges or non-storm water discharges) from the site;

5. An indication of whether the owner or operator has existing quantitative data which describes the concentration of pollutants in storm water discharges (existing data should not be included as part of the NOI); and

6. An estimate of project start date and completion dates, estimates of the number of acres of the site on which soil will be disturbed, and a certification that a storm water pollution prevention plan has been prepared for the site in accordance with Part V of this permit. (A copy of the plans or permits should not be included with the NOI submission). For activities located in the State of Florida, the applicant shall submit a narrative statement certifying that the storm water pollution prevention plan for the facility provides compliance with approved State of Florida issued permits, erosion and sediment control plans and storm water management plans. The applicant shall also submit a copy of the cover page of the State permit issued by FDEP or a FWMD to the facility for the storm water discharges associated with construction activity.

7. A certification that a storm water pollution prevention plan, including both construction and post-construction controls, has been prepared for the site in accordance with Part IV of this permit, and such plan provides compliance with approved State/Tribal and/or local sediment and erosion plans or permits and/or storm water management plans or permits in accordance with Part IV.D.2.d of this permit. (A copy of the plans or permits should not be included with the NOI submission). The applicant shall also submit a copy of the cover page of the State permit issued by FDEP or a FWMD to the facility for the storm water discharges associated with construction activity.

8. Whether, based on the instructions in Appendix C, any species identified in Appendix C are in proximity to the storm water discharges covered by this permit or the BMPs to be used to comply with permit conditions.

9. Under which section(s) of Part I.B.3.e.(2) (Endangered Species) and Part I.B.3.f. (Historical Preservation) the applicant is certifying eligibility.

10. The following certifications shall be signed in accordance with Part VII.G.

''I certify, under penalty of law, that I have read and understand the Part I.B. eligibility requirements for coverage under the general permit for storm water discharges from construction activities, including those requirements relating to the protection of endangered species identified in Appendix C.''

''To the best of my knowledge the discharges covered under this permit, and the construction and operation of BMPs to control storm water runoff, are not likely to adversely affect any species identified in Appendix C of this permit, or are otherwise eligible for coverage under this permit, in accordance with Part I.B.3.e of the permit, due to previous authorization under the Endangered Species Act, or agreement to implement protective measures required by the Director as a condition of eligibility.''

''I further certify, to the best of my knowledge, that such discharges, and construction of BMPs to control storm water runoff, do not have an effect on properties listed or eligible for listing on the National Register of Historic Places under the National Historic Preservation Act, or are otherwise eligible for coverage, in accordance with Part I.B.3.f. of the permit, due to a previous agreement under the National Historic Preservation Act.''

''I understand that continued coverage under this storm water general permit is contingent upon maintaining eligibility as provided for in Part I.B.''

C. Where To Submit

1. Facilities which discharge storm water associated with industrial activity must use an NOI form provided by the Director (or photocopy thereof). Currently, applicants may use the NOI form published in the September 29, 1995 **Federal Register** (60 FR 51265). The final version of the NOI form proposed in the June 2, 1997 **Federal Register** (62 FR 29785) shall be used when published in the **Federal Register**. Forms are also available by calling (404) 562–9296. NOIs must be signed in accordance with Part VII.G of this permit. NOIs are to be submitted to the Director of the NPDES program in care of the following address: Storm Water Notice of Intent (4203), 401 M Street, SW., Room 2104, Northeast Mall, Washington, DC 20460.

2. A copy of the NOI, or other indication that storm water discharges from the site are covered under an NPDES permit, and a brief description of the project shall be posted at the construction site in a prominent place for public viewing (such as alongside a building permit).

D. Additional Notification

Facilities which are operating under approved State or local sediment and erosion plans, grading plans, or storm water management plans shall also submit signed copies of the Notice of Intent to the State or local agency approving such plans in accordance with the deadlines in Part II.A of this permit (or sooner where required by State or local rules). Facilities which discharge storm water associated with construction activities to a municipal separate storm water system within Broward, Dade, Duval, Escambia, Hillsborough, Lee, Leon, Manatee, Orange, Palm Beach, Pasco, Pinellas, Polk, Sarasota or Seminole Counties shall submit a copy of the NOI to the operator of the municipal separate storm sewer system. Included within these counties, the Florida Department of Transportation (FDOT), incorporated municipalities, and Chapter 298 Special Districts shall also be notified where they own or operate a municipal separate storm sewer system receiving storm water discharges associated with construction activity covered by this permit.

E. Permit Renewal

If this general permit is not reissued prior to its expiration date, all facilities desiring to retain continued coverage shall submit another NOI form at least 180 days prior to the expiration of this permit. This submittal shall also satisfy the notification requirement to be covered under the reissued permit.

Part III. Special Conditions, Management Practices, and Other Non-Numeric Limitations

A. Prohibition on Non-Storm Water Discharges

1. Except as provided in paragraph I.B.2 and III.A.2, all discharges covered by this permit shall be composed entirely of storm water.

2. a. Except as provided in paragraph III.A.2.(b), discharges of material other than storm water must be in compliance with an NPDES permit (other than this permit) issued for the discharge.

b. The following non-storm water discharges may be authorized by this permit provided the non-storm water component of the discharge is in compliance with paragraph V.D.5 and the storm water management system is designed to accept these discharges and provide treatment of the non-storm water component sufficient to meet Florida water quality standards: Discharges from fire fighting activities; fire hydrant flushings; waters used to spray off loose solids from vehicles (waste waters from a more thorough cleaning, including the use of detergents or other cleaners is not authorized by this part) or control dust in accordance with Part V.D.2.c.(2); potable water sources including waterline flushings;

irrigation drainage; routine external building washdown which does not use detergents; pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used; air conditioning condensate; springs; and foundation or footing drains where flows are not contaminated with process materials such as solvents. Discharges resulting from ground water dewatering activities at construction sites are not covered by this permit. Applicants in the State of Florida seeking coverage for these discharges must contact the Florida Department of Environmental Protection.

B. Releases in Excess of Reportable Quantities

1. The discharge of hazardous substances or oil in the storm water discharge(s) from a facility shall be prevented or minimized in accordance with the applicable storm water pollution prevention plan for the facility. This permit does not relieve the permittee of the reporting requirements of 40 CFR part 117 and 40 CFR part 302. Where a release containing a hazardous substance in an amount equal to or in excess of a reporting quantity established under either 40 CFR 117 or 40 CFR 302, occurs during a 24-hour period:

a. The permittee is required to notify the National Response Center (NRC) (800–424–8802 or for Region 4, 404–562–8702) in accordance with the requirements of 40 CFR 117 and 40 CFR 302 as soon as he or she has knowledge of the discharge;

b. The permittee shall submit within 14 calendar days of knowledge of the release a written description of: The release (including the type and estimate of the amount of material released), the date that such release occurred, the circumstances leading to the release, and steps to be taken in accordance with Part III.B.3 of this permit to EPA Region 4 Office at the address provided in Part VI.C (addresses) of this permit; and

c. The storm water pollution prevention plan required under Part V of this permit must be modified within 14 calendar days of knowledge of the release to: provide a description of the release, the circumstances leading to the release, and the date of the release. In addition, the plan must be reviewed to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and the plan must be modified where appropriate.

2. Spills. This permit does not authorize the discharge of hazardous substances or oil resulting from an on-site spill.

C. Discharges to Impaired Waters

Facilities that have coverage under this general permit prior to its modification on July 1, 2000 shall be in compliance with Parts III.C.1. through 5. within 30 days of the effective date of this modification.

Facilities that apply for coverage under the general permit after July 1, 2000 which discharge storm water from construction activities directly to waters of the United States which are listed on the EPA approved 303(d) list (or any subsequently approved list, hereafter referenced as EPA approved 303(d) list) for total suspended solids (TSS), or other indicators of solids transportation such as turbidity, siltation or sedimentation, see Appendix D, shall comply with the following:

1. The permittee shall monitor by grab sample, during regular working hours, once per month within the first 30 minutes of a qualifying event or within the first 30 minutes of the beginning of the discharge of a previously collected qualifying event for Settleable Solids (ml/l), Total Suspended Solids (mg/l), Turbidity (NTUs) and Flow (MGD).

2. Where the receiving water has flow upstream from the discharge, a background sample for Settleable Solids, Total Suspended Solids and Turbidity shall be taken instream at middepth and immediately upstream from the influence of the discharge of storm water from the site.

3. The soil type and average slope of the drainage area for each outfall shall be reported with the Discharge Monitoring Report submitted in accordance with Part III.C.5. of the permit.

4. A qualifying event for the purpose of this section is a rain event of 0.5 inches or greater in a 24-hour period.

5. Data collected in accordance with Part III.C. of the permit shall be submitted to EPA once per month.

This permit does not authorize the discharge of storm water, from construction activities, which causes or contributes to the impairment of the designated use of waters of the United States.

Part IV. Unpaved Rural Roads

A. Applicability. The provisions of this part are applicable to the construction of roads, except roads constructed and associated with silviculture and agricultural activities as defined by 40 CFR Part 122, that disturb five (5) acres or more and will remain unpaved after construction is complete.

B. Construction. In the State of Florida, construction of unpaved rural roads where the possibility of a point source discharge to surface waters exists, must all erosion and sediment controls and storm water management practices as needed to be consistent with the requirements set forth in State Water Policy (Chapter 62–40, FAC), the applicable storm water or environmental resource permitting requirements of the FDEP or appropriate FWMD, and the guidelines contained in the Florida Development Manual: A Guide to Sound Land and Water Management (FDEP, 1988) and any subsequent amendments.

C. Notice of Termination. Where a site has been finally stabilized and all storm water discharges from construction activities that are authorized by this permit are eliminated (see Part IX.A.5. for the definition of eliminated), or where the operator of all storm water discharges at a facility changes, the operator of the facility may submit a Notice of Termination that is signed in accordance with Part VII.G of this permit.

Part V. Storm Water Pollution Prevention Plans

A storm water pollution prevention plan shall be developed for each construction site covered by this permit. Storm water pollution prevention plans shall be prepared in accordance with good engineering practices. The plan shall identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from the construction site. In addition, the plan shall describe and ensure the implementation of practices which will be used to reduce the pollutants in storm water discharges associated with industrial activity at the construction site and to assure compliance with the terms and conditions of this permit. Facilities must implement the provisions of the storm water pollution prevention plan required under this part as a condition of this permit.

A. Deadlines for Plan Preparation and Compliance

The plan shall:

1. Be completed (including certifications required under Part V.E) prior to the submittal of an NOI to be covered under this permit and updated as appropriate;

2. The plan shall provide for compliance with the terms and schedule of the plan beginning with the initiation of construction activities.

B. Signature and Plan Review

1. The plan shall be signed in accordance with Part VII.G, and be retained on-site at the facility which generates the storm water discharge in accordance with Part V (retention of records) of this permit.

2. The permittee shall submit plans to the State agency which issued the storm water or environmental resource permit referenced in Part II.B.6. and shall make plans available upon request to the Director; a State or local agency approving sediment and erosion plans, grading plans, or storm water management plans; or in the case of a storm water discharge associated with industrial activity which discharges through a municipal separate storm sewer system with an NPDES permit, to the municipal operator of the system.

3. The Director may notify the permittee at any time that the plan does not meet one or more of the minimum requirements of this Part. Such notification shall identify those provisions of the permit which are not being met by the plan, and identify which provisions of the plan requires modifications in order to meet the minimum requirements of this Part. Within 7 days of such notification from the Director, (or as otherwise provided by the Director), or authorized representative, the permittee shall make the required changes to the plan and shall submit to the Director a written certification that the requested changes have been made.

C. Keeping Plans Current.

The permittee shall amend the plan whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the waters of the United States, including the addition of or change in location of storm water discharge points, and which has not otherwise been addressed in the plan or if the storm water pollution prevention plan proves to be ineffective in eliminating or significantly minimizing pollutants from sources identified under Part V.D.2 of this permit, or in otherwise achieving the general objectives of controlling pollutants in storm water discharges associated with construction activity. In addition, the plan shall be amended to identify any new contractor and/or subcontractor that will implement a measure of the storm water pollution prevention plan (see Part V.E). Amendments to the plan shall be prepared, dated, and kept as separate documents from the original plan. The amendments to the plan may be reviewed by EPA in the same manner as Part V.B above. Amendments to the plan must be submitted to the State agency which issued the State storm water or environmental resource permit.

D. Contents of Plan

The storm water pollution prevention plan shall include the following items:

1. Site Description. Each plan shall provide a description of pollutant sources and other information as indicated:

a. A description of the nature of the construction activity;

b. A description of the intended sequence of major activities which disturb soils for major portions of the site (*e.g.* grubbing, excavation, grading);

c. Estimates of the total area of the site and the total area of the site that is expected to be disturbed by excavation, grading, or other activities;

d. An estimate of the runoff coefficient of the site before, during and after construction activities are completed using ''C'' from the Rational Method, and existing data describing the soil or the quality of any discharge from the site and an estimate of the size of the drainage area for each outfall;

e. A site map indicating drainage patterns and approximate slopes anticipated after major grading activities, areas of soil disturbance, an outline of areas which may not be disturbed, the location of major structural and nonstructural controls identified in the plan, the location of areas where stabilization practices are expected to occur, surface waters (including wetlands), and locations where storm water is discharged to a surface water; and,

f. The location in terms of latitude and longitude, to the nearest 15 seconds, of each outfall, the name of the receiving water(s) for each outfall and the amount of any wetland acreage at the site.

2. Controls. Each plan shall include a description of appropriate controls and measures that will be implemented at the construction site. The plan will clearly describe for each major activity identified in Part V.D.1.b appropriate control measures and the timing during the construction process that the measures will be implemented. (For example, perimeter controls for one portion of the site will be installed after the clearing and grubbing necessary for installation of the measure, but before the clearing and grubbing for the remaining portions of the site. Perimeter controls will be actively maintained until final stabilization of those portions of the site upward of the perimeter control. Temporary perimeter controls will be removed after final stabilization). All controls shall be consistent with the requirements set forth in the State Water Policy of Florida (Chapter 62–40, Florida Administrative Code), the applicable storm water or environmental resource permitting requirements of the FDEP or appropriate FWMD, and the guidelines contained in the Florida Development Manual: A Guide to Sound Land and Water Management (FDEP, 1988) and any subsequent amendments. The description and implementation of controls shall address the following minimum components:

a. Erosion and Sediment Controls. (1) Stabilization Practices. A description of interim and permanent stabilization practices, including site-specific scheduling of the implementation of the practices. Site plans should ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized. Stabilization practices may include: temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, preservation of mature vegetation, and other appropriate measures. A record of the dates when major grading activities occur, when construction activities temporarily or permanently cease on a portion of the site and when stabilization measures are initiated shall be included in the plan. Stabilization measures shall be initiated as soon as practicable, but in no case more than 14 days, in portions of the site where construction activities have temporarily or permanently ceased.

(2) Structural Practices. A description of structural practices, to divert flows from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from exposed areas of the site; and in the State of Florida, in accordance with the requirements set forth in Section 62–40, 420, FAC, and the applicable storm water or environmental resource regulations of the FDEP or appropriate FWMD. Such practices may include silt fences, earth dikes, drainage swales, sediment traps, check dams, subsurface drains, pipe slope drains, level spreaders, storm drain inlet protection, rock outlet protection, reinforced soil retaining systems, gabions, and temporary or permanent sediment basins. Structural practices should be placed on upland soils unless a State of Florida wetland resource management permit or environmental resource permit issued pursuant to Chapters 373 or 403, FS, and applicable regulations of the FDEP or FWMD authorize otherwise. The

installation of these devices may be subject to Section 404 of the CWA.

(a) For common drainage locations that serve an area with more than 10 disturbed acres at one time, a temporary (or permanent) sediment basin providing 3,600 cubic feet of storage per acre drained, or equivalent control measures, shall be provided where attainable until final stabilization of the site. The 3,600 cubic feet of storage area per acre drained does not apply to flows from offsite areas and flows from onsite areas that are either undisturbed or have undergone final stabilization where such flows are diverted around both the disturbed area and the sediment basin. For drainage locations which serve more than 10 disturbed acres at one time and where a temporary sediment basin providing 3,600 cubic feet of storage per acre drained, or equivalent controls are not attainable, smaller sediment basins and/or sediment traps should be used. At a minimum, silt fences, or equivalent sediment controls are required for all sideslope and downslope boundaries of the construction area.

(b) For drainage locations serving less than 10 acres, sediment basins and/or sediment traps should be used. At a minimum, silt fences or equivalent sediment controls are required for all sideslope and downslope boundaries of the construction area unless or a sediment basin providing storage for 3,600 cubic feet of storage per acre drained is provided.

b. Storm Water Management. A description of measures that will be installed during the construction process to control pollutants in storm water discharges that will occur after construction operations have been completed. In the State of Florida, the description of controls shall be consistent with the requirements set forth in the State Water Policy of Florida (Chapter 62–40, FAC), the applicable storm water or environmental resource permitting regulations of the guidelines contained in the Florida Development Manual: A Guide to Sound Land and Water Management (FDEP, 1988), and any subsequent amendments. Structural measures should be placed on upland soils unless a State of Florida wetland resource management permit or environmental resource permit issued pursuant to Chapters 373 or 403, FS, and applicable regulations of the FDEP or FWMD authorize otherwise. The installation of these devices may be subject to Section 404 of the CWA. This NPDES permit only addresses the installation of storm water management measures, and not the ultimate operation and maintenance of such structures after the construction activities have been completed and the site has undergone final stabilization. Permittees are only responsible for the installation and maintenance of storm water management measures prior to final stabilization of the site, and are not responsible for maintenance after storm water discharges associated with industrial activity have been eliminated from the site. However, all storm water management systems shall be operated and maintained in perpetuity after final stabilization in accordance with requirements set forth in the State of Florida storm water or environmental resource permit issued for the site.

(1) Such practices may include: Storm water detention structures (including wet ponds); storm water retention structures; flow attenuation by use of open vegetated swales and natural depressions; infiltration of runoff onsite; and sequential systems (which combine several practices). In the State of Florida, pursuant to the requirements of section 62–40.432, FAC, the storm water management system shall be designed to remove at least 80 percent of the average annual load of pollutants which cause or contribute to violations of water quality standards (95 percent if the system discharges to an Outstanding Florida Water). The pollution prevention plan shall include an explanation of the technical basis used to select the practices to control pollution where flows exceed predevelopment levels.

(2) Velocity dissipation devices shall be placed at discharge locations and along the length of any outfall channel for the purpose of providing a non-erosive velocity flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected (e.g. no significant changes in the hydrological regime of the receiving water). Equalization of the predevelopment and post-development storm water peak discharge rate and volume shall be a goal in the design of the post-development storm water management system.

c. Other Controls. (1) Waste Disposal. No solid materials, including building materials, shall be discharged to waters of the United States, except as authorized by a Section 404 permit and by a State of Florida wetland resource management permit or environmental resource permit issued pursuant to chapters 373 or 403, FS, and the applicable regulations of the FDEP or FWMD.

(2) Off-site vehicle tracking of sediments and the generation of dust shall be minimized.

(3) The plan shall ensure and demonstrate compliance with applicable State and/or local waste disposal, sanitary sewer or septic system regulations.

(4) The plan shall address the proper application rates and methods for the use of fertilizers and pesticides at the construction site and set forth how these procedures will be implemented and enforced. Nutrients will be applied only at rates necessary to establish and maintain vegetation such that discharges will not cause or contribute to violations of State surface or ground water quality standards.

(5) The plan shall ensure that the application, generation, and migration of toxic substances are limited and that toxic materials are properly stored and disposed.

d. Approved State or Local Plans. (1) Facilities which discharge storm water associated with construction activity must include in their storm water pollution prevention plan procedures and requirements specified in applicable sediment and erosion site plans or site permits, or storm water management site plans or site permits approved by State, Tribal or local officials. Permittees shall provide a certification in their storm water pollution prevention plan that their storm water pollution prevention plan reflects requirements applicable to protecting surface water resources in sediment and erosion site plans or site permits, or storm water management site plans or site permits approved by State, Tribal or local officials. Permittees shall comply with any such requirements during the term of the permit. This provision does not apply to provisions of master plans, comprehensive plans, non-enforceable guidelines or technical guidance documents that are not identified in a specific plan or permit that is issued for the construction site.

(2) Storm water pollution prevention plans must be amended to reflect any change applicable to protecting surface water resources in sediment and erosion site plans or site permits, or storm water management site plans or site permits, approved by State or local officials, for which the permittee receives written notice. Where the permittee receives such written notice of a change, the permittee shall provide a recertification in the storm water pollution plan that the storm water pollution prevention plan has been modified to address such changes.

(3) Dischargers seeking alternative permit requirements shall submit an individual permit application in accordance with Part VII.L of the permit

at the address indicated in Part V.C of this permit for the appropriate Regional Office, along with a description of why requirements in approved State or local plans or permits, or changes to such plans or permits should not be applicable as a condition of an NPDES permit.

3. Maintenance. A description of procedures to ensure the timely maintenance of vegetation, erosion and sediment controls and other protective measures identified in the site plan.

4. Inspections. Qualified personnel (one who is provided by the discharger and who has completed the Florida Storm water, Erosion and Sediment Control Training and Certification Program for Inspectors and Contractors and who has passed the examination) shall inspect all points of discharge into waters of the United States or to a municipal separate storm sewer system and all disturbed areas of the construction site that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, structural control measures, structural control measures, and locations where vehicles enter or exit the site at least once every seven calendar days and within 24 hours of the end of a storm that is 0.25 inches or greater. Where sites have been finally stabilized; such inspection shall be conducted at least once every month.

a. Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of, or the potential for, pollutants entering the storm water system. The storm water management system and erosion and sediment control measures identified in the plan shall be observed to ensure that they are operating correctly. In the State of Florida, where discharge locations or points are accessible, they shall be inspected to ascertain whether erosion control measures are effective in meeting the performance standards set forth in State Water Policy (chapter 62–40, FAC) and the applicable storm water or environmental resource permitting regulations of the FDEP or appropriate FWMD. Locations where vehicles enter or exit the site shall be inspected for evidence of offsite sediment tracking.

b. Based on the results of the inspection, the site description identified in the plan in accordance with paragraph V.D.1 of this permit and pollution prevention measures identified in the plan in accordance with paragraph V.D.2 of this permit shall be revised as appropriate, but in no case later than 7 calendar days following the inspection. Such modifications shall provide for timely implementation of any changes to the plan within 7 calendar days following the inspection.

c. A report summarizing the scope of the inspection, name(s) and qualifications of personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph V.D.4.b of the permit shall be made and retained as part of the storm water pollution prevention plan for at least three years from the date that the site is finally stabilized. Such reports shall identify any incidents of non-compliance. Where a report does not identify any incidents of non-compliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VII.G of this permit.

5. Non-Storm Water Discharges—Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2 of this permit that are combined with storm water discharges associated with construction activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

E. Contractors

1. The storm water pollution prevention plan must clearly identify, for each measure identified in the plan, the contractor(s) and/or subcontractor(s) that will implement the measure. All contractors and subcontractors identified in the plan must sign a copy of the certification statement in Part V.E.2 of this permit in accordance with Part VII.G of this permit. All certifications must be included in the storm water pollution prevention plan.

2. Certification Statement. All contractors and subcontractors identified in a storm water pollution prevention plan in accordance with Part V.E.1 of this permit shall sign a copy of the following certification statement before conducting any professional service identified in the storm water pollution prevention plan:

> ''I certify under penalty of law that I understand the terms and conditions of the general National Pollutant Discharge Elimination System (NPDES) permit that authorizes the storm water discharges associated with industrial activity from the construction site identified as part of this certification.''

The certification must include the name and title of the person providing the signature in accordance with Part VII.G of this permit; the name, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

Part VI. Retention of Records

A. The permittee shall retain copies of storm water pollution prevention plans and all reports required by this permit, and records of all data used to complete the Notice of Intent to be covered by this permit, for a period of at least three years from the date that the site is finally stabilized. This period may be extended by request of the Director at any time.

B. The permittee shall retain a copy of the storm water pollution prevention plan required by this permit at the construction site from the date of project initiation to the date of final stabilization.

C. Addresses. Except for the submittal of NOIs (Part II.C) and NOTs (Part IX), all written correspondence directed to the U.S. Environmental Protection Agency concerning discharges in the State of Florida or an Indian lands located in Region 4, and subject to coverage under this permit, including the submittal of individual permit applications, shall be sent to the address listed below: U.S. EPA, Region 4, Surface Water Permits Section, Water Management Division, Atlanta Federal Center, 61 Forsyth St., SW, Atlanta, GA 30303.

Part VII. Standard Permit Conditions

A. Duty To Comply

1. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the CWA and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

2. Penalties for Violations of Permit Conditions.

a. Criminal—(1) Negligent Violations. The CWA provides that any person who negligently violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

(2) Knowing Violations. The CWA provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is

subject to a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or both.

(3) Knowing Endangerment. The CWA provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than $250,000, or by imprisonment for not more than 15 years, or both.

(4) False Statement. The CWA provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than $10,000 or by imprisonment for not more than 2 years, or by both. If a conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or by both. (See Section 309.c.4 of the Clean Water Act).

b. Civil Penalties—The CWA provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed $25,000 per day for each violation.

c. Administrative Penalties—The CWA provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to an administrative penalty, as follows:

(1) Class I penalty. Not to exceed $10,000 per violation nor shall the maximum amount exceed $25,000.

(2) Class II penalty. Not to exceed $10,000 per day for each day during which the violation continues nor shall the maximum amount exceed $125,000.

B. Continuation of the Expired General Permit

This permit expires at midnight 5 years from April 28, 2000. If this general permit is not reissued prior to its expiration date, all facilities desiring to retain continued coverage shall submit another NOI form at least 180 days prior to the expiration of this permit. This submittal shall also satisfy the notification requirement to be covered under the reissued permit. Facilities that have not obtained coverage under this permit by the expiration date of this permit cannot become authorized to discharge under the continued permit.

The authorization to discharge under the continued previous general permit, issued on September 25, 1992 (57 FR 44412), expired 90 days from February 23, 1998.

C. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

D. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

E. Duty to Provide Information. The permittee shall furnish within a reasonable time to the Director; an authorized representative of the Director; a State or local agency approving sediment and erosion plans, grading plans, or storm water management plans; or in the case of a storm water discharge associated with industrial activity which discharges through a municipal separate storm sewer system with an NPDES permit, to the municipal operator of the system, any information which is requested to determine compliance with this permit or other information.

F. Other Information. When the permittee becomes aware that he or she failed to submit any relevant facts or submitted incorrect information in the Notice of Intent or in any other report to the Director, he or she shall promptly submit such facts or information.

G. Signatory Requirements. All Notices of Intent, storm water pollution prevention plans, reports, certifications or information either submitted to the Director or the operator of a large or medium municipal separate storm sewer system, or that this permit requires be maintained by the permittee, shall be signed as follows:

1. All Notices of Intent shall be signed as follows:

a. For a corporation: By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (1) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(2) The manager of one or more manufacturing, production or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25,000,000 (in second-quarter 1980 dollars) if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or

c. For a municipality, State, Federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes (1) the chief executive officer of the agency, or (2) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (*e.g.,* Regional Administrators of EPA).

2. All reports required by the permit and other information requested by the Director or authorized representative of the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described above and submitted to the Director.

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of manager, operator, superintendent, or position of equivalent responsibility or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position).

c. *Changes to authorization.* If an authorization under paragraph II.B.3. is no longer accurate because a different operator has responsibility for the overall operation of the construction site, a new notice of intent satisfying the requirements of paragraph II.B. must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.

d. Certification. Any person signing documents under paragraph VII.G shall make the following certification:

"I certify, under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons

who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.''

H. Penalties for Falsification of Reports

Section 309(c)(4) of the Clean Water Act provides that any person who knowingly makes any false material statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or by both.

I. Penalties for Falsification of Monitoring Systems

The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

J. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the CWA or section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

K. Property Rights

The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

L. Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.

M. Transfers

Coverage under this permit is not transferable to any person except after notice to the Director. The Director may require termination of permit coverage by the current permittee in accordance with Part IX of this permit; and the subsequent submission a Notice of Intent to receive coverage under the permit by the new applicant in accordance with Part II of this permit.

N. Requiring an Individual Permit or an Alternative General Permit

1. The Director may require any person authorized by this permit to apply for and/or obtain either an individual NPDES permit or an alternative NPDES general permit. Any interested person may petition the Director to take action under this paragraph. Where the Director requires a discharger authorized to discharge under this permit to apply for an individual NPDES permit, the Director shall notify the discharger in writing that a permit application is required. This notification shall include a brief statement of the reasons for this decision, an application form, a statement setting a deadline for the discharger to file the application, and a statement that on the effective date of issuance or denial of the individual NPDES permit or the alternative general permit as it applies to the individual permittee, coverage under this general permit shall automatically terminate. Applications shall be submitted to the appropriate Regional Office indicated in Part V.C of this permit. The Director may grant additional time to submit the application upon request of the applicant. If a discharger fails to submit in a timely manner an individual NPDES permit application as required by the Director under this paragraph, then the applicability of this permit to the individual NPDES permittee is automatically terminated at the end of the day specified by the Director for application submittal.

2. Any discharger authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual permit. In such cases, the permittee shall submit an individual application in accordance with the requirements of 40 CFR 122.26(c)(1)(ii), with reasons supporting the request, to the Director at the address for the appropriate Regional Office indicated in Part V.C of this permit. The request may be granted by issuance of any individual permit or an alternative general permit if the reasons cited by the permittee are adequate to support the request.

3. When an individual NPDES permit is issued to a discharger otherwise subject to this permit, or the discharger is authorized to discharge under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit, whichever the case may be. When an individual NPDES permit is denied to an owner or operator otherwise subject to this permit, or the owner or operator is denied for coverage under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the date of such denial, unless otherwise specified by the Director.

O. State/Environmental Laws

1. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by section 510 of the Act.

2. No condition of this permit shall release the permittee from any responsibility or requirements under other environmental statutes or regulations.

P. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit and with the requirements of storm water pollution prevention plans. Proper operation and maintenance also include adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance require the operation of backup or auxiliary facilities or similar systems, installed by a permittee only when necessary to achieve compliance with the conditions of the permit.

Q. Inspection and Entry

The permittee shall allow the Director or an authorized representative of EPA, the State, or, in the case of a construction site which discharges through a municipal separate storm sewer, an authorized representative of the municipal operator or the separate storm sewer receiving the discharge,

upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;

2. Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit;

3. Inspect, at reasonable times, any facilities or equipment (including monitoring and control equipment); and

4. Sample or monitor, at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the CWA, any substances or parameter at any location on the site.

R. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

S. Planned Changes

The permittee shall amend the pollution prevention plan as soon as possible identifying any planned physical alterations or additions to the permitted facility.

T. Twenty-Four Hour Reporting

(1) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause: the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

U. Bypass

(1) *Definitions.* (i) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

(ii) Severe property damage means substantial physical damage to property which causes them to become inoperable or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(2) *Bypass not exceeding limitations.* The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs S(3) and S(4).

(3) *Notice.*

(i) *Anticipated bypass.* If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

(ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph R. of this section (24-hour notice).

(4) Prohibition of bypass. (i) Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The permittee submitted notices as required under paragraph S(3) of this section.

(ii) The Director may approve an anticipated bypass after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in paragraph S(4)(i) of this section.

Part VIII. Reopener Clause

A. If there is evidence indicating potential or realized impacts on water quality due to any storm water discharge associated with industrial activity covered by this permit, the discharger may be required to obtain an individual permit or an alternative general permit in accordance with Part I.C of this permit or the permit may be modified to include different limitations and/or requirements.

B. Permit modification or revocation will be conducted according to 40 CFR 122.62, 122.63, 122.64 and 124.5.

C. This permit may be modified, or alternatively, revoked and reissued, to comply with any applicable provisions of the Phase II storm water regulations once they are issued.

Part IX. Termination of Coverage

A. Notice of Termination

Where a site has been finally stabilized and all storm water discharges from construction sites that are authorized by this permit are eliminated (see Part IX.A.5. for the definition of eliminated), or where the operator of all storm water discharges at a facility changes, the operator of the facility may submit a Notice of Termination that is signed in accordance with Part VII.G of this permit within 14 days of final stabilization of the site. The Notice of Termination shall include the following information:

1. The mailing address, and location of the construction site for which the notification is submitted. Where a mailing address for the site is not available, the location can be described in terms of the latitude and longitude of the approximate center of the facility to the nearest 15 seconds, or the section, township and range to the nearest quarter section;

2. The name, address, and telephone number of the operator seeking termination of permit coverage;

3. The NPDES permit number for the storm water discharge identified by this Notice of Termination;

4. An identification of whether the storm water discharges associated with industrial activity have been eliminated or the operator of the discharges has changed; and

5. The following certification signed in accordance with Part VII.G (signatory requirements) of this permit:

> I certify under penalty of law that all storm water discharges associated with industrial activity from the identified facility that are authorized by a NPDES general permit have otherwise been eliminated or that I am no longer the operator of the facility or construction site. I understand that by submitting this notice of termination, that I am no longer authorized to discharge storm water associated with industrial activity by the general permit, and that discharging pollutants in storm water associated with industrial activity to waters of the United States is unlawful under the Clean Water Act where the discharge is not authorized by a NPDES permit. I also understand that the submittal of this notice of termination does not release an operator from liability for any violations of this permit or the Clean Water Act.''

For the purposes of this certification, elimination of storm water discharges associated with construction activity means that all disturbed soils at the identified facility have been finally stabilized and temporary erosion and sediment control measures have been removed or will be removed at an appropriate time, or that all storm water discharges associated with construction activities from the identified site that are authorized by a NPDES general permit have otherwise been eliminated.

B. Where To Submit

Applicants are to use the NOT form published in the September 29, 1995 **Federal Register** (60 FR 51265). All Notices of Termination are to be sent, using the form provided by the Director (or a photocopy thereof),[2], to the following address: Storm Water Notice of Termination (4203), 401 M Street, SW, Room 2104 Northeast Mall, Washington, DC 20460.

C. Additional Notification

A copy of the Notice of Termination shall be sent to the State agency which issued the State storm water or environmental resource permit for the site and, if the storm water management system discharges to a municipal separate storm sewer system within Broward, Dade, Duval, Escambia, Hillsborough, Lee, Leon, Manatee, Orange, Palm Beach, Pasco, Pinellas, Polk, Sarasota or Seminole Counties, to the owner of that system. Included within these counties, the Florida Department of Transportation (FDOT), incorporated municipalities, and chapter 298 Special Districts also shall be notified where they own or operate a municipal separate storm sewer system receiving storm water discharges associated with construction activity covered by this permit.

Part X. Definitions

Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Commencement of Construction—The initial disturbance of soils associated with clearing, grading, or excavating activities or other construction activities.

CWA means Clean Water Act or the Federal Water Pollution Control Act.

Dedicated portable asphalt plant—A portable asphalt plant that is located on or contiguous to a construction site and that provides only asphalt to the construction site that the plant is located on or adjacent to. The term dedicated portable asphalt plant does not include facilities that are subject to the asphalt emulsion effluent limitation guideline at 40 CFR 443.

Dedicated portable concrete plant—A portable concrete plant that is located on or contiguous to a construction site and that provides only concrete to the construction site that the plant is located on or adjacent to.

Director means the Regional Administrator of the Environmental Protection Agency or an authorized representative.

Final Stabilization means that all soil disturbing activities at the site have been completed, and that a uniform perennial vegetative cover with a density of 70% of the cover for unpaved areas and areas not covered by permanent structures has been established or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

Flow-weighted composite sample means a composite sample consisting of a mixture of aliquots collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge.

Large and Medium municipal separate storm sewer system means all municipal separate storm sewers that are either: (i) located in an incorporated place (city) with a population of 100,000 or more as determined by the latest Decennial Census by the Bureau of Census (these cities are listed in Appendices F and G of 40 CFR Part 122); or (ii) located in the counties with unincorporated urbanized populations of 100,000 or more, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties (these counties are listed in Appendices H and I of 40 CFR Part 122); or (iii) owned or operated by a municipality other than those described in paragraph (i) or (ii) and that are designated by the Director as part of the large or medium municipal separate storm sewer system.

NOI means notice of intent to be covered by this permit (see Part II of this permit.)

NOT means notice of termination (see Part IX of this permit).

Operator means any party associated with the construction project that meets either of the following 2 criteria: (1) The party has operational control over project specifications (including the ability to make modifications in specifications), or (2) the party has day-to-day operational control of those activities at a project site which are necessary to ensure compliance with the storm water pollution prevention plan or other permit conditions (*e.g.*, they are authorized to direct workers at the site to carry out activities identified in the storm water pollution prevention plan or comply with other permit conditions).

Point Source means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharges. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

Runoff coefficient means the fraction of total rainfall that will appear at the conveyance as runoff.

Storm Water means storm water runoff, snow melt runoff, and surface runoff and drainage.

Storm Water Associated with Industrial Activity means the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NPDES program. For the categories of industries identified in paragraphs (i) through (x) of this definition, the term includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters (as defined at 40 CFR 401); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. For the categories of

[2] A copy of the approved NOT form is provided in Appendix A of this notice.

industries identified in paragraph (xi) of this definition, the term includes only storm water discharges from all areas (except access roads and rail lines) listed in the previous sentence where material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, or industrial machinery are exposed to storm water. For the purposes of this paragraph, material handling activities include the: storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas. Industrial facilities (including industrial facilities that are Federally or municipally owned or operated that meet the description of the facilities listed in this paragraph (i)–(xi) of this definition) include those facilities designated under 122.26(a)(1)(v). The following categories of facilities are considered to be engaging in ''industrial activity'' for purposes of this subsection:

(i) Facilities subject to storm water effluent guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR Subchapter N (except facilities with toxic pollutant effluent standards which are exempted under category (xi) of this definition);

(ii) Facilities classified as Standard Industrial Classifications 24 (except 2434), 26 (except 265 and 267), 28 (except 283), 29, 311, 32 (except 323), 33, 3441, 373;

(iii) Facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry) including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(l) because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or except for areas of non-coal mining operations which have been released from applicable State or Federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations; inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator;

(iv) Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under Subtitle C of RCRA;

(v) Landfills, land application sites, and open dumps that have received any industrial wastes (waste that is received from any of the facilities described under this subsection) including those that are subject to regulation under Subtitle D of RCRA;

(vi) Facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification 5015 and 5093;

(vii) Steam electric power generating facilities, including coal handling sites;

(viii) Transportation facilities classified as Standard Industrial Classifications 40, 41, 42 (except 4221–25), 43, 44, 45, and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under paragraphs (i)–(vii) or (ix)–(xi) of this subsection are associated with industrial activity;

(ix) Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more, or required to have an approved pretreatment program under 40 CFR 403. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with 40 CFR 503;

(x) Construction activity including clearing, grading and excavation activities except: operations that result in the disturbance of less than five acres of total land area which are not part of a larger common plan of development or sale;

(xi) Facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, 4221–25, (and which are not otherwise included within categories (i)–(x)).[3]

Waters of the United States means:

(a) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(b) All interstate waters, including interstate ''wetlands'';

(c) All other waters such as interstate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

(1) Which are or could be used by interstate or foreign travelers for recreational or other purposes;

(2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

(3) Which are used or could be used for industrial purposes by industries in interstate commerce;

(d) All impoundments of waters otherwise defined as waters of the United States under this definition;

(e) Tributaries of waters identified in paragraphs (a) through (d) of this definition;

(f) The territorial sea; and

(g) Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA are not waters of the United States.

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BILLING CODE 6560–50–P

[3] On June 4, 1992, the United States Court of Appeals for the Ninth Circuit remanded the exclusion for manufacturing facilities in category (xi) which do not have materials or activities exposed to storm water to the EPA for further rulemaking. (Nos. 90–70671 and 91–70200).

Federal Register

Friday
April 28, 2000

Part V

Department of Education

Indian Education Professional Development Grant Program; Indian Education Discretionary Grant Programs—Professional Development; Notices

DEPARTMENT OF EDUCATION

Indian Education Professional Development Grant Program

AGENCY: Office of Indian Education, Department of Education.

ACTION: Final priorities for fiscal year (FY) 2000 and subsequent fiscal years.

SUMMARY: The Secretary announces final funding priorities under the Indian Education Professional Development Grant program. The Secretary may use these priorities for competitions in FY 2000 and in subsequent fiscal years. The Secretary takes this action to support training opportunities to increase the number of Indian teachers, education administrators, and personnel in other fields.

EFFECTIVE DATE: These priorities take effect May 30, 2000.

FOR FURTHER INFORMATION CONTACT: Cathie Martin, Office of Indian Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3W111, Washington, DC 20202–6335. Telephone: (202) 260–1683. Internet address: Cathie_Martin@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 alternative format (*e.g.,* Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Note: This notice of final priority does not solicit applications. A notice inviting applications under this competition is published in this edition of the **Federal Register**. The notice inviting applications identifies the final priority that will be implemented for the FY 2000 competition for new grants under the Professional Development program.

SUPPLEMENTARY INFORMATION:

General

The Secretary has authority to establish priorities, including absolute preferences, under section 75.105(c)(3) of the Education Department General Administrative Regulations (EDGAR). This notice contains final absolute priorities for the Professional Development program authorized by section 9122 of subpart 2 of part A, title IX of the Elementary and Secondary Education Act (ESEA) of 1965; 20 U.S.C. 7832.

The Professional Development program is a competitive grant program that supports activities to increase the number of qualified Indian individuals in professions that serve Indian people. Individuals who receive training under the Professional Development program are required to perform work that is related to the training received and that benefits Indian people, or repay all or a prorated part of the assistance received. The requirements for the payback provision (required by section 9122(h) of ESEA; 20 U.S.C. 7832(h)) are governed by 34 CFR 263. For the purposes of this program, the term 'Indian'' includes both American Indians and Alaska Natives as defined in 34 CFR 263.3 and 20 U.S.C. 9161(4) of ESEA (20 U.S.C. 7881(4)).

One component of the Professional Development program supports training for qualified Indian individuals to (1) Become teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and (2) improve the skills of Indian individuals serving in these capacities. The second component of the program supports training of qualified Indian individuals in fields other than education that result in a degree at the graduate level. The final priorities support these training efforts by focusing all or a portion of available funds for new awards on projects that train Indians to become teachers and administrators, to improve the skills of individuals serving in those capacities, and to train personnel in fields other than education.

The Secretary also announces procedures for implementation of the statutory requirement to give a preference for awards under the Professional Development program to: (1) Programs that provide training to Indian individuals (section 9122(e)(2); 20 U.S.C. 7832(e)(2)) and (2) eligible Indian tribes, Indian organizations, and Indian institutions of higher education (section 9153 of ESEA; 20 U.S.C. 7873).

The Secretary announces these final priorities based on responses to the notice soliciting comments on the proposed priorities and other considerations published in the **Federal Register** on March 7, 2000. On an annual basis the Secretary may select, from the final priorities, the absolute priorities that will apply for that fiscal year and the amount of available program funds. Funding of a particular project depends on the availability of funds, the requirements of the final priorities selected, and the quality of the applications received.

The publication of these final priorities does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding one or more these priorities, subject to meeting applicable rulemaking requirements.

Eligible Applicants

(1) Institutions of higher education, including Indian institutions of higher education;

(2) State or local educational agencies in consortium with institutions of higher education; and

(3) Indian tribes or Indian organizations in consortium with institutions of higher education.

Applications submitted by a consortium under categories (2) and (3) must meet the requirements of 34 CFR 75.127 through 75.129 of EDGAR in order to be an eligible applicant.

Analysis of Comments and Changes

In response to the Secretary's invitation to comment on the proposed priorities, the Department received a total of 12 responses from two State universities, three Indian institutions of higher education, four Indian organizations, one educational (non-Indian) organization, and two Indian tribes. Most of the comments received could be grouped in these general areas: changing the term ''Indian institution of higher education'' to ''tribal college or university''; designating tribal colleges as the lead agency or primary applicant for consortium applications; making only tribal colleges eligible for the competitive preference points; and reducing or eliminating the minimum number of participants for the program. Technical and other minor changes, and suggested changes the Secretary is not authorized to make under the applicable statutory authority, are not addressed. A summary of the comments, and the considerations given to those comments, are as follows:

Comment—The term ''Indian institution of higher education'' as an eligible applicant should be changed to ''tribally controlled college or university'' to be consistent with the Higher Education Act and the Executive Order on Tribal Colleges and Universities. A related comment suggested that tribal colleges and universities be the only eligible applicants for this program.

Discussion—The term ''Indian institution of higher education'' is the language contained within the program's statute. The suggestion that eligible applicants for the program be limited to only tribal colleges and universities is too restrictive and may not meet the needs of all eligible applicants. The purpose of the program is to support training for qualified Indian individuals to become teachers, administrators, teacher aides, social workers, and ancillary educational personnel and to improve the skills of

Indian individuals serving in these capacities. As the funding for this program in fiscal year 2000 is intended to train an initial cohort of 500 new teachers during the award periods of these grants, all eligible applicants should be afforded the opportunity to compete for the funding. The training provided should be locally determined to meet the needs of communities and schools so that those trained may provide services that benefit Indian people.

Change—No change in the Final Priorities is made to the listing of eligible entities, which includes an ''Indian institution of higher education.''

Comment—Two types of comments were received concerning consortium applications. First, commenters suggested that all consortium applications be required to have a partnership with a tribal college or university.

Discussion—The suggestion that all consortium applications include a tribal college or university, or that the Department only give competitive preference points to consortium applications with a tribal college as the lead agency, would impose severe limitations on other eligible applicants and would not meet the legislative intent that all Indian entities be given preference in the award process. Although tribal colleges and universities are important in promoting access to higher education in Indian communities and on reservations, all eligible applicants should be afforded the opportunity to apply for the program funds based on local needs. For these reasons, eligible applicants that must apply through a consortium application should be allowed to determine locally the institution(s) of higher education they will have as partners in their project.

Change—No change is made in the Final Priorities to require all consortium applications include a tribal college or university.

Comment—With regard to the second type of comments concerning consortium applications, commenters suggested that only consortium applications in which a tribal college or university is the lead agency be eligible to receive competitive preference points.

Discussion—Although the development of a consortium should be a local decision, this program does promote the inclusion of tribal colleges and universities in the Professional Development program as consortium partners as well as innovative approaches to linking tribal colleges with early childhood, elementary, and secondary education programs. These efforts also support the objectives of the Executive order on Tribal Colleges and Universities (Executive Order 13021 of October 19, 1996).

Change—Therefore, to be responsive to the comments requesting preference for tribal colleges and universities, and to further the efforts of the Executive order, a third competitive preference is added that will award five additional points to consortium applications that include, and designate as the fiscal agent, a tribal college or university. To avoid awarding (because of the addition of Priority 3) a disproportionate number of total competitive priority points in relationship to the total number of points available under the program, we have reduced the number of competitive priority points for Priority 2 from 10 to 5.

Comment—There were two types of comments concerning the project participants and their training: (1) The minimum number of participants (which had been identified as 25) should be lowered or eliminated; and (2) to achieve the number of participants required, that projects be allowed to include current teachers who are seeking certification in the subject area(s) they are teaching or in new subject areas (as in the case of retraining teachers to meet teacher shortages in specific instructional areas).

Discussion—(1) As it was the consensus of all parties commenting on this issue that a minimum of 25 participants would be difficult to achieve, the Final Priorities have been changed to eliminate a minimum number of participants to be served. However, it should be noted that, according to the program's selection criteria for evaluating applications, the Secretary will consider factors such as reasonableness of costs in relation to: the number of persons to be served and the anticipated results and benefits; and the objectives, design, and potential significance of the proposed project. (2) The comments were also consistent on the types of participants to be trained and the need for current teachers to be certified in the areas they are teaching, as well as the need to re-train current teachers in other areas of specialized instructional needs where shortages exist.

Change—The Final Priorities have been revised to allow applicants to provide pre-service training to teachers that will enable them to meet state certification requirements, that require at least a bachelor's degree, in current or new teaching assignments when a teacher shortage exists in specialized areas, within a two-year training period.

Comment—Some comments expressed concern that a two-year program to complete a bachelor's degree was not an adequate amount of time and suggested the language be changed to allow a grant program of four or five years.

Discussion—A four-or five-year grant program that allows students to obtain a bachelor's degree (from initial entry to completion) does not guarantee student completion of a degree. The following factors were taken into consideration when the two-year time period for completion of bachelor's degree was proposed:

(1) Students are more prone to leave postsecondary institutions before completing their first two years of college. Thus, students recruited as participants in the program in their junior or senior year of college are more likely to obtain a degree and complete the program.

(2) The first two years of college generally involve general education requirements, and majors are not usually declared until the end of the second year of study or at the beginning of the third year. If students declare a major that is *not* related to the field of education, they would then become ineligible for the professional development program. The program legislation specifically requires that training to enter any field other than education must be a program that results in a graduate degree.

Change—No change in the Final Priorities has been made to extend the completion time of a bachelor's from two years to a longer period of time.

Comment—One comment raised the issue that graduates of the program are to be provided with one year of induction services while they are working in schools with predominately Indian student populations. It was suggested that the language was too restrictive and that most Indian students do not attend tribal schools, which would make the employment requirement hard to accomplish.

Discussion—Participants of the program are required to complete a payback for the training they receive, either in service that benefits Indian people and is related to the training received or through a cash payback. The induction services are intended to provide a support system for individuals entering new professional fields and to aid graduates in that transition process. It is anticipated that individuals completing a service payback will be employed in a school that has a large Indian student

population. It was not the intent in using the word ''predominately'' that the student population of a school in which a new teacher is working be interpreted to mean only Indian students.

Change—To clarify the language, the term ''predominately'' has been changed to ''significant'' in the Final Priorities.

Comment—One comment suggested that the induction services for the component of in-service training be eliminated.

Discussion—The suggestion has been adopted.

Change—The Final Priorities have been changed; programs providing in-service training are not required to provide induction services.

Absolute Priority

Under section 34 CFR 75.105 of EDGAR, the Secretary gives an absolute preference to applications that meet one of the priorities selected for a fiscal year. The Secretary reserves all or a portion of the funds available for new awards under the Professional Development program to fund only those applications that meet one of these absolute priorities:

(1) Pre-Service Training for Teachers

Provide support and training to Indian individuals to complete a pre-service education program that:

(a) Enables individuals to meet the requirements for full state certification or licensure as a teacher through:

(i) Training that leads to a bachelor's degree in education within a two-year period; or

(ii) Training in a current or new specialized teaching assignment, that requires at least a bachelor's degree, in which a teacher shortage exists.

(iii) Provides graduates of the pre-service program with one year of induction services while they are working in schools with significant Indian student populations.

(2) In-Service Training for Teachers

Provide professional development activities, over a two-year period, to train existing teachers of Indian students provided that such activities allow participants to meet the requirements for continued state certification or licensure in areas such as:

(a) Standards and assessments;

(b) Integrating reliable, research-based teaching methods and technology into the curriculum;

(c) Subject content area specialization such as reading, math, science or technology; or

(d) Specializations in teaching culturally and linguistically unique Indian student populations.

(3) Pre-Service and In-Service Training for Teachers

Provide support and training to Indian individuals to complete:

(a) A pre-service education program that:

(1) Enables individuals to meet the requirements for full state certification or licensure as a teacher through:

(i) Training that leads to a bachelor's degree in education within a two-year period; or

(ii) Training in a current or new specialized teaching assignment, that requires at least a bachelor's degree, in which a teacher shortage exists.

(2) Provide graduates of the pre-service program with one year of induction services while they are working in schools with significant Indian student populations.

(b) Professional development activities, over a two-year period, to train existing teachers of Indian students, provided that such activities allow participants to meet the requirements for continued state certification or licensure, in areas such as:

(1) Standards and assessments;

(2) Integrating reliable, research-based teaching methods and technology into the curriculum;

(3) Subject content area specializations such as reading, math, science or technology; or

(4) Specializations in teaching culturally and linguistically unique Indian student populations.

(4) Pre-Service Administrator Training

(a) Provide support and training to Indian individuals to complete a master degree, within a two-year period, in education administration that allows participants to meet the requirements for state certification or licensure as an education administrator, and

(b) Provide graduates of the program with one year of induction services while they are working in schools with significant Indian student populations.

(5) In-Service Administrator Training

Provide professional development activities to existing administrators that enhance their skills and knowledge in more than one of the following areas:

(a) Standards and assessments;

(b) Integrating reliable, research-based teaching methods and technology into the curriculum;

(c) Mentoring, coaching, and evaluating the performance of teachers;

(d) Site-based management; or

(e) Reform efforts to improve teacher quality.

(6) Pre-Service and In-Service Training for Administrators:

Provide support and training to Indian individuals to complete:

(a) A pre-service program that:

(1) Results in a master degree in education administration, within a two-year period, that allows participants to meet state certification or licensure as an education administrator; and

(i) Provides graduates of the program one year of induction services while they are working in schools with significant Indian student populations.

(b) Professional development activities that enhance their skills and knowledge, as existing school administrators, in more than one of the following areas:

(i) Standards and assessments;

(ii) Integrating reliable, research-based teaching methods and technology into the curriculum;

(iii) Mentoring, coaching and evaluating the performance of teachers;

(iv) Site-based management; or

(v) Reform efforts to improve teacher quality.

(7) Training in Fields Other Than Education

(a) Provide support and training to Indian individuals to complete a master or doctoral degree in a field other than education, or a related field, within a two-year period, and

(b) Provide graduates of the program with one-year of induction services while they are employed in positions relating to the training received and that benefits Indians.

Applications meeting one of the absolute priorities may offer professional development activities that include, but are not limited to, continuing programs, symposia, workshops, conferences, and direct financial support.

Induction Services

Induction services must be provided after the participant has completed his/her pre-service training program. The induction services shall include the following activities, at a minimum:

(1) Mentoring, coaching, and consultation services for the participant;

(2) Participant access to research materials and information on teaching and learning or, for non-education fields of study, subject matter related to the participant's field of study;

(3) Periodic assessment of, and feedback sessions on, participant performance in coordination with the participant's supervisor; and

(4) Periodic meetings or seminars for participants to enhance collaboration, feedback, and peer networking and support.

Projects with a pre-service component will be awarded for a three-year project period. The pre-service training is to be offered only during the first two years of the award, with the final 12 months of the project period consisting only of induction services for participants. The notice inviting applications published in the **Federal Register** for this competition will identify any annual funding limitations for the program.

Applications submitted by a consortium must identify the party or entity within the consortium that will be responsible for delivery and oversight of the induction services.

We may select more than one absolute priority for this program in any given fiscal year.

Competitive Preference

The Secretary also announces procedures for implementing the statutory requirement to give a preference to eligible Indian tribes, Indian organizations and Indian institutions of higher education for grants awarded under the Professional Development program (section 9153 of ESEA; 20 U.S.C. 7873 and 20 U.S.C. 1221e–3).

Under 34 CFR 75.105(c)(2)(i) of EDGAR and sections 9122 and 9153 of ESEA (20 U.S.C. 7832 and 7873) and section 410 of the General Education Provisions Act (20 U.S.C. 1221e–3), the Secretary gives preference to applications that meet the following competitive priorities. The total number of points the Secretary proposes to award to an application that meets a competitive priority is indicated in parenthesis next to the title of the priority. These points are in addition to any points the application earns under the selection criteria for the program.

Competitive Priority 1—Preference for Training Indian Individuals (5 Points)

Background

Grants under this program may be used to provide support and training for Indian individuals to increase the number of qualified Indian individuals in professions that serve Indian people. Activities may include, but are not limited to, continuing programs, symposia, workshops, conferences, and direct financial support.

Grants for training educational personnel may be for pre-service or in-service training. For individuals who are being trained to enter any field other than education, the training received must be in a program resulting in a graduate degree. In awarding grants under this program, the Secretary is required to give preference to applications describing programs that train Indian individuals.

Priority

The Secretary shall award a total of 5 points to applications submitted under the Professional Development program that include only Indian individuals as training participants.

Authority: Section 9122(e)(2); 20 U.S.C. 7832(e)(2).

Competitive Priority 2—Preference for Indian Applicants (5 Points)

Background

An eligible entity for this program includes an institution of higher education, including an Indian institution of higher education; a State or local educational agency, in consortium with an institution of higher education; or an Indian tribe or organization, in consortium with an institution of higher education. In making grants under this program, preference is given to applications submitted by Indian tribes, Indian organizations, and Indian institutions of higher education, including a consortium of any of these entities with other eligible entities.

Priority

The Secretary shall award a total of 5 points to applications submitted by Indian tribes, Indian organizations, and Indian institutions of higher education that are eligible to participate in the Professional Development program. A consortium application of eligible entities that meets the requirements of 34 CFR 75.127–.129 of EDGAR and includes an Indian tribe, Indian organization or Indian institution of higher education shall be considered eligible to receive the 5 priority points.

Authority: Section 9153; 20 U.S.C. 7873.

Competitive Priority 3—Preference for Consortia Applications in Which a Tribal College or University is the Fiscal Agent (5 Points)

Background

Applications for this program may be submitted by a consortium of eligible applicants that include a State or local educational agency, or an Indian tribe or organization, in consortium with an institution of higher education, including an Indian institution of higher education. As Indian institutions of higher education are generally defined as ''tribal colleges or universities,'' this program does promote the inclusion of tribal colleges and universities in the Professional Development program as consortium partners and exploring innovative approaches to better link tribal colleges with early childhood, elementary, and secondary education programs. These efforts also support the objectives of the Executive order on Tribal Colleges and Universities (Executive Order 13021 of October 19, 1996). In order to promote the inclusion of tribal colleges and universities in the Professional Development program, a competitive preference will be given to consortium applications that include a tribal college or university and designate that tribal college or university as the fiscal agent for the application.

Priority

The Secretary shall award a total of 5 points to applications submitted by a consortium of eligible applicants that include a tribal college or university and which designate that tribal college or university as the fiscal agent for the application. The consortium application of eligible entities must meet the requirements of 34 CFR 75.127–.129 of EDGAR to be considered eligible to receive the 5 priority points. These competitive preference points are in addition to the 5 competitive preference points that may be given under the Competitive Priority 2—Preference for Indian Applicants.

Tribal colleges and universities are those institutions cited in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note), any other institution that qualifies for funding under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 *et seq.*), and Navajo Community College, authorized in the Navajo Community College Assistance Act of 1978, Public Law 95–471, title II (25 U.S.C. 640a note).

Authority: Section 9153; 20 U.S.C. 7873; and 20 U.S.C. 1221e–3.

Intergovernmental Review

These programs are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. However, Part 79 does not apply to assistance to federally recognized Indian tribes. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance. In accordance with the Order, this document is intended to provide early notification of the

Department's specific plans and actions for this program.

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, 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, DC, area at (202) 512–1530.

Note: The official version of this document is 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: 84.299 Indian Education—Special Programs)

Program Authority: Section 9122; 20 U.S.C. 7832.

Dated: April 24, 2000.

Michael Cohen,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 00–10644 Filed 4–27–00; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

[CFDA No. 84.299B]

Indian Education Discretionary Grant Programs—Professional Development

AGENCY: Department of Education.

ACTION: Notice inviting applications for new awards for fiscal year (FY) 2000.

Purpose of the Program

The purposes of this program are to: (1) Increase the number of qualified Indian individuals in professions that serve Indian people; (2) provide training to qualified Indian individuals to become teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and (3) improve the skills of qualified Indian individuals who serve in the capacities described in (2). Activities may include, but are not limited to, continuing programs, symposia, workshops, conferences, and direct financial support.

Grants for training educational personnel may be for preservice or inservice training. For individuals who are being trained to enter any field other than education, the training received must be in a program resulting in a graduate degree.

For FY 2000 the competition for new awards focuses on projects designed to meet the priority described in the PRIORITY section of this application notice.

Eligible Applicants

Eligible applicants for this program are institutions of higher education, including Indian institutions of higher education; State or local educational agencies, in consortium with institutions of higher education; and Indian tribes or organizations, in consortium with institutions of higher education. An application from a consortium of eligible entities must meet the requirements of 34 CFR 75.127 through 75.129. The consortium agreement must be submitted with the application. Letters of support do not meet the consortium requirements.

Deadline for Transmittal of Applications: May 31, 2000.

Deadline for Intergovernmental Review: July 31, 2000.

*Applications Available:*April 28, 2000.

Available Funds: $10,000,000.

Estimated Range of Awards: $175,000 to $500,000.

Estimated Average Size of Awards: $300,000.

Estimated Number of Awards: 30.

Project Period

Up to 24 months for projects that provide only in-service training, and up to 36 months for projects that provide pre-service training.

Note: The Department is not bound by any estimates in this notice.

Budget Requirement

All projects funded under this competition must budget for a two-day Project Directors' meeting in Washington, DC during each year of the project.

Maximum Annual Award Amount

In no case does the Secretary make an award greater than $500,000 for a single budget period of 12 months for the first 24 months of the award period. The last 12 months of a 36-month award will be limited to induction services only at a cost not to exceed $75,000 for the third 12-month budget period. The Secretary rejects and does not consider an application that proposes a budget exceeding these maximum amounts.

Page Limit

The application narrative Part III of the application) is where you, the applicant, addresses the selection criteria reviewers use to evaluate your application. You must limit Part III to the equivalent of no more than 75 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12-point font or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, you must include all of the application narrative in Part III.

We will reject your application if—

- You apply these standards and exceed the page limit; or
- You apply other standards and exceed the equivalent of the page limit.

Applicable Regulations

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 86, 97, 98, and 99; and (b) for the Professional Development Program, the payback provisions of 34 CFR 263.1(b), 263.3, and 263.35 through 263.37.

Absolute Priority

Under section 34 CFR 75.105 of EDGAR, the Secretary gives an absolute preference to applications that meet the priority selected. The Secretary reserves all of the funds available for new awards under the Professional Development program to fund only those applications that meet this absolute priority:

Pre-Service Training for Teachers —

Provide support and training to Indian individuals to complete a pre-service education program that:

(a) Enables individuals to meet the requirements for full state certification or licensure as a teacher through —

(i) Training that leads to a bachelor's degree in education within a two-year period; or

(ii) Training in a current or new specialized teaching assignment, that requires at least a bachelor's degree, in which a teacher shortage exists.

(b) Provides graduates of the pre-service program with one year of induction services while they are

working in schools with significant Indian student populations.

Selection Criteria

The selection criteria are included in full in the application package for this competition. These selection criteria were established based on the regulations for evaluating discretionary grants found in 34 CFR 75.200 through 75.210.

Fiscal Information

Stipends may be paid only to full-time students. For the payment of stipends to project participants being trained, the Secretary expects to set the stipend maximum at $1250 per month for full-time students and $200 allowance per month per dependent during the academic year. The terms ''stipend,'' ''full-time student,'' and ''dependent allowance'' are defined in 34 CFR 263.3.

Competitive Preference

(1) The Secretary will award a total of five additional points to applications for programs that include only Indian individuals as training participants.

Authority: Section 9122(e)(2); 20 U.S.C. 7832(e)(2).

(2) The Secretary will award a total of five additional points to applications submitted by Indian tribes, Indian organizations, and Indian institutions of higher education. A consortium application of eligible entities that meets the requirements of 34 CFR 75.127 through 75.129 and includes an Indian tribe, Indian organization or Indian institution of higher education shall be considered eligible to receive the five additional priority points. Letters of support do not meet the consortium requirements.

Authority: 20 U.S.C. 7873.

(3) The Secretary will award a total of five additional points to applications submitted by a consortium of eligible applicants that include a tribal college or university and which designate that tribal college or university as the fiscal agent for the application. The consortium application of eligible entities must meet the requirements of 34 CFR 75.127 through 75.129 of EDGAR to be considered eligible to receive the five priority points. Letters of support do not meet the consortium requirements. These competitive preference points are in addition to the five competitive preference points that may be given under Competitive Priority 2—Preference for Indian Applicants.

Tribal colleges and universities are those institutions cited in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note), any other institution that qualifies for funding under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 *et seq.*), and Navajo Community College, authorized in the Navajo Community College Assistance Act of 1978, Public Law 95–471, title II (25 U.S.C. 640a note).

Authority: Section 9153; 20 U.S.C. 7873; and 20 U.S.C. 1221e–3.

For Applications Contact

Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734. You may also contact ED Pubs via its Web site (http://www.ed.gov/pubs/edpubs.html) or its E-mail address (edpubs@inet.ed.gov). If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.299B.

FOR FURTHER INFORMATION CONTACT: Cathie Martin, Office of Indian Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3W111, Washington, DC 20202–6335. Telephone: (202) 260–1683. Internet address: Cathie_Martin@ed.gov

Individuals who use a telecommunications device for the deaf (TDD), may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain a copy of the application package in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Individuals with disabilities may obtain a copy of the application package in an alternative format, also, by contacting that person. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

Electronic Access to This Document

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Note: The official version of this document is published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html

Program Authority: 20 U.S.C. 7832.

Dated: April 24, 2000.

Michael Cohen,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 00–10645 Filed 4–27–00; 8:45 am]

BILLING CODE 4000–01–U

Federal Register

Friday,
April 28, 2000

Part VI

Department of Education

Office of Special Education and Rehabilitative Services; Grant Applications Under Part D, Subpart 2 of the Individuals With Disabilities Education Act; Notice

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Grant Applications Under Part D, Subpart 2 of the Individuals With Disabilities Education Act

AGENCY: Department of Education.

ACTION: Notice inviting applications for new awards for fiscal year (FY) 2000.

SUMMARY: This notice provides closing dates and other information regarding the transmittal of applications for FY 2000 competitions under five programs authorized by the Individuals with Disabilities Education Act (IDEA), as amended. The five programs are: (1) Special Education—Research and Innovation to Improve Services and Results for Children with Disabilities (one priority); (2) Special Education—Personnel Preparation to Improve Services and Results for Children with Disabilities (four priorities); (3) Special Education—Technology and Media Services for Individuals with Disabilities (two priorities); (4) Special Education—Training and Information for Parents of Children with Disabilities (one priority); and (5) Special Education—Studies and Evaluations Program (one priority).

This notice supports the National Education Goals by helping to improve results for children with disabilities.

Waiver of Rulemaking

In most instances the Assistant Secretary is required to offer interested parties the opportunity to comment on proposed priorities. However, section 661(e)(2) of IDEA makes the Administrative Procedure Act (5 U.S.C. 553) inapplicable to the priorities in this notice.

General Requirements

(a) Projects funded under this notice must make positive efforts to employ and advance in employment qualified individuals with disabilities in project activities (see Section 606 of IDEA).

(b) Applicants and grant recipients funded under this notice must involve individuals with disabilities or parents of individuals with disabilities in planning, implementing, and evaluating the projects (see Section 661(f)(1)(A) of IDEA).

(c) Projects funded under these priorities must budget for a two-day Project Directors' meeting in Washington, DC during each year of the project.

(d) In a single application, an applicant must address only one absolute priority in this notice.

(e) Part III of each application submitted under a priority in this notice, the application narrative, is where an applicant addresses the selection criteria that are used by reviewers in evaluating the application. You must limit Part III to the equivalent of no more than the number of pages listed in the ''Page Limits'' section under the applicable priority in this notice using the following standards:

- A ''page'' is 8.5″ × 11″ (on one side only) with one-inch margins (top, bottom, and sides).
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, and captions, as well as all text in charts, tables, figures, and graphs.
- If using a proportional computer font, use no smaller than a 12-point font, and an average character density no greater than 18 characters per inch. If using a nonproportional font or a typewriter, do not use more than 12 characters per inch.

The page limit does not apply to Part I—the cover sheet; Part II—the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography or references, or the letters of support. However, you must include all of the application narrative in Part III.

We will reject your application if —

- You apply these standards and exceed the page limit; or

You apply other standards and exceed the equivalent of the page limit.

Information collection resulting from this notice has been submitted to OMB for review under the Paperwork Reduction Act and has been approved under control number 1820–0028, expiration date July 31, 2000.

Research and Innovation To Improve Services and Results for Children With Disabilities [CFDA 84.324]

Purpose of Program: To produce, and advance the use of, knowledge to: (1) Improve services provided under IDEA, including the practices of professionals and others involved in providing those services to children with disabilities; and (2) Improve educational and early intervention results for infants, toddlers, and children with disabilities.

Eligible Applicants: For focus 2 eligible applicants are Local educational agencies (LEAs), or consortia of local educational agencies, and institutions of higher education (IHEs). For focus 2 eligible applicants are LEAs or IHEs or consortia of LEAs and IHEs.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 85, 97, 98, and 99; (b) The selection criteria for the priorities under this program are drawn from the EDGAR general selection criteria menu. The specific selection criteria for this priority are included in the funding application packet for this competition.

Priority

Under section 672 of the Act and 34 CFR 75.105(c)(3), we consider only applications that meet the following priority:

Absolute Priority—Model Demonstration Projects for Children With Disabilities (84.324T)

This priority supports model demonstration projects that develop, implement, evaluate, and disseminate new or improved approaches for providing special education and related services to children with disabilities. Projects supported under this priority are expected to be major contributors of models or components of models for service providers and for outreach projects funded under IDEA.

Under this absolute priority, the Assistant Secretary will fund projects only in the focus areas listed below.

Requirements for All Demonstration Projects

A model demonstration project must—

(a) Use rigorous quantitative or qualitative research and evaluation methods and data and research-based strategies and practices;

(b) Evaluate the model by using multiple measures of results to determine the effectiveness of the model and its components or strategies;

(c) Produce detailed procedures and materials that would enable others to replicate the model; and

(d) Communicate with appropriate audiences through means such as, special education technical assistance providers and disseminators, refereed journal publications and other publications, conference presentations, and a web site.

If the project maintains a web site, it must include relevant information and documents in an accessible form.

Federal financial participation for a project funded under this priority will not exceed 90 percent of the total annual costs of the project (see section 661(f)(2)(A) of IDEA).

In addition to the annual two-day Project Directors' meeting in Washington, DC mentioned in the General Requirements section of this notice, projects must budget for another

annual meeting in Washington, DC to collaborate with the Federal project officer and the other projects funded under this priority, to share information and discuss model development, evaluation, and project implementation issues.

Focus 1—Model Demonstration Projects To Support Whole-School Reforms of Services for Children With Disabilities

The reauthorization of IDEA in 1997 (Public Law 105–17) encouraged ''incentives for whole-school approaches and pre-referral intervention to reduce the need to label children as disabled in order to address their learning needs'' (section 601(5)(F)) and authorized: (1) IDEA support for school-wide programs under Title I of the Elementary and Secondary Education Act of 1965 (section 613(a)(2)(D)); (2) Services and aids that also benefit nondisabled children (section 613(a)(4)(A)); (3) Integrated and coordinated service systems (section 613(a)(4)(B) and 613(f)); and (4) School-based improvement plans (section 613(g)).

This priority supports model projects that demonstrate how promising and proven research based practices and strategies can be used to develop whole-school approaches that benefit all students, including students with disabilities, and fully implement all other requirements of the law. For example, it is essential that students with disabilities are provided with Individualized Education Plans (IEPs) that address their unique needs and provide for the services and supports, including intensive interventions when necessary, that will optimize their achievement. Applicants must demonstrate how they will improve results for students with disabilities.

Specifically, applicants must describe activities to ensure that students with disabilities have access to and succeed in the regular curriculum; receive positive behavioral interventions, supports, and services when appropriate; and are included in State and local assessments.

Flexibility and innovation are encouraged in the design of the models, but every model must involve regular and special education staff in early childhood and prevention services; provide for parent participation; and make available a continuum of services, aids, and supports to meet the needs of students with disabilities in the least restrictive environment. It is expected that models funded under this priority will build upon other models, strategies, and practices including those supported under IDEA national activities.

Local educational agencies or consortia of LEAs or institutions of higher education are invited to apply for these grants to foster whole-school projects at (a) primary and elementary school, (b) middle and junior high school, or (c) high school levels. Applicants are encouraged to address at least two of these grade ranges, unless only one grade range is served in the LEA. Regardless of who the project applicant is, a partnership between an LEA and IHE must be demonstrated and maintained throughout the duration of the project. Applicants are required to collaborate with existing OSEP technical assistance centers and evaluation efforts throughout the course of the project.

Project Periods and Associated Funding Levels

Projects will be funded for up to 48 months. During the first two funding years, projects may request $150,000 per year. During the third and fourth years of funding, the projects may request up to $75,000 per year.

The Assistant Secretary intends to make approximately 15 awards under this priority. Each of the three grade ranges will be represented in the awards with at least three awards at each level.

Special Requirements Under This Focus Area

Applicants must specify at least one school building, at each grade range addressed in the project, that will participate in the model demonstration project throughout the duration of the grant. Further, the LEA or consortia of LEAs or IHEs must agree to share evaluation data (with protections for anonymity of subjects) on student achievement and project effectiveness with OSEP-sponsored activities, which will synthesize research and evaluation information across the grantees. In addition projects must ensure and demonstrate how they will monitor and document challenges and progress throughout the project.

Maximum Award: We will reject and will not consider an application that proposes a budget exceeding $150,000 (exclusive of any matching funds) during the first two 12-month funding periods, or proposes a budget exceeding $75,000 (exclusive of any matching funds) during the final two 12-month funding periods. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Page Limits: The maximum page limit for this focus area is 50 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the ''General Requirements'' section of this notice.

Focus 2—K–3 Behavior and Reading Intervention Models

Effective strategies that intervene early in a child's development are well recognized in improving results for children with disabilities. Unfortunately, approximately sixty percent of the children currently being served under IDEA are typically identified too late to receive full benefit from those interventions. This problem is most prominent with two specific populations of children—those identified for special education and related services under the categories ''emotional disturbance'' (ED) and ''specific learning disabilities'' (LD), particularly the 80 percent of LD children who have their primary deficit in reading. These children are often not identified as being eligible for special education and related services until after their disabilities have reached severe proportions. These are children who, very early in their education, experience marked difficulties learning to read or exhibit behaviors that lead to discipline problems as they get older.

There currently exists a substantial and compelling body of research describing these children and telling us how to assess, identify, and help them. For instance, research indicates that both populations of children:

(1) Can be assessed and identified early and with relative ease and accuracy; (2) based on the nature of their disabilities, are at high risk for dropping out of school, becoming discipline problems, and failing in school; (3) often fall behind because they do not receive appropriate interventions earlier; (4) can make tremendous gains when provided with effective services during early childhood; and (5) may need individually tailored interventions because one approach may not fit all children.

A key feature of promising school-wide programs is their emphasis on the inclusion of all students in the school. Effective support for reading and behavior begins by attending to all students. Providing such support, in turn, requires understanding the range of reading difficulties and behavioral challenges students present to schools and a knowledge of the research-based strategies and practices for addressing those difficulties and challenges. To meet these varied needs, intervention systems are often organized into three groups, representing three levels of

means to intervene with difficulties in reading and behavior problems:

(a) Primary prevention involves universal instruction and intervention efforts to avert the onset of problem behaviors and reading deficits such as research-based school-wide reading and behavior programs.

(b) Secondary prevention refers to strategies and procedures that address small groups of students who need additional support or assistance to successfully acquire new skills in reading and behavior.

(c) Tertiary prevention involves more intense, specialized interventions, such as one on one interventions, for individual students who despite previous efforts experience chronic problem behavior or marked difficulties in learning to read.

Although previous research and model demonstration projects have evaluated many aspects of the reading process and approaches to behavior management, model demonstration projects have not been implemented and sustained extensively in LEAs to systematically evaluate—

(a) Professional development for regular and special education teachers related to intervening early with children with marked difficulties in reading and behavior;

(b) A continuum of varied interventions for children with reading and behavior difficulties;

(c) Scaffolding or support in all curriculum areas for children in K–3 with reading and behavior difficulties while providing support for specialized or intensive interventions in reading or behavior;

(d) Continuous assessment to determine and predict progress; and

(e) Simultaneous reading and behavior interventions to target the interdependence of the two.

The purpose of this priority is to support demonstrations of school-based models of effective programs and practices to serve children grades K–3 who are identified as having a marked difficulty learning to read or who exhibit serious behaviors that lead to discipline problems as they get older.

Projects funded under this priority must:

(a) Identify students to participate who have a marked difficulty learning to read or who exhibit serious behaviors that lead to discipline problems later.

(b) Provide evidence of an existing school-wide focus that includes setting and reaching high expectations in reading or behavior and that reflects proven research-based model practices in reading or behavior for all children—

(1) For a school-wide focus on reading, projects must address, if applicable, support from Title I of the Improving America's Schools Act, the Reading Excellence Act, or other Federal or State programs by explicitly stating how those efforts will be coordinated with the activities and budgets of these projects for students with disabilities or developmental delays;

(2) For a school-wide focus on behavior, projects must include or be working toward including the following components—

(i) A mission or purpose statement;

(ii) A list of positively stated behavioral expectations or rules;

(iii) Procedures for directly teaching these expectations to students;

(iv) A continuum of strategies for encouraging these expectations;

(v) A continuum of strategies for discouraging rule violations; and

(vi) Procedures for record keeping and evaluation; and

(3) All projects must demonstrate a commitment of the faculty to address behavior or reading as a school-wide priority.

(c) Demonstrate ongoing linkages, partnerships, and collaboration between local educational agencies (LEAs) and research and training programs at institutions of higher education (IHEs) in the design, implementation and evaluation of the project.

(d) Designate an implementation coordinator and establish a committee, including the principal in each school, to support the project.

(e) Collaborate and link with OSEP supported researchers and technical assistance providers.

(f) Describe how their evaluations will address the following—

(1) Provide information about how children at highest risk are identified;

(2) Monitor each child's progress on a frequent basis, including both formative and summative evaluations;

(3) Establish criteria for a successful program; and

(4) Cooperate with the other OSEP projects and OSEP evaluation efforts throughout the project period to determine core measures and instruments to use for assessment across projects, collect data on project challenges and progress throughout the project, and comply with established data collection procedures.

(g) For reading projects—

(1) Describe the social, environmental, and cultural characteristics of each child; and

(2) Develop comprehensive case studies of each child to determine what is impacting risk, how they perform in other areas, how they performed in pre-school, characteristics related to reading (e.g., pre-reading development; language, speech and articulation; primary and secondary language).

(h) For behavior projects—

(1) Describe the social, environmental and cultural characteristics of participating groups of children or individual children; and

(2) Develop comprehensive case studies of participating groups of children or individual children to determine what is impacting risk, how they perform in other areas, how they performed in pre-school, and characteristics related to behavior.

(i) Establish a school and family link related to reading or behavior.

(j) Describe how an effective model will be sustained when the grant ends and describe how the LEA and IHEs will disseminate the model to other schools and LEAs.

(k) Describe the relationship between the size of the schools where the project will be implemented, number of target students, and amount of money requested.

Projects funded under this priority must schedule one trip, annually to Washington, DC (as specified in the ''General Requirements'' section of this notice), one trip, annually to Washington, DC (as specified in the ''Requirements for All Demonstration Projects'' section of this notice), and an additional meeting to take place by the end of the first month of the project.

The Assistant Secretary intends to make up to 5 awards under reading, 5 awards under behavior, and 4 awards under reading and behavior for this focus area. At least one award in each area will be made in high poverty rural or inner city areas based on the submission of credible information by the applicant.

Resource Packet: A resource packet providing information on research-based practices and strategies in reading and behavior is available to assist applicants in choosing research-based models and strategies to implement as part of their model programs. Applicants are encouraged to make use of this information. See the ERIC Clearinghouse web site at http://ericec.org/osep-sp.htm or call 800–328–0272 (phone/TTY).

Maximum Award: We will reject and will not consider an application that proposes a budget exceeding $130,000 for one component or $180,000 for two components (exclusive of any matching funds) for any single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum

amount through a notice published in the **Federal Register**.

Project Period. Up to 48 months.

Page Limits: The maximum page limits for this focus are 50 double-spaced pages for one component (reading or behavior) and 80 double-spaced pages for two components (reading and behavior).

Note: Applications must meet the required page limit standards that are described in the ''General Requirements'' section of this notice.

Competitive Preference

Within this absolute priority, we will give the following competitive preference under section 606 of IDEA and 34 CFR 75.105(c)(2)(i), to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the effectiveness of the applicant's strategies for employing and advancing in employment qualified individuals with disabilities in project activities as required under paragraph (a) of the ''General Requirements'' section of this notice. In determining the effectiveness of those strategies, the Assistant Secretary can consider the applicant's past success in pursuit of this goal.

For this competitive preference, applicants can be awarded up to a total of 10 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting this competitive preference could earn a maximum total of 110 points.

Special Education—Personnel Preparation to Improve Services and Results for Children With Disabilities [CFDA 84.325]

Purpose of Program: The purposes of this program are to (1) help address State-identified needs for qualified personnel in special education, related services, early intervention, and regular education, to work with children with disabilities; and (2) to ensure that those personnel have the skills and knowledge, derived from practices that have been determined through research and experience to be successful, that are needed to serve those children.

Eligible Applicants: State and local educational agencies; institutions of higher education; other public agencies; private nonprofit organizations; outlying areas; freely associated States; and Indian tribes or tribal organizations.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 86, 97, 98, and 99; (b) The selection criteria for these priorities are drawn from the EDGAR general selection criteria menu. The specific selection criteria for these priorities are included in the funding application packet for this competition.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Priority

Under section 673(d) of the Act and 34 CFR 75.105 (c)(3), we consider only those applications that meet the following priority:

Absolute Priority 1—Training Center in Early Intervention for Infants and Toddlers Who Have Visual Impairments, Including Blindness (84.325B)

Services for infants and toddlers with visual impairments, including blindness, and their families are required under Part C of IDEA. Vision specialists and orientation and mobility instructors are key personnel in providing these services.

Most training programs for vision specialists and orientation and mobility instructors focus on the development of professional skills and competencies needed to work with preschool and school-aged learners. A program of study specifically focused on the developmental, conceptual, etiological, and technological needs of infants and toddlers with visual impairments, including blindness, is needed to ensure that professionals have the skills and competencies to meet these unique needs and to assist and support families to enhance the development of their young children.

The purpose of this priority is to support the development of a Center designed to assist training institutions in building their capacity to train early intervention professionals, particularly vision specialists and orientation and mobility instructors, to provide appropriate, effective services to infants and toddlers who have visual impairments, including blindness, and to their families.

Priority

The Assistant Secretary establishes an absolute priority to support a training center to carry out a coordinated, integrated, and advanced project to develop, field-test, and disseminate empirically-based pre-service training program modules for personnel in the area of early intervention for infants and toddlers with visual impairment, including blindness, and their families. The program modules must incorporate:

(a) Relevant, research-based curricular content and pedagogical practices designed to meet the unique needs of infants and toddlers with visual impairments, including blindness, and their families in the following areas—

(1) Screening and early identification;

(2) Developmental assessment and evaluation;

(3) Development as it relates to etiological aspects of visual impairments, including blindness;

(4) Intervention practices;

(5) Concept development; and

(6) Knowledge and application of current technologies for use in enhancing growth and development.

(b) Effective practices for working with families of infants and toddlers with visual impairments, including blindness, to enhance the development of their children including—

(1) Partnering with families in Individualized Family Service Plan (IFSP) development;

(2) Working and communicating with parents of children with visual impairments, including blindness, using effective strategies for teaching adults; and

(3) Assisting and supporting families to identify their strengths, concerns, and priorities.

The Center must—

(a) Partner with Part C lead agencies; the medical community; parent training and information centers and community parent resource centers supported under Part D of IDEA; professional and advocacy organizations; IHEs, including Historically Black Colleges and Universities (HBCUs); and other agencies and organizations involved in providing services to infants and toddlers with visual impairments, including blindness, and their families, in developing and field testing its training program;

(b) Provide training and research opportunities for a limited number of graduate students;

(c) Meet with the Office of Special Education Programs (OSEP) project officer in the first three months of the project to review the proposed project activities;

(d) Prepare and disseminate the products and training modules from the Center in formats that are useful for appropriate audiences;

(e) Conduct research and development activities, using rigorous research methodologies; and

(f) Provide information through a web site. Documents must be in an accessible form.

Project Period: Under this priority, the Assistant Secretary will make one award for a cooperative agreement with a project period of up to 60 months

subject to the requirements of 34 CFR 75.253(a) for continuation awards. During the second year of the project, the Assistant Secretary will determine whether to continue the Center for the fourth and fifth years of the project period and will consider in addition to the requirements of 34 CFR 75.253(a):

(a) The recommendation of a review team consisting of three experts selected by the Assistant Secretary. The services of the review team, including a two-day site visit to the project, are to be performed during the last half of the project's second year and may be included in that year's evaluation required under 34 CFR 75.590. Costs associated with the services to be performed by the review team must also be included in the project's budget for year two. These costs are estimated to be approximately $6,000;

(b) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The degree to which the project's design and technical strategies demonstrate the potential for disseminating significant new knowledge.

Competitive Preferences

Within this absolute priority, we will give the following competitive preference under section 606 of IDEA and 34 CFR 75.105(c)(2)(i), to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the effectiveness of the applicant's strategies for employing and advancing in employment qualified individuals with disabilities in project activities as required under paragraph (a) of the ''General Requirements'' section of this notice. In determining the effectiveness of those strategies, the Assistant Secretary can consider the applicant's past success in pursuit of this goal.

For purposes of this competitive preference, applicants can be awarded up to a total of 10 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting this competitive preference could earn a maximum total of 110 points.

Maximum Award: We will reject and will not consider an application that proposes a budget exceeding $500,000 for any single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Page Limits: The maximum page limit for this priority is 70 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the ''General Requirements'' section of this notice.

Absolute Priority 2—Training Center in Early Intervention for Infants and Toddlers Who Have Hearing Impairments, Including Deafness (84.325C)

Background

Traditionally, university programs preparing personnel to work with hearing impaired children have trained professionals to work with the pre-school through high school population. Despite well-trained personnel in the classroom, academic achievement results for these students have been disappointing. These poor results have been attributed to the fact that, generally, the critical period for language development is from birth to three years of age. Yet, with hearing screening for newborns and infants becoming increasingly routine, hearing impairments are now being diagnosed with greater frequency during the first few months of life, rather than at age two or three, as had been the case previously. Moreover, recent advances in the technology of cochlear implants and digital hearing aids provide the potential for enhanced language development at a much earlier age.

Thus, a program of study specifically focused on the developmental, communication, conceptual, medical, and technological needs of infants and toddlers with hearing impairments, including deafness, is essential to ensure that professionals are equipped with the skills and competencies to meet these unique needs and to assist and support families to enhance the development of their child.

Priority

The Assistant Secretary establishes an absolute priority to support a training center to carry out a coordinated and integrated project that will develop, field-test, and disseminate empirically-based pre-service training program modules for students in the area of early intervention for infants and toddlers with hearing impairments, including deafness, and their families.

The model training modules must include—

(a) Relevant, research-based curricular content and pedagogical practices designed to meet the unique needs of infants and toddlers with hearing impairments, including deafness, and their families in the following areas—

(1) Developmental assessment and evaluation;

(2) Medical aspects of hearing impairments as they relate to the developmental needs;

(3) General growth and development of infants and toddlers;

(4) Concept development;

(5) The full range of communication approaches from oral and aural through American Sign Language (ASL); and

(6) Knowledge and application of current technologies for use in enhancing the growth and development of the target population, including cochlear implants and digital hearing aid technology.

(b) Effective practices for working with families of infants and toddlers with hearing impairments, including deafness, to enhance the development of their children including—

(1) Partnering with families in Individualized Family Service Plan (IFSP) development;

(2) Working and communicating with parents of children with hearing impairments including deafness using effective strategies for teaching adults; and

(3) Assisting and supporting families to identify their strengths, concerns, and priorities.

The Center must—

(a) Partner with Part C lead agencies; the medical community; parent training and information centers and community parent resource centers supported under Part D of IDEA; professional and advocacy organizations; IHEs, including HBCUs; and other agencies and organizations involved in providing services to infants and toddlers with hearing impairments, including deafness, and their families, in developing and field testing its training program;

(b) Provide training opportunities for a limited number of graduate students;

(c) Meet with the Office of Special Education Programs (OSEP) project officer in the first three months of the project to review the proposed project activities;

(d) Prepare and disseminate the products and training modules from the Center in formats that are useful for appropriate audiences;

(e) Conduct research and development activities, using rigorous research methodologies; and

(f) Provide information through a web site. Documents must be in an accessible form.

Project Period: Under this priority, the Assistant Secretary will make one award for a cooperative agreement with a project period of up to 60 months subject to the requirements of 34 CFR

75.253(a) for continuation awards. During the second year of the project, the Assistant Secretary will determine whether to continue the Center for the fourth and fifth years of the project period and will consider in addition to the requirements of 34 CFR 75.253(a):

(a) The recommendation of a review team consisting of three experts selected by the Assistant Secretary. The services of the review team, including a two-day site visit to the project, are to be performed during the last half of the project's second year and may be included in that year's evaluation required under 34 CFR 75.590. Costs associated with the services to be performed by the review team must also be included in the project's budget for year two. These costs are estimated to be approximately $6,000;

(b) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The degree to which the project's design and technical strategies demonstrate the potential for disseminating significant new knowledge.

Competitive Preferences

Within this absolute priority, we will give the following competitive preference under section 606 of IDEA and 34 CFR 75.105(c)(2)(i), to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the effectiveness of the applicant's strategies for employing and advancing in employment qualified individuals with disabilities in project activities as required under paragraph (a) of the ''General Requirements'' section of this notice. In determining the effectiveness of those strategies, the Assistant Secretary can consider the applicant's past success in pursuit of this goal.

For purposes of this competitive preference, applicants can be awarded up to a total of 10 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting this competitive preference could earn a maximum total of 110 points.

Maximum Award: We will reject and will not consider an application that proposes a budget exceeding $500,000 for any single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Page Limits: The maximum page limit for this priority is 70 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the ''General Requirements'' section of this notice.

Absolute Priority 3—National IHE Faculty Enhancement Center To Improve Results for Children With Disabilities in Schools (84.325F)

Children with disabilities are, in growing numbers, joining their nondisabled peers in schools and in classrooms to receive instruction in the general education curriculum with appropriate supports and services. The intent of the standards based reform movement is for all students to have access to and to enjoy meaningful participation and progress in curricular offerings that will enable them to achieve to high standards. As schools seek to ensure appropriate access to and participation of students with disabilities in the daily life of the regular school and in the general education curriculum within the standards based reform movement, many school administrative, general instructional, and support personnel are finding themselves ill-prepared to effectively carry out their new and emerging roles and responsibilities. Unless a major initiative is mounted at the preservice training level, incoming personnel will continue to face these challenges ill-prepared.

The purpose of this priority is to support a National Center to enhance the knowledge and skills of IHE faculty in school administration, regular education teacher training (including bilingual teacher training), school counseling, and school nursing, to improve the preservice training of personnel who share responsibility with special educators for providing effective services and ensuring improved results for children with disabilities in our schools. The Center must:

(a) *Identify needs.* Identify knowledge and skill enhancement needs of IHE faculty in each of the targeted training programs (*i.e.,* school administration; regular education teacher training; school counseling; and school nursing) that are most critical to ensuring that trainees in these programs are well prepared to carry out their respective roles and responsibilities in serving children with disabilities in school settings. This need identification process must be guided by a comprehensive review of the extant literature base and supplemented with methodologically sound investigative activities to enhance the current knowledge base where gaps are identified. Informants to this process should include recent program graduates and parents of children with disabilities.

(b) *Identify appropriate existing resources.* Identify existing resources, including those that have been developed with IDEA discretionary grant or contract support, that represent state of the art, research-based knowledge and practice that address the critical needs identified in paragraph (a) and that can be appropriately integrated into training modules under paragraph (c). Products developed by the IDEA Partnerships Technical Assistance projects currently supported by OSEP must be reviewed and considered for incorporation into proposed training modules.

(c) *Develop training modules.* Develop content-rich training modules that address the critical knowledge and skill enhancement needs identified in paragraph (a), that integrate existing resources identified in paragraph (b), and that are designed for ease of integration into existing curricular courses and experiential opportunities in the targeted IHE training programs. Modules must be structured to incorporate state of the art technology that will serve to enhance dissemination and use.

(d) *Disseminate training modules.* Develop and implement mechanisms that will result in broad, effective dissemination and use of training modules developed in paragraph (c).

(e) *Conduct comprehensive evaluation.* Design and conduct a comprehensive evaluation of the work, accomplishments, outcomes, impact, and effectiveness of the Center. This evaluation must be designed to provide information to guide necessary, ongoing, refinements to the structure, activities, workflow, and products that will improve the ultimate impact and effectiveness of the Center. This comprehensive evaluation must also be designed to measure the impact of this National Center on the primary goal of enhancing the knowledge and skills of IHE faculty in school administration, regular education teacher training, school counseling, and school nursing to improve the preservice training of personnel who share responsibility for providing effective services and ensuring improved results for children with disabilities in our public schools.

In designing and carrying out the required activities of this National Center, the project must collaborate with individuals and groups of individuals such as deans, IHE faculty, practicing professionals in the targeted training fields and in special education, module design technology experts, dissemination and training entities, and

evaluation experts. Collaborators must include appropriate professional organizations and associations, federally supported technical assistance providers, and federally supported higher education projects, as appropriate.

In addition to the annual two-day Project Directors' meeting in Washington, DC mentioned in the ''General Requirements'' section of this notice, projects must budget for two additional meetings in Washington, DC to collaborate with the Federal project officer and the other projects funded under this priority, to share information and discuss model development, evaluation, and project implementation issues.

Project Period: Under this priority, the Assistant Secretary will make one award for a cooperative agreement with a project period of up to 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards. During the second year of the project, the Assistant Secretary will determine whether to continue the Center for the fourth and fifth years of the project period and will consider in addition to the requirements of 34 CFR 75.253(a):

(a) The recommendation of a review team consisting of three experts selected by the Assistant Secretary. The services of the review team, including a two-day site visit to the project, are to be performed during the last half of the project's second year and may be included in that year's evaluation required under 34 CFR 75.590. Costs associated with the services to be performed by the review team must also be included in the project's budget for year two. These costs are estimated to be approximately $6,000;

(b) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The degree to which the project's design and technical strategies demonstrate the potential for disseminating significant new knowledge.

Competitive Preferences

Within this absolute priority, we will give the following competitive preference under section 606 of IDEA and 34 CFR 75.105(c)(2)(i), to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the effectiveness of the applicant's strategies for employing and advancing in employment qualified individuals with disabilities in project activities as required under paragraph (a) of the ''General Requirements'' section of this notice. In determining the effectiveness of those strategies, the Assistant Secretary can consider the applicant's past success in pursuit of this goal.

For purposes of this competitive preference, applicants can be awarded up to a total of 10 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting this competitive preference could earn a maximum total of 110 points.

Maximum Award: We will reject and will not accept an application that proposes a budget exceeding $850,000 for any single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Page Limits: The maximum page limit for this priority is 70 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the ''General Requirements'' section of this notice.

Absolute Priority 4—Center To Inform Personnel Preparation Policy and Practice in Special Education (84.325Q)

Ensuring that children with disabilities are served by an adequate number of highly qualified personnel is the cornerstone of successful implementation of the IDEA Amendments of 1997. Concerns regarding the current and future supply of quality service providers are at the forefront of the national dialogue. There is widespread agreement that ensuring an adequate supply of well-trained, highly qualified service providers into the next decade and beyond will demand informed, targeted, proactive efforts by policy makers at the National, State, and local levels. To be successful, these efforts must be guided by a knowledge base that is comprehensive, meaningful, and accessible. There is a critical need for a comprehensive, coordinated effort to accumulate the extant knowledge base and to address identified gaps in that knowledge base.

Under this priority, the Assistant Secretary will support a Center to inform personnel preparation policy and practice in special education by examining issues and recommending actions relevant to ensuring an adequate supply of well qualified personnel to serve children with disabilities. These personnel include, early interventionists, early childhood service providers, special education teachers, related service providers, regular education teachers, and paraprofessionals, as appropriate to specific priority requirements. The Center must:

(a) Conduct a comprehensive review of the extant literature base in the following areas:

(1) *Licensure and certification standards and requirements for personnel serving children with disabilities.* This review must include, at a minimum, available information, across all States and for each type of personnel, on:

(i) Current licensure and certification standards and requirements including alternative certification options;

(ii) Motivations for changes in, and resulting modifications to licensure standards and requirements; and

(iii) Intended vs. actual impacts of these changes on personnel quantity and quality;

(2) *Pre-service preparation for personnel to serve children with disabilities.* The purpose of this review is to develop a profile of the current status of training programs for all types of personnel who serve children with disabilities. This profile should be designed to provide rich descriptions of training programs at the institutional, State, and National levels. This review must include, at a minimum, available information on:

(i) Program entry mechanisms such as admissions criteria and recruitment strategies;

(ii) Program structural features such as program level (associate, undergraduate, graduate), trainee and faculty ratios, tenure track and adjunct faculty ratios, internal and external sources of support (including State support and OSEP and other Federal support), training emphasis (categorical, multi-categorical, noncategorical), and program history;

(iii) Program content features such as alignment with the principles and requirements of IDEA, alignment with current licensure and certification standards, extent to which program content reflects research-based knowledge and practice, depth and breadth of practicum opportunities, cross-disciplinary arrangements with other relevant programs (particularly regular education), and collaborative relationships with LEAs to provide induction support;

(iv) Student demographic characteristics such as age, prior training and experience, racial and cultural diversity, and disability;

(v) Program quality assurance features such as program quality indicators and procedures for assessing program quality (including on-the-job performance of program completers); and

(vi) Program outcome features such as the number of students completing the program; entrance into, and retention in, relevant positions for program completers; and the extent to which program completers assume positions in proximity to, or distant from, the training program location.

(3) *Current and projected supply of, and demand for, personnel to serve children with disabilities.* This review must include, at a minimum, available information, at the National, State and local level, on:

(i) The extent to which there exists, or will exist, an imbalance between available personnel and demand for personnel;

(ii) The extent to which identified supply and demand discrepancies vary by personnel type and locality; and

(iii) Factors that influence supply and demand discrepancies such as salary and wage structures, economic climate, population demographics, licensure and certification standards and requirements, and proximity to relevant training programs.

(b) Identify critical gaps in the current knowledge base and design and conduct a program of study to address these gaps. The project must identify the most critical gaps in the current knowledge base on the basis of the comprehensive review conducted in paragraph (a) and design and conduct a program of study to address the identified critical gaps. The program of study must be guided by a conceptual framework that integrates the most pressing needs for expanded knowledge and that will directly inform needed changes in policies and practices at all levels (Federal, State, and local and in institutions of higher education). The program of study must employ a rigorous research and evaluation methodology and must be reviewed and accepted by panels of content, research, and evaluation experts. Panels of experts must be identified in collaboration with OSEP staff and convened by the applicant. The program of study must be designed to enhance, not duplicate, any current research and evaluation efforts, including those supported by OSEP and other Federal agencies.

(c) Identify and disseminate policy and practice recommendations. On the basis of the comprehensive literature review conducted under paragraph (a), and the results of the program of study designed and conducted under paragraph (b), the project must identify emerging policy and practice recommendations related to: meeting current and projected demand; establishing meaningful licensure and certification standards and requirements; and providing effective training programs that produce highly qualified personnel to serve children with disabilities. Policy and practice recommendations must be reviewed and accepted by panels of experts in the identified topics. Panel members must be identified in collaboration with OSEP staff and convened by the project. Dissemination activities must be designed and carried out in collaboration with special education technical assistance providers and disseminators and with organizations and associations that represent policy maker audiences at the Federal, State, and local levels. Dissemination activities must also incorporate the use of state of the art communications technology and include information that is available and accessible through a web site. Documents must be in an accessible form.

The project must collaborate with OSEP staff in strategic planning throughout the term of the project. A face-to-face meeting must be scheduled to occur within one month of the project award date to review the proposed project activities.

In addition to the annual two-day Project Directors' meeting in Washington, DC mentioned in the ''General Requirements'' section of this notice, projects must budget for two additional meetings in Washington, DC to collaborate with the Federal project officer and the other projects funded under this priority, to share information and discuss model development, evaluation, and project implementation issues.

Costs associated with convening panels of experts as identified under paragraphs (b) and (c) must also be included in the project budget.

Maximum Award: We will reject and will not consider an application that proposes a budget exceeding $850,000 for any single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Project Period: Under this priority, the Assistant Secretary will make one award for a cooperative agreement with a project period of up to 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards. During the second year of the project, the Assistant Secretary will determine whether to continue the Center for the fourth and fifth years of the project period and will consider in addition to the requirements of 34 CFR 75.253(a):

(a) The recommendation of a review team consisting of three experts selected by the Assistant Secretary. The services of the review team, including a two-day site visit to the project, are to be performed during the last half of the project's second year and may be included in that year's evaluation required under 34 CFR 75.590. Costs associated with the services to be performed by the review team must also be included in the project's budget for year two. These costs are estimated to be approximately $6,000;

(b) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The degree to which the project's design and technical strategies result in the dissemination of significant new knowledge.

Competitive Preference

Within this absolute priority, we will give the following competitive preference under section 606 of IDEA and 34 CFR 75.105(c)(2)(i), to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the effectiveness of the applicant's strategies for employing and advancing in employment qualified individuals with disabilities in project activities as required under paragraph (a) of the ''General Requirements'' section of this notice. In determining the effectiveness of those strategies, the Assistant Secretary can consider the applicant's past success in pursuit of this goal.

For purposes of this competitive preference, applicants can be awarded up to a total of 10 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting this competitive preference could earn a maximum total of 110 points.

Page Limits: The maximum page limit for this priority is 70 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the ''General Requirements'' section of this notice.

Technology and Media Services for Individuals With Disabilities [CFDA 84.327]

Purpose of Program: The purpose of this program is to promote the development, demonstration, utilization of technology and to support educational media activities designed to be of educational value to children with disabilities. This program also provides support for eligible captioning, video description, and cultural activities.

Applicable Regulations: (a) The Education Department General

Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 86, 97, 98, and 99; (b) The selection criteria for the priorities under this program are drawn from the EDGAR general selection criteria menu. The specific selection criteria for each of these priorities are included in the funding application packet for the applicable competition.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Eligible Applicants: State and local educational agencies; institutions of higher education; other public agencies; private nonprofit organizations; outlying areas; freely associated States; Indian tribes or tribal organizations; and for-profit organizations. Eligible applicants for Absolute Priority 2 are limited to local educational agencies as defined in IDEA (20 U.S.C. 1401).

Priority

Under section 687 of IDEA and 34 CFR 75.105(c)(3), we consider only applications that meet the following priority:

Absolute Priority 1—Research Institute on the Use of Assistive Technology In Education (CFDA 84.327G)

Background

Technology has enhanced the lives of children with disabilities by providing them with access to the classroom and to learning. The Congress recognized this in passing the IDEA Amendments of 1997, P.L. 105–17. These amendments introduced a provision requiring that teams responsible for developing an individualized education program (IEP) for a child with a disability ''consider whether the child requires assistive technology devices and services.''

Section 602(1) of IDEA defines an assistive technology (AT) device as ''any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability.'' According to Section 602(2), an AT service means, ''any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device * * *''. The definition further describes an AT service as including such services as evaluation, purchasing, selection, coordination with other interventions, and training for the child and family as well as training or technical assistance for professionals.

Data on children's use of AT are sparse. The statistics that do exist tend to focus on AT devices that provide physical or sensory access such as hearing aids, Braille, or wheelchairs. Less is known about the use of assistive technologies that can be used to support learning needs such as word-processing software, spellcheckers, or calculators.

There is little argument that low, medium, and high technology devices can help individuals with disabilities perform functions that foster independence. Low-technology devices are simple, nonelectrical aids such as head pointers, adaptive eating utensils, or communication boards. Medium technology devices are aids that might use electricity, but are not computer driven, such as talking calculators or electronic organizers. High technology devices are computer based, such as multimedia databases or voice recognition systems.

While these devices foster access to the classroom and to learning, there also are factors that may limit their widespread use. One factor is awareness. School districts may not have access to the latest information about technology or may not know where to go to get that information. A second factor is financial. Purchasing materials requires knowledge, trained personnel, time, money, and planning. Without such elements in place students may not gain timely access to AT devices. Training is another factor, not just for the child using the technology, but for practitioners who need to understand how to use a full continuum of technology in the classroom. School districts are still learning how best to provide students with the technology they need and are seeking alternative and cost-effective means to gain access to key technologies.

Priority

The Assistant Secretary establishes an absolute priority for a research institute to study the use of AT to improve the provision of a free appropriate public education for children with disabilities.

The Institute must study a range of school districts, reflecting diverse demographics in size, locale, and socio-economic conditions. Methodologies employed by the Institute may include but need not be limited to: interviews; case studies; focus groups; reviews of records; observations; and policy analyses.

The Institute must consider what factors enhance or impede decisionmaking, planning, acquisition, maintenance, training, and instruction in the use of AT. At a minimum, the Institute must answer the following research questions:

(a) *Prevalence:*

What percentage of children with disabilities require various type of AT devices and services? What functions do these devices and services need to perform for the individual child?

(b) *School District Policy and Resources:*

What policies or guidelines and processes are in place to help the IEP team make decisions about AT devices and services? What resources are in place to finance AT devices and services (*e.g.,* medicaid)? How do districts acquire AT? How is the technology managed and maintained?

(c) *IEP Practices:*

How are the individual's needs for the technology evaluated? How does the IEP team, including the student and family, determine when an AT device or service is appropriate? How is the appropriate technology selected, designed, or adapted to the individual child?

(d) *Training and Support:*

What training and technical assistance is available for teachers, other service providers, families, students, employers, and other appropriate individuals regarding AT? Are structures in place to promote collaboration between regular and special education teachers? What coordination is there with other agencies or service providers?

(e) *Instruction:*

What policies and practices are in place to support the use of AT in the learning environment? How is the technology integrated into classroom curriculum and instruction? Are evaluation measures in place to ensure that individual student's access and academic needs are being appropriately met by the technology?

(f) *Student Outcomes:*

How do AT devices and services affect student academic, social, and functional outcomes? How do AT devices and services affect school and classroom environments?

The Institute must design and implement a dissemination approach that promotes the use of current knowledge and ongoing research findings. This approach must:

(a) Develop links with appropriate Education Department technical assistance providers to communicate research findings and distribute products;

(b) Collaborate as appropriate with other research institutes supported under the IDEA, other experts and researchers in related subject matter and methodological fields, and other related agencies such as the National Institute

on Disability and Rehabilitation Research (NIDRR) and the Rehabilitation Services Administration (RSA).

(c) Develop an accessible website to link participating school districts and to provide up-to-date information on findings;

(d) Prepare the research findings in formats that are useful for specific audiences, such as regular and special education practitioners, administrators, and policy makers;

(e) Fund at least three graduate students per year as research assistants who have concentrations in disability issues and technology;

(f) Meet with the OSEP project officer and appropriate OSEP staff in the first three months of the project to review the strategic work plan and the approach to dissemination; and

(g) Budget three trips annually to Washington, DC (two trips to meet and collaborate with U.S. Department of Education officials and one trip, as specified in the ''General Requirements'' for all projects section of this notice, to attend the two-day Office of Special Education Programs Project Directors' Conference).

Project Period: Under this priority, the Assistant Secretary will make one award for a cooperative agreement with a project period of up to 48 months with an option to extend the project for six months for dissemination activities subject to the requirements of 34 CFR 75.253(a) for continuation awards.

In determining whether to award the third and fourth year of the project, during the second year, the Assistant Secretary will consider in addition to the requirements of 34 CFR 75.253(a):

(a) The recommendation of a review team consisting of three experts selected by the Assistant Secretary. The services of the review team, including a two-day site visit to the project, are to be performed in the sixth month of the project's second year and may be included in that year's evaluation required under 34 CFR 75.590. Costs associated with the services to be performed by the review team must also be included in the project's budget for year two. These costs are estimated to be approximately $6,000;

(b) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the Institute; and

(c) The degree to which the Institute's design and technical strategies demonstrate the potential for disseminating significant new knowledge.

Competitive Preferences

Within this absolute priority, we will give the following competitive preference under section 606 of IDEA and 34 CFR 75.105(c)(2)(i), to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the effectiveness of the applicant's strategies for employing and advancing in employment qualified individuals with disabilities in project activities as required under paragraph (a) of the ''General Requirements'' section of this notice. In determining the effectiveness of those strategies, the Assistant Secretary can consider the applicant's past success in pursuit of this goal.

For purposes of this competitive preference, applicants can be awarded up to a total of 10 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting this competitive preference could earn a maximum total of 110 points.

Maximum Award: We will reject and will not consider an application that proposes a budget exceeding $700,000 for any single budget period of 12 months. The Assistant Secretary of Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Page Limits: The maximum page limit for this priority is 70 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the ''General Requirements'' section of this notice.

Note: For further information or clarification see the World Wide Web at: http://www.air.org/TECHIDEAS

Absolute Priority 2—Technology Research-To-Practice (84.327M)

Background

A number of recent research and development efforts, many with Federal support, have focused on using technology to improve educational and early intervention results for infants, toddlers, and children with disabilities. These efforts have spanned a range of technologies, curriculum areas, student ages, and special needs. In some cases, these efforts have developed and tested new technology devices or products. Examples include devices that provide access to educational and early intervention for children with sensory or physical impairments, and instructional software for children with special learning needs. Other efforts have focused on using already-available products or technologies to meet special educational and early intervention needs. Examples include new methods for using the World Wide Web or commercially available software to address the needs of children with disabilities.

The results of these research and development efforts are not applied in practice as widely as they should be. In part, this is because the adoption of new technology approaches in education or early intervention can be a demanding process, requiring a sustained commitment from the school and district, and often requiring guidance and assistance from outside sources. The 1995 Office of Technology document entitled *Teachers and Technology: Making the Connection* (available on the World Wide Web at http://www.wws.princeton.edu/~ota/disk1/1995/9541.html), and Office of Special Education (OSEP) documents (available on the World Wide Web at http://www.air.org/TECHIDEAS) delineate a number of factors and approaches related to the implementation of technology in education and early intervention. Important factors include leadership and planning, access to appropriate technology, training, ongoing technical support and coaching, collaboration, and adequate teacher time. Careful consideration of factors, such as these, is essential for the sustained and effective implementation of new approaches to using technology to improve educational and early intervention results for infants, toddlers, and children with disabilities.

Priority

This priority supports local school systems or early intervention providers in implementing research-based approaches for using technology to improve educational or early intervention results for infants, toddlers, or children with disabilities. Projects must:

(a) Describe and implement an approach for using technology to improve results for one or more of the following levels: early intervention, preschool, elementary, middle school, or high school. Projects may use technology in a way that benefits children without disabilities, as long as the benefits for children with disabilities are clear and documented. The Assistant Secretary intends to fund at least two projects at each of the following levels: early intervention, preschool, elementary school, middle school, and high school;

(b) Provide credible prior research evidence of the effectiveness of the approach for improving educational and

early intervention results. Some resources for identifying research-based approaches are available on the World Wide Web at http://www.air.org/TECHIDEAS. Approaches not referenced on this web site may also be used if there is research evidence of their effectiveness with infants, toddlers, or children with disabilities;

(c) Describe and carry out a process for implementing and sustaining the approach in one or more schools, including a process for continued implementation of the approach after the Federal funding awarded under this priority ends;

(d) Describe and carry out a rigorous evaluation of the effectiveness of the approach in improving educational or early intervention results for infants, toddlers, or children with disabilities;

(e) Post quarterly updates on project progress on a World Wide Web site designated by OSEP, and participate in topical discussions on the World Wide Web site; and

(f) Spend no more than 25 percent of the 36-month total of funds awarded under this priority for technology equipment and software.

Competitive Preferences

Within this absolute priority, we will give the following competitive preference under 34 CFR 75.105(c)(2)(i), to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the extent to which an application demonstrates that participating schools are in high poverty rural or inner city areas.

We will also give the following competitive preference under section 606 of IDEA and 34 CFR 75.105(c)(2)(i), to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the effectiveness of the applicant's strategies for employing and advancing in employment qualified individuals with disabilities in project activities as required under paragraph (a) of the ''General Requirements'' section of this notice. In determining the effectiveness of those strategies, the Assistant Secretary can consider the applicant's past success in pursuit of this goal.

For purposes of these competitive preferences, applicants can be awarded up to a total of 20 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting this competitive preference could earn a maximum total of 120 points.

Project Period: 36 months.

Maximum Award: We will reject and will not consider an application that proposes a budget exceeding $170,000 for any single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Page Limits: The maximum page limit for this priority is 50 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the ''General Requirements'' section of this notice.

Special Education—Training and Information for Parents of Children With Disabilities [CFDA 84.328]

Purpose of Program: The purpose of this program is to ensure that parents of children with disabilities receive training and information to help improve results for their children.

Under section 682(e) of IDEA, the Assistant Secretary is required to: (a) Make at least one award to a parent organization in each State, unless the Assistant Secretary does not receive an application from such an organization in each State of sufficient quality to warrant approval; and (b) select among applications submitted by parent organizations in a State in a manner that ensures the most effective assistance to parents, including parents in urban and rural areas, in the State.

Eligible Applicants: Parent organizations, as defined in section 682(g) of IDEA. A parent organization is a private nonprofit organization (other than an institution of higher education) that:

(a) Has a board of directors, the parent and professional members of which are broadly representative of the population to be served and the majority of whom are parents of children with disabilities, that includes individuals with disabilities and individuals working in the fields of special education, related services, and early intervention; or

(b) Has a membership that represents the interest of individuals with disabilities and must establish a special governing board meeting the requirements for a board of directors in paragraph (a) and develops a memorandum of understanding between this special governing board and the board of directors of the organization that clearly outlines the relationship between the board and the committee and the decisionmaking responsibilities and authority of each.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 97, 98, and 99; (b) The selection criteria for this priority are drawn from the EDGAR general selection criteria menu. The specific selection criteria for this priority are included in the funding application packet for this competition.

Priority

Under section 682 of the Act and 34 CFR 75.105(c)(3), the Assistant Secretary gives an absolute preference to applications that meet the following priority. The Assistant Secretary funds under this competition only those applications that meet this priority:

Absolute Priority—Parent Training and Information Centers (84.328M)

Background

The IDEA Amendments of 1997 strengthen the role of parents and increase their involvement in decisions about their children's education. In order to allocate resources more equitably, create a unified system of service delivery, and provide the broadest coverage for the parents and families in every State, the Department is making awards in five (5)-year cycles for each State. In fiscal year 2000, applications for 5-year awards will be accepted for the following States: Hawaii, Idaho, Louisiana, New Hampshire, North Carolina, Oklahoma, Pennsylvania, Rhode Island, Tennessee, and West Virginia.

In addition to the above State awards, the Assistant Secretary intends to fund one award in the Virgin Islands and one award in American Samoa.

Until the first five (5)-year cycle is completed, there is a need to have an interim schedule for awards in States where there is more than one PTI and their current awards do not have the same end date. We are holding competitions for one or more awards in these States for the time periods needed to match the end date of the last Center funded.

Applications will be accepted for FY 2000 interim competitions in the State of New York. The Assistant Secretary intends to fund two awards for one year each for the following:

(a) One Center in the State of New York that will serve one or more underserved populations in a metropolitan area. This award will be for $185,000; and

(b) One Center in the State of New York that will serve a metropolitan area with an emphasis on outreach to unserved or underserved populations. This award will be for $154,800.

Priority

The Assistant Secretary proposes to establish an absolute priority to support

Parent Training and Information Centers that—

(a) Provide training and information that meets the training and information needs of parents of children with disabilities in the area served by the Center, particularly underserved parents and parents of children who may be inappropriately identified, including those who are not identified at all;

(b) Assist parents to understand the availability of, and how to effectively use, procedural safeguards under IDEA, including encouraging the use, and explaining the benefits, of alternative methods of dispute resolution, such as the mediation process described in IDEA;

(c) Serve the parents of infants, toddlers, and children with the full range of disabilities;

(d) Assist parents to—

(1) Better understand the nature of their children's disabilities and their educational and developmental needs;

(2) Communicate effectively with personnel responsible for providing special education, early intervention, and related services;

(3) Participate in decisionmaking processes and the development of individualized education programs and individualized family service plans;

(4) Obtain appropriate information about the range of options, programs, services, and resources available to assist children with disabilities and their families;

(5) Understand the provisions of the Act for the education of, and the provision of early intervention services to, children with disabilities; and

(6) Participate in school reform activities;

(e) Contract with the State education agency, if the State elects to contract with the Parent Training and Information Center, for the purpose of meeting with parents who choose not to use the mediation process to encourage the use, and explain the benefits, of mediation consistent with section 615(e)(2)(B) and (D) of IDEA;

(f) Establish cooperative relations with the Community Parent Resource Center or Centers in their State in accordance with section 683(b)(3) of IDEA;

(g) Network with appropriate clearinghouses, including organizations conducting national dissemination activities under section 685(d) of IDEA, and with other national, State, and local organizations and agencies, such as protection and advocacy agencies, that serve parents and families of children with the full range of disabilities;

(h) Annually report to the Assistant Secretary on—

(1) The number of parents to whom Parent Training and Information Centers provided information and training in the most recently concluded fiscal year, and

(2) The effectiveness of strategies used to reach and serve parents, including underserved parents of children with disabilities; and

(i) If there is more than one parent center in a particular State, coordinate their activities to ensure the most effective assistance to parents in that State.

An applicant must identify the strategies it will undertake—

(a) To ensure that the needs for training and information of underserved parents of children with disabilities in the areas to be served are effectively met, particularly in underserved areas of the State; and

(b) To work with the community-based organizations, particularly in the underserved areas of the State.

A Parent Training and Information Center that receives assistance under this absolute priority may also conduct the following activities—

(a) Provide information to teachers and other professionals who provide special education and related services to children with disabilities;

(b) Assist students with disabilities to understand their rights and responsibilities on reaching the age of majority, as stated in section 615(m) of IDEA; and

(c) Assist parents of children with disabilities to be informed participants in the development and implementation of the State improvement plan under IDEA.

In addition to the annual Project Directors' meeting included in the ''General Requirements'' section of this notice, a project's budget must include funds to attend a regional Project Directors' meeting to be held each year of the project.

In order to demonstrate eligibility to receive a grant, an applicant must describe how its board or special governing committee meets the criteria for a parent organization in section 682(g) of IDEA. In addition, any parent organization that establishes a special governing committee under section 682(g)(2) of IDEA must demonstrate that the by-laws of its organization allows the governing committee to be responsible for operating the project (consistent with existing fiscal policies of its organization).

Current funding levels, population of school age children, and the relative proportion of children living in poverty will be considered in determining funding levels for grants.

Competitive Preferences

Within this absolute priority, we will give the following competitive preference under section 606 of IDEA and 34 CFR 75.105(c)(2)(i), to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the effectiveness of the applicant's strategies for employing and advancing in employment qualified individuals with disabilities in project activities as required under paragraph (a) of the ''General Requirements'' section of this notice. In determining the effectiveness of those strategies, the Assistant Secretary can consider the applicant's past success in pursuit of this goal.

For purposes of this competitive preference, applicants can be awarded up to a total of 10 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting this competitive preference could earn a maximum total of 110 points.

Project Period: With the exception of the following, projects will be funded for a period up to 60 months. Interim projects will be funded for a period up to 12 months.

Estimated Project Awards: Project award amounts are for a single budget period of 12 months. The FY 2000 State awards, including Virgin Islands and American Samoa, and interim State awards, are listed below:

Hawaii—$160,680
Idaho—$158,780
Louisiana—$257,100
New Hampshire—$158,600
North Carolina—$311,700
Oklahoma—$198,180
Pennsylvania—$469,750
Rhode Island—$159,400
Tennessee—$279,800
West Virginia—$160,680
Virgin Islands—$107,820
American Samoa—$107,120
New York (Interim Awards)—$339,800

Page Limits: The maximum page limit for this priority is 50 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the ''General Requirements'' section of this notice.

Special Education Studies and Evaluations [CFDA 84.329]

Purpose of Program: To assess progress in implementing IDEA, including State and local efforts to provide free appropriate public education to children with disabilities, and early intervention services to infants and toddlers with disabilities.

Applicable Regulations: (a) The Education Department General

Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 86, 97, 98, and 99;

(b) The selection criteria for the priority under this program are drawn from the EDGAR general selection menu. The specific selection criteria for this priority are included in the funding application packet for the applicable competition.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Eligible Applicants: State and local educational agencies; institutions of higher education; other public agencies; for-profit organizations; private nonprofit organizations; outlying areas; freely associated States; and Indian tribes or tribal organizations.

Priority

Under section 674 of IDEA and 34 CFR 75.105(c)(3), we consider only applications that meet the following priority:

Absolute Priority—An Evaluation of the State Program Improvement Grant (SIG) Program (CFDA 84.329A)

Background

A new discretionary program became part of IDEA during the 1997 reauthorization. Part D, Subpart 1—State Program Improvement Grants for Children with Disabilities—was added for the purpose of assisting State educational agencies and their partners in reforming and improving their educational, early intervention, and transitional service systems, including their systems for professional development, technical assistance, and dissemination of knowledge about best practices to improve results for children with disabilities.

Beginning in FY 1999, SIGs were awarded to State educational agencies on a competitive basis for five years at amounts of $500,000 to $1,800,000 per year depending on the relative population of the States, amount of funds available, and the types of activities proposed. Specific grant activities were based on State improvement plans that were developed based on assessments of State and local needs and by authorizing legislation. Eighteen States received grant awards in FY 1999 [1] and approximately seven additional awards will be made in FY 2000.

The evaluation study to be awarded under this priority will be largely formative in nature; that is, the U.S. Department of Education, Office of Special Education Programs will use the data collected in this evaluation to:

(a) Inform the reauthorization of this program in 2002;

(b) Suggest related or supportive priorities for discretionary funding;

(c) Improve future SIG competitions; and

(d) Improve SIG project management at the Federal level.

Priority

The purpose of this priority is to fund one five-year cooperative agreement that will evaluate the SIG program, as implemented by States receiving grants under this competition (CFDA 84.323A).

(a) The evaluation must provide—

(1) Information and recommendations regarding the extent to which this program is meeting, and is likely to meet in the future, three fundamental goals of the program:

(i) To implement systemic improvements in the provision of educational, early intervention, and transitional services to infants, toddlers, and children with disabilities, including systems for professional development, technical assistance, and dissemination of best practice;

(ii) To use professional development and technical assistance activities as a means to achieving systemic improvements; and

(iii) To improve results for infants, toddlers, children and youth with disabilities as an outcome of systemic change.

(2) Information on the extent to which the requirements in the Act applicable to SIGs contribute to the achievement of program goals in paragraph (1).

(b) At a minimum, this project must—

(1) Propose a design for the evaluation that includes:

(i) A description of the overall approach or type of evaluation to be conducted;

(ii) An initial set of evaluation questions based on the purposes of the evaluation as stated previously.

(iii) A matrix of potential sources of evaluation data for SIG projects receiving funds during the five-year term of this cooperative agreement, the methods of data collection, the instruments to be used, and other measurement issues related to each of the evaluation questions. Qualitative or quantitative data collection methods may be proposed; however, the methods chosen must:

(A) Allow data to be collected with precision; and

(B) Maximize validity and reliability; and

(iv) An analysis plan that outlines the type of data to be gathered and the specific analyses to be conducted, including appropriate statistical or valuational criteria to be applied to these data. The plan should also indicate how best to communicate the results of the analyses to Congress, OSEP, and other interested parties.

(2) Propose a timeline for implementing the design over the five-year project period that allows for refining the evaluation design in the first year, establishing contacts with the SIG grantees, developing and pilot testing instruments and executing the OMB forms clearance process;

(3) Propose a communication plan with OSEP that describes:

(i) Methods for providing consistent and timely updates regarding the progress of this project and for identifying any constraints or barriers that arise in implementing the final evaluation design, budget changes, preliminary findings, and reports. The communication plan should include the annual Grant Performance Report for Continuation Funding and, at minimum, one meeting annually with OSEP staff in Washington, DC (in conjunction with the meeting described in the ''General Requirements'' section of this notice) to discuss project implementation issues and preliminary findings. This annual meeting is in addition to the meeting described in paragraph (4);

(ii) A series of interim reports containing study findings relative to the research questions and consistent with the timeline for implementing the design. At least one of these interim reports must be developed prior to the expiration of the authorization for the SIG program in September 2002; and

(iii) A final technical report of the evaluation (due 60 months following the start date of the project) that contains, at minimum, the following sections:

(A) Executive Summary;

(B) Background information on the SIG program;

(C) Description of the evaluation study;

(D) Results;

(E) Discussion of results; and

(F) Conclusions, Recommendations, and Options.

A detailed outline of the final report shall be submitted for review by the project officer 56 months after the start date of the project. In addition, the project officer shall have an opportunity to provide input on a draft version of the final report due 57 months after the start date of the project;

(4) Meet with the OSEP project officer and other OSEP staff within three weeks

[1] Detailed information on the FY 1999 SIG projects is available from the Federal Resource Center web site (http:/www.dssc.org/frc/sigres.htm).

of the start date for the project to review and revise, if necessary, the proposed evaluation design (including the evaluation questions and analysis plan), the timeline and communication plan. The final versions of these documents, including any changes resulting from this meeting, will be incorporated into the requirements of the cooperative agreement; and

(5) Implement the evaluation consistent with the design, timeline, and communication plan.

Project Period: Under this priority, the Assistant Secretary will make one award for a cooperative agreement with a project period of 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards.

In deciding whether to continue this project for the fourth and fifth years, the Assistant Secretary, will consider the requirements of 34 CFR 75.253(a), and in addition—

(a) The recommendation of a review team consisting of three experts selected by the Assistant Secretary. The services of the review team, including a two-day site visit to the grantee, are to be performed during the last half of the project's second year and may be included in that year's evaluation required under 34 CFR 75.590. Costs associated with the services to be performed by the review team must also be included in the project's budget for year two. These costs are estimated to be approximately $6,000;

(b) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The extent to which the project's design and methodology is likely to yield findings that may be utilized by other appropriate agencies and organizations.

Competitive Preferences

Within this absolute priority, we will give the following competitive preferences under section 606 of IDEA and 34 CFR 75.105(c)(2)(i), to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the effectiveness of the applicant's strategies for employing and advancing in employment qualified individuals with disabilities in project activities as required under paragraph (a) of the ''General Requirements'' section of this notice. In determining the effectiveness of those strategies, the Assistant Secretary can consider the applicant's success in pursuit of this goal.

Up to ten (10) points based on the extent to which the applicant can demonstrate previous success in preparing and submitting a forms clearance package for OMB approval and participating in the forms clearance process as part of a previous project funded by the Department of Education.

Within these competitive preferences, applicants can be awarded up to a total of 20 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting both these competitive preferences could earn a maximum total of 120 points.

Maximum Award: We will reject and will not consider an application that proposes a budget exceeding $500,000 for any single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Page Limits: The maximum page limit for this priority is 70 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the ''General Requirements'' section of this notice.

For Applications Contact: Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, Maryland 20794–1398. Telephone (toll free): 1–877–4ED–Pubs (1–877–433–7827). FAX: 301–470–1244. Individuals who use a telecommunications device for the deaf (TDD) may call (toll free) 1–877–576–7734.

You may also contact Ed Pubs via its Web site (http://www.ed.gov/pubs/edpubs.html) or its E-mail address (edpubs@inet.ed.gov).

For Further Information Contact: Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW, room 3317, Switzer Building, Washington, DC 20202–2550. Telephone: (202) 260–9182.

If you use a 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 persons listed in the preceding paragraph.

Individuals with disabilities may obtain a copy of the application package in an alternate format by contacting the Department at the address listed. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

Intergovernmental Review

All programs in this notice (except for Research and Innovation 84.324T) are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, we intend this document to provide early notification of the Department's specific plans and actions for those programs.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT APPLICATION NOTICE FOR FISCAL YEAR 2000

CFDA No. and name	Applications available	Application deadline date	Deadline for intergovernmental review	Maximum award (per year) [1]	Project period	Page limit [2]	Estimated number of awards
84.324T Model Demonstration Projects.	05/05/00	06/16/00	N/A	.....	Up to 48 mos	50	15
Focus Area 1: First two 12-month funding periods.	.....	.....	.....	$150,000	.....	.....	.....
Focus Area 1: Final two 12-month funding periods.	.....	.....	.....	75,000	.....	.....	.....
Focus Area 2	.....	.....	.....	180,000	.....	50/80	14
84.325B Training Center In Early Intervention for Infants and Toddlers Who Have Visual Impairments Including Blindness.	05/05/00	06/16/00	08/15/00	500,000	Up to 60 mos	70	1

INDIVIDUALS WITH DISABILITIES EDUCATION ACT APPLICATION NOTICE FOR FISCAL YEAR 2000—Continued

CFDA No. and name	Applications available	Application deadline date	Deadline for intergovernmental review	Maximum award (per year) [1]	Project period	Page limit [2]	Estimated number of awards
84.325C Training Center In Early Intervention for Infants and Toddlers Who Have Hearing Impairments Including Deafness.	05/05/00	06/16/00	08/15/00	500,000	Up to 60 mos	70	1
84.325F National IHE Faculty Enhancement Center to Improve Results for Children with Disabilities in School.	05/05/00	06/16/00	08/15/00	850,000	Up to 60 mos	70	1
84.325Q Center to Inform Personnel Preparation Policy and Practice in Special Education.	05/05/00	06/16/00	08/15/00	850,000	Up to 60 mos	70	1
84.327G Research Institute on the Use of Assistive Technology in Education.	05/05/00	06/23/00	08/22/00	700,000	Up to 48 mos	70	1
84.327M Technology Research to Practice.	05/05/00	06/30/00	08/29/00	170,000	36 months	50	1
84.328M Parent Training and Information Centers.	05/05/00	06/23/00	08/22/00		Up to 60 mos	50	10
Hawaii				160,680			
Idaho				158,780			
Louisiana				257,100			
New Hampshire				158,600			
North Carolina				311,700			
Oklahoma				198,180			
Pennsylvania				469,750			
Rhode Island				159,400			
Tennessee				279,800			
West Virginia				160,680			
Virgin Islands				107,820			
American Samoa				107,120			
New York (Interim)				339,800	Up to 12 mos	50	2
84.329A An Evaluation of the State Improvement Grant Program.	05/05/00	06/30/00	08/29/00	500,000	60 months	70	1

[1] The Assistant Secretary rejects and does not consider an application that proposes a budget exceeding the amount listed for each priority for any single budget period of 12 months.

[2] Applicants must limit the Application Narrative, Part III of the Application, to the page limits noted above. Please refer to the ''Page Limit'' requirements included under each priority description and in the ''General Requirements'' section of this notice. The Assistant Secretary rejects and does not consider an application that does not adhere to this requirement.

Note: The Department of Education is not bound by any estimates in this notice.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at either of the following sites:

http://ocfo.ed.gov/fedreg.htm

http://www.ed.gov/news.html

To use the PDF you must have the Adobe Acrobat Reader 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, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html

Dated: April 25, 2000.

Curtis L. Richards,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 00–10610 Filed 4–27–00; 8:45 am]

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Federal Register

Friday,
April 28, 2000

Part VII

Department of Housing and Urban Development

24 CFR Part 888

Fair Market Rents for the Housing Choice Voucher Program and Moderate Rehabilitation Single Room Occupancy Program—Fiscal Year 2001; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 888

[Docket No. FR–4589–N–01]

Fair Market Rents for the Housing Choice Voucher Program and Moderate Rehabilitation Single Room Occupancy Program—Fiscal Year 2001

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of Proposed Fiscal Year (FY) 2001 Fair Market Rents (FMRs).

SUMMARY: Section 8(c)(1) of the United States Housing Act of 1937 requires the Secretary to publish FMRs annually to be effective on October 1 of each year. FMRs are used for the Housing Choice Voucher program, the Moderate Rehabilitation Single Room Occupancy program, the project-based voucher program, and any other programs requiring their use. Today's notice proposes revised FMRs that reflect estimated 40th percentile rent levels trended to April 1, 2001.

DATES: *Comments Due Date:* June 27, 2000.

ADDRESSES: Interested persons are invited to submit comments regarding HUD's estimates of the FMRs as published in this Notice to the Office of the General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410. Communications should refer to the above docket number and title and should contain the information specified in the ''Request for Comments'' section. To ensure that the information is fully considered by all of the reviewers, each commenter is requested to submit two copies of its comments, one to the Rules Docket Clerk and the other to the Economic and Market Analysis Staff in the appropriate HUD Field Office. A copy of each communication submitted will be available for public inspection and copying during regular business hours (7:30 a.m.–5:30 p.m. Eastern Time) at the above address.

FOR FURTHER INFORMATION CONTACT: Gerald Benoit, Operations Division, Office of Rental Assistance, telephone (202) 708–0477. For technical information on the development of schedules for specific areas or the method used for the rent calculations, contact Alan Fox, Economic and Market Analysis Division, Office of Economic Affairs, telephone (202) 708–0590, Extension 5863 (e-mail: alan fox@hud.gov). Hearing- or speech-impaired persons may use the Telecommunications Devices for the Deaf (TTY) by contacting the Federal Information Relay Service at 1–800–877–8339. (Other than the ''800'' TTY number, telephone numbers are not toll free.)

SUPPLEMENTARY INFORMATION: Section 8 of the United States Housing Act of 1937 (the Act) (42 U.S.C. 1437f) authorizes housing assistance to aid lower income families in renting decent, safe, and sanitary housing. Housing assistance payments are limited by FMRs established by HUD for different areas. In the voucher program, the FMR is used to determine the ''payment standard'' (the maximum monthly subsidy) for assisted families (see Section 982.503.) In general, the FMR for an area is the amount that would be needed to pay the gross rent (shelter rent plus utilities) of privately owned, decent, safe, and sanitary rental housing of a modest (non-luxury) nature with suitable amenities.

Publication of FMRs

Section 8(c) of the Act requires the Secretary of HUD to publish FMRs periodically, but not less frequently than annually. The Department's regulations provide that HUD will develop FMRs by publishing proposed FMRs for public comment and, after evaluating the public comments, publish the final FMRs (see 24 CFR 888.115). Schedule B of the proposed FY 2001 FMR schedules at the end of this document lists the FMR levels for the housing choice voucher program. Schedule D lists FMRs for the rental of manufactured home spaces in the housing choice voucher program for areas where HUD has approved modifications greater than 40 percent of the 2-bedroom FMR, based on public comments.

Method Used To Develop FMRs

FMR Standard: FMRs are gross rent estimates; they include shelter rent and the cost of utilities, except telephone. HUD sets FMRs to assure that a sufficient supply of rental housing is available to program participants. To accomplish this objective, FMRs must be both high enough to permit a selection of units and neighborhoods and low enough to serve as many families as possible. The level at which FMRs are set is expressed as a percentile point within the rent distribution of standard quality rental housing units. The current definition used is the 40th percentile rent, the dollar amount below which 40 percent of the standard quality rental housing units rent. The 40th percentile rent is drawn from the distribution of rents of units which are occupied by recent movers (renter households who moved into their unit within the past 15 months). Newly built units less than two years old are excluded, and adjustments have been made to correct for the below market rents of public housing units included in the data base.

Data Sources: HUD used the most accurate and current data available to develop the FMR estimates. The sources of survey data used for the base-year estimates are:

(1) the 1990 Census, which provides statistically reliable rent data for all FMR areas;

(2) the Bureau of the Census' American Housing Surveys (AHSs), which are used to develop between-Census revisions for the largest metropolitan areas and which have accuracy comparable to the decennial Census; and

(3) Random Digit Dialing (RDD) telephone surveys of individual FMR areas, which are based on a sampling procedure that uses computers to select statistically random samples of rental housing.

The base-year FMRs are updated using trending factors based on Consumer Price Index (CPI) data for rents and utilities or HUD regional rent change factors developed from RDD surveys. Annual average CPI data are available individually for 96 metropolitan FMR areas. RDD regional rent change factors are developed annually for the metropolitan and nonmetropolitan parts of each of the 10 HUD regions. The RDD factors are used to update the base year estimates for all FMR areas that do not have their own local CPI survey.

State Minimum FMRs: FMRs are established at the higher of the local 40th percentile rent level or the Statewide average of nonmetropolitan counties, subject to a ceiling rent cap. The State minimum also affects a small number of metropolitan areas whose rents would otherwise fall below the State minimum.

Bedroom Size Adjustments: FMRs have been calculated separately for each bedroom size category. For areas whose FMRs are based on the State minimums, the rents for each bedroom size are the higher of the rent for the area or the Statewide average of nonmetropolitan counties for that bedroom size. For all other FMR areas, the bedroom intervals are based on data for the specific area. Exceptions have been made for some areas with local bedroom size rent intervals below an acceptable range. For those areas the intervals selected were the minimums determined after outliers had been excluded from the distribution

of bedroom intervals for all metropolitan areas. Higher ratios continue to be used for three-bedroom and larger size units than would result from using the actual market relationships. This is done to assist the largest, most difficult to house families in finding program-eligible units.

RDD Surveys: RDD surveys are used to obtain statistically-reliable FMR estimates for selected FMR areas. This survey technique involves drawing random samples of renter units occupied by recent movers. RDD surveys exclude public housing units, other assisted units for which the market rent cannot be determined, units built in the past two years, seasonal units, non-cash rental units, and those owned by relatives. A HUD analysis has shown that the slight downward RDD survey bias caused by including some rental units that are in substandard condition is almost exactly offset by the slight upward bias that results from surveying only units with telephones.

Approximately 8,000–12,000 telephone numbers need to be contacted to achieve the target survey sample level of 200 eligible recent mover responses. RDD surveys have a high degree of statistical accuracy; there is a 95 percent likelihood that the recent mover rent estimates developed using this approach are within 3 to 4 percent of the actual rent value. Virtually all of the estimates are within 5 percent of the actual value.

Today's notice proposes FMRs based on RDD surveys conducted in early-2000 for the following areas:

Proposed FMR Increase Above Normal Update Factor

Fort Smith, AR–OK
Orange County, CA
Jacksonville, FL
Atlanta, GA
Augusta-Aiken, GA–SC
Muscatine County, IA
Montgomery County, IN
Macon County, MO
Montgomery County, MO
Biloxi-Gulfport-Pascagoula, MS
Jackson, MS
Greenville, NC
Pender County, NC
Raleigh-Durham-Chapel Hill, NC
Defiance County, OH
Henry County, OH
Williams County, OH
Youngstown-Warren, OH
Austin-San Marcos, TX

Proposed FMR Decrease

Lake Charles, LA
Springfield, MA
Utica-Rome, NY
Providence-Fall River-Warwick, RI-MA
Brownsville-Harlingen-San Benito, TX

Proposed FMR Increase by Normal Update Factor

Imperial County, CA
Salinas, CA
Washington, DC-MD-VA
Macon, GA
Indianapolis, IN
Lexington, KY
Monroe, LA
Shreveport-Bossier City, LA
Lowell, MA-NH
Lewis County, MO
Marion County, MO
Monroe County, MO
Pike County, MO
Ralls County, MO
Randolph County, MO
Shelby County, MO
Lincoln, NE
Atlantic-Cape May, NJ
Cleveland-Lorain-Elyria, OH
Toledo, OH
Columbia, SC
Johnson City-Kingsport-Bristol, TN-VA
Nashville, TN
Fort Worth-Arlington, TX
Killeen-Temple, TX

AHS Areas: AHSs cover the largest metropolitan areas on a four-year cycle. The 40th percentile rents for these areas are calculated from the distributions of two-bedroom units occupied by recent movers. Public housing units, newly constructed units, and units that fail a housing quality test are excluded from the rental housing distributions before the FMRs are calculated.

Detailed rent data from the metropolitan AHSs conducted in 1998 were not available in time for publication of the proposed 2000 FMRs. Twelve AHS areas were put into final effect in the October 1,1999 publication, because they had either increases or normal updates. Providence-Fall River-Warwick, RI-MA and Washington, DC-MD-VA would have been proposed for decreases based on the 1998 AHS data, but HUD conducted RDDs in April 2000, with the result that the decrease being proposed for Providence-Fall River-Warwick is much less than it would have been, and no decrease is being proposed for Washington, DC-MD-VA.

Manufactured Home Space FMRs

FMRs for the rental of manufactured home spaces in the housing choice voucher program are now 40 percent of the applicable Section 8 existing housing program FMRs for two-bedroom units. (This percentage was recently increased from 30 percent to 40 percent because the cost of utilities is now included in the manufactured home space rent; Section 545 of the Quality Housing and Work Responsibility Act of 1998.) HUD accepts public comments requesting modifications of these FMRs where the 40 percent FMRs are thought to be inadequate. In order to be accepted as a basis for revising the FMRs, comments must contain statistically valid survey data that show the 40th percentile space rent (including the cost of utilities) for the entire FMR area. Manufactured home space FMR revisions are published as final FMRs in Schedule D. Once approved, the revised manufactured home space FMRs establish new base year estimates that are updated annually using the same data used to update the other FMRs, until they are superseded by rising FMRs for the regular housing choice voucher program.

Request for Comments

HUD seeks public comments on FMR levels for specific areas. Comments on FMR levels must include sufficient information (including local data and a full description of the rental housing survey methodology used) to justify any proposed changes. Changes may be proposed in all or any one or more of the bedroom-size categories on the schedule. Recommendations and supporting data must reflect the rent levels that exist within the entire FMR area.

HUD recommends the use of professionally-conducted Random Digit Dialing (RDD) telephone surveys to test the accuracy of FMRs for areas where there is a sufficient number of Section 8 units to justify the survey cost of $10,000–$12,000. Areas with 500 or more program units usually meet this cost criterion, and areas with fewer units may meet it if actual two-bedroom rents are significantly different from the FMRs proposed by HUD. In addition, HUD has developed a version of the RDD survey methodology for smaller, nonmetropolitan PHAs. This methodology is designed to be simple enough to be done by the PHA itself, rather than by professional survey organizations, at a cost of $5,000 or less.

PHAs in nonmetropolitan areas may, in certain circumstances, do surveys of groups of counties. All grouped county surveys must be approved in advance by HUD. PHAs are cautioned that the resulting FMRs will not be identical for the counties surveyed; each individual FMR area will have a separate FMR based on the relationship of rents in that area to the combined rents in the cluster of FMR areas. In addition, PHAs are advised that counties whose FMRs are based on the State minimum will not have their FMRs revised unless the grouped survey results show a revised FMR above the State minimum level.

PHAs that plan to use the RDD survey technique should obtain a copy of the appropriate survey guide. Larger PHAs should request HUD's survey guide entitled ''Random Digit Dialing Surveys; A Guide to Assist Larger Public Housing Agencies in Preparing Fair Market Rent Comments.'' Smaller PHAs should obtain a guide entitled ''Rental Housing Surveys; A Guide to Assist Smaller Public Housing Agencies in Preparing Fair Market Rent Comments.'' These guides are available from HUD USER on 1–800–245–2691, or from HUD's Worldwide Web site, in Microsoft Word or Adobe Acrobat format, at the following address: http://www.huduser.org/datasets/fmr.html.

HUD prefers, but does not mandate, the use of RDD telephone surveys, or the more traditional method described in the survey guide intended for small PHAs along with the simplified RDD methodology. Other survey methodologies are acceptable as long as the surveys submitted provide statistically reliable, unbiased estimates of the 40th percentile gross rent. Survey samples should preferably be randomly drawn from a complete list of rental units for the FMR area. If this is not feasible, the selected sample must be drawn so as to be statistically representative of the entire rental housing stock of the FMR area. In particular, surveys must include units of all rent levels and be representative by structure type (including single-family, duplex and other small rental properties), age of housing unit, and geographic location. The decennial Census should be used as a starting point and means to verify whether the sample is representative of the FMR area's rental housing stock.

Local rental housing surveys conducted with alternative methods must include the following documentation:

—Identification of the 40th percentile gross rent (gross rent is rent including the cost of utilities) and the actual distribution (or distributions, if more than one bedroom size is surveyed) of the surveyed units, rank-ordered by gross rent.

—An explanation of how the rental housing sample was drawn and a copy of the survey questionnaire, transmittal letter, and any publicity materials.

—An explanation of how the contract rents of the individual units surveyed were converted to gross rents. (For RDD-type surveys, HUD requires use of the Section 8 utility allowance schedule.)

—An explanation of how the survey excluded units built within two years prior to the survey date.

—The date the rent data were collected so that HUD can apply a trending factor to update the estimate to the midpoint of the applicable fiscal year. If the survey has already been trended to this date, the date the survey was conducted and a description of the trending factor used.

—Copies of all survey sheets.

Since FMRs are based on standard quality units and units occupied by recent movers, both of which are difficult to identify and survey, HUD will accept surveys of all rental units and apply appropriate adjustments.

Most surveys cover only one- and two-bedroom units, in which case HUD will make the adjustments for other size units consistent with the differentials established on the basis of the 1990 Census data for the FMR area. When three- and four-bedroom units are surveyed separately to determine FMRs for these unit size categories, the commenter should multiply the 40th percentile survey rents by 1.087 and 1.077, respectively, to determine the FMRs. The use of these factors will produce the same upward adjustments in the rent differentials as those used in the HUD methodology.

Findings and Certifications

Environmental Impact

A Finding of No Significant Impact with respect to the environment as required by the National Environmental Policy Act (42 U.S.C. 4321–4374) is unnecessary, since the housing choice voucher program is categorically excluded from the Department's National Environmental Policy Act procedures under 24 CFR 50.19(c)(d).

Regulatory Flexibility Act

The undersigned, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), hereby certifies that this Notice does not have a significant economic impact on a substantial number of small entities, because FMRs do not change the rent from that which would be charged if the unit were not in the program.

Executive Order 13132, Federalism

This notice does not have federalism implications and will not involve the preemption of State law by Federal statute or regulation. The Fair Market Rent schedules do not have any substantial direct impact on States, on the relationship between the Federal government and the States, or on the distribution of power and responsibility among the various levels of government.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program number is 14.156, Lower-Income Housing Assistance Program (section 8).

Accordingly, the Fair Market Rent Schedules, which will be codified in 24 CFR part 888, are proposed to be amended as follows:

Dated: April 21, 2000.

Andrew Cuomo,

Secretary.

Fair Market Rents for the Housing Choice Voucher Program

Schedules B and D—General Explanatory Notes

1. Geographic Coverage

a. *Metropolitan Areas.*—FMRs are housing market-wide rent estimates that are intended to provide housing opportunities throughout the geographic area in which rental housing units are in direct competition. The FMRs shown in Schedule B are determined for the same areas as the Office of Management and Budget's (OMB) most current definitions of metropolitan areas, with the exceptions discussed in paragraph b. HUD uses the OMB Metropolitan Statistical Area (MSA) and Primary Metropolitan Statistical Area (PMSA) definitions for FMR areas because they closely correspond to housing market area definitions.

b. *Exceptions to OMB Definitions.*—The exceptions are counties deleted from several large metropolitan areas whose revised OMB metropolitan area definitions were determined by HUD to be larger than the housing market areas. The FMRs for the following counties (shown by the metropolitan area) are calculated separately and are shown in Schedule B within their respective States under the ''Metropolitan FMR Areas'' listing:

Metropolitan Area and Counties Deleted

Chicago, IL: DeKalb, Grundy and Kendall Counties
Cincinnati-Hamilton, OH–KY–IN: Brown County, Ohio; Gallatin, Grant and Pendleton Counties in Kentucky; and Ohio County, Indiana
Dallas, TX: Henderson County
Flagstaff, AZ–UT: Kane County, UT
New Orleans, LA: St. James Parish
Washington, DC–MD–VA–WV: Berkeley and Jefferson Counties in West Virginia; and Clarke, Culpeper, King George and Warren counties in Virginia

c. *Nonmetropolitan Area FMRs.*—FMRs also are established for

nonmetropolitan counties and for county equivalents in the United States, for nonmetropolitan parts of counties in the New England states, and for FMR areas in Puerto Rico, the Virgin Islands, and the Pacific Islands. Nonmetropolitan area FMRs are set at the higher of the local 40th percentile rent level or the Statewide average of nonmetropolitan counties. (The State minimum also affects a small number of metropolitan areas whose rents would otherwise fall below the State minimum.)

d. *Virginia Independent Cities.*—FMRs for the areas in Virginia shown in the table below were established by combining the Census data for the nonmetropolitan counties with the data for the independent cities that are located within the county borders. Because of space limitations, the FMR listing in Schedule B includes only the name of the nonmetropolitan county. The complete definitions of these areas including the independent cities are as follows:

VIRGINIA NONMETROPOLITAN COUNTY FMR AREA AND INDEPENDENT CITIES INCLUDED

County	Cities
Alleghany	Clifton Forge and Covington.

VIRGINIA NONMETROPOLITAN COUNTY FMR AREA AND INDEPENDENT CITIES INCLUDED—Continued

County	Cities
Augusta	Staunton and Waynesboro.
Carroll	Galax.
Frederick	Winchester.
Greensville	Emporia.
Henry	Martinsville.
Montgomery	Radford.
Rockbridge	Buena Vista and Lexington.
Rockingham	Harrisonburg.
Southhampton	Franklin.
Wise	Norton.

2. Bedroom Size Adjustments.—Schedule B shows the FMRs for 0-bedroom through 4-bedroom units. The FMRs for unit sizes larger than 4 bedrooms are calculated by adding 15 percent to the 4-bedroom FMR for each extra bedroom. For example, the FMR for a 5-bedroom unit is 1.15 times the 4-bedroom FMR, and the FMR for a 6-bedroom unit is 1.30 times the 4-bedroom FMR. FMRs for single-room-occupancy (SRO) units are 0.75 times the 0 bedroom FMR.

3. FMRs for Manufactured Home Spaces.—FMRs for manufactured home spaces in the housing choice voucher program are 40 percent of the two-bedroom existing housing program FMRs, with the exception of the areas listed in Schedule D whose manufactured home space FMRs have been modified on the basis of public comments. Once approved, the revised manufactured home space FMRs establish new base-year estimates that are updated annually using the same data used to estimate the existing housing FMRs. The FMR area definitions used for the rental of manufactured home spaces in the housing choice voucher program are the same as the area definitions used for other FMRs.

4. Arrangement of FMR Areas and Identification of Constituent Parts. a. The FMR areas in Schedule B are listed alphabetically by metropolitan FMR area and by nonmetropolitan county within each State. The exception FMRs for manufactured home spaces in Schedule D are listed alphabetically by State.

b. The constituent counties (and New England towns and cities) included in each metropolitan FMR area are listed immediately following the listings of the FMR dollar amounts. All constituent parts of a metropolitan FMR area that are in more than one State can be identified by consulting the listings for each applicable State.

c. Two nonmetropolitan counties are listed alphabetically on each line of the nonmetropolitan county listings.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 1

A L A B A M A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anniston, AL MSA	263	312	390	544	616	Calhoun
Aurburn-Opelika, Al MSA	262	367	471	612	774	Lee
Birmingham, AL MSA	402	454	528	717	794	Blount, Jefferson, St. Clair, Shelby
Columbus, GA-AL MSA	356	396	475	620	673	Russell
Decatur, AL MSA	350	354	445	577	690	Lawrence, Morgan
Dothan, AL MSA	317	324	403	554	562	Dale, Houston
Florence, AL MSA	297	341	438	547	613	Colbert, Lauderdale
Gadsden, AL MSA	263	322	372	483	594	Etowah
Huntsville, AL MSA	367	430	530	706	841	Limestone, Madison
Mobile, AL MSA	385	430	493	664	779	Baldwin, Mobile
Montgomery, AL MSA	402	429	507	691	832	Autauga, Elmore, Montgomery
Tuscaloosa, AL MSA	347	371	493	678	717	Tuscaloosa

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Barbour	247	294	350	454	521
Bullock	247	294	350	454	521
Chambers	247	294	350	454	522
Chilton	256	294	350	454	521
Clarke	247	294	350	454	521
Cleburne	247	294	350	454	521
Conecuh	247	294	350	454	521
Covington	247	294	350	454	521
Cullman	247	294	350	466	566
Dekalb	247	294	350	454	521
Fayette	247	294	350	454	521
Geneva	247	294	350	454	521
Hale	247	294	350	454	521
Jackson	267	294	350	454	557
Lowndes	247	294	350	454	521
Marengo	247	294	350	454	521
Marshall	284	294	358	495	586
Perry	247	294	350	454	521
Pike	296	344	411	533	621
Sumter	247	294	350	454	521
Tallapoosa	248	294	350	454	521
Washington	247	294	350	454	521
Winston	247	294	350	454	521

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Bibb	247	294	350	473	567
Butler	247	294	350	454	521
Cherokee	247	294	350	454	521
Choctaw	247	294	350	454	521
Clay	247	294	350	454	521
Coffee	247	347	451	628	705
Coosa	247	294	350	454	521
Crenshaw	247	294	350	454	521
Dallas	247	294	350	454	521
Escambia	247	294	350	454	521
Franklin	247	294	350	454	521
Greene	247	294	350	454	521
Henry	247	294	350	454	521
Lamar	247	294	350	454	521
Macon	270	303	404	506	567
Marion	247	294	350	454	521
Monroe	247	294	350	454	521
Pickens	247	294	350	454	521
Randolph	247	294	350	454	521
Talladega	247	294	350	454	521
Walker	247	305	360	465	591
Wilcox	247	294	350	454	521

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 2

A L A S K A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anchorage, AK MSA	507	599	794	1105	1304	Anchorage

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Aleutian East	525	591	668	833	1091	Aleutian West	450	509	570	715	801
Bethel	678	848	1074	1345	1505	Bristol Bay	544	628	705	981	1067
Dillingham	655	666	886	1108	1241	Fairbanks North Star	413	562	738	1015	1196
Haines	489	605	689	937	965	Juneau	730	843	1073	1428	1484
Kenai Peninsula	444	566	682	947	1119	Ketchikan Gateway	536	656	878	1222	1286
Kodiak Island	698	767	997	1246	1616	Lake & Peninsula	419	679	763	952	1069
Matanuska-Susitna	469	635	714	970	1146	Nome	690	854	959	1335	1506
North Slope	784	803	993	1380	1608	Northwest Arctic	830	934	1048	1459	1721
Pr.Wales-Outer Ketchikan	366	582	670	929	982	Sitka	577	686	769	1071	1264
Skagway-Yakutat-Angoon	448	456	590	740	830	Southeast Fairbanks	460	483	582	729	818
Valdez-Cordova	548	672	746	952	1135	Wade Hampton	392	590	666	832	932
Wrangell-Petersburg	399	588	715	911	1001	Yukon-Koyukuk	523	589	665	831	962

A R I Z O N A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Flagstaff, AZ	438	474	615	825	991	Coconino
Las Vegas, NV-AZ MSA	508	603	718	999	1180	Mohave
Phoenix-Mesa, AZ MSA	431	523	656	913	1075	Maricopa, Pinal
Tucson, AZ MSA	392	470	625	869	1025	Pima
Yuma, AZ MSA	378	438	583	810	816	Yuma

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Apache	365	384	488	637	757	Cochise	365	384	488	637	757
Gila	365	384	488	637	757	Graham	365	384	488	637	757
Greenlee	365	384	488	637	757	La Paz	365	384	488	637	757
Navajo	365	384	488	637	757	Santa Cruz	365	404	502	637	757
Yavapai	388	404	540	753	829						

A R K A N S A S

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Fayetteville-Springdale-Rogers, AR MSA	310	390	513	693	717	Benton, Washington
Fort Smith, AR-OK MSA	337	341	449	600	630	Crawford, Sebastian
Jonesboro, AR MSA	314	342	402	554	585	Craighead
Little Rock-North Little Rock, AR MSA	382	424	504	697	814	Faulkner, Lonoke, Pulaski, Saline
Memphis, TN-AR-MS MSA	396	462	542	753	791	Crittenden

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 3

A R K A N S A S continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Pine Bluff, AR MSA	292	347	456	575	746	Jefferson
Texarkana, TX-Texarkana, AR MSA	311	380	464	612	649	Miller

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Arkansas	262	284	364	497	539
Baxter	239	304	404	520	633
Bradley	239	284	364	482	539
Carroll	281	307	364	482	576
Clark	262	284	369	482	582
Cleburne	271	284	364	482	546
Columbia	239	284	364	482	539
Cross	248	314	364	489	577
Desha	239	284	364	482	539
Franklin	250	284	364	482	539
Garland	239	304	407	568	671
Greene	256	284	364	482	539
Hot Spring	239	284	364	482	539
Independence	251	291	364	482	539
Jackson	247	284	364	482	539
Lafayette	250	284	364	482	539
Lee	263	284	364	482	539
Little River	239	284	370	513	605
Madison	273	284	370	482	539
Mississippi	272	295	395	521	584
Montgomery	239	284	364	482	539
Newton	239	284	364	482	539
Perry	239	284	364	482	539
Pike	239	284	364	482	539
Polk	239	284	364	482	539
Prairie	239	284	364	482	539
St. Francis	239	290	364	492	579
Searcy	239	284	364	482	539
Sharp	239	284	364	482	539
Union	299	316	380	510	624
White	239	284	364	498	539
Yell	248	284	364	482	539

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Ashley	239	284	364	482	570
Boone	283	288	382	532	628
Calhoun	239	284	364	482	539
Chicot	239	284	364	482	539
Clay	239	284	364	482	539
Cleveland	239	284	364	482	539
Conway	239	295	395	493	553
Dallas	239	284	364	482	539
Drew	239	309	413	571	581
Fulton	247	284	364	482	539
Grant	248	295	364	482	544
Hempstead	239	284	364	482	539
Howard	239	284	364	482	539
Izard	239	284	364	482	539
Johnson	239	284	364	482	539
Lawrence	239	284	364	482	539
Lincoln	258	284	370	494	539
Logan	250	284	364	482	539
Marion	239	284	364	482	539
Monroe	243	284	364	482	539
Nevada	239	284	364	498	539
Ouachita	279	284	364	502	592
Phillips	239	284	364	482	539
Poinsett	239	284	364	482	539
Pope	239	312	395	548	632
Randolph	239	284	364	482	539
Scott	239	284	364	482	539
Sevier	261	284	364	482	539
Stone	239	284	364	482	539
Van Buren	239	284	364	482	595
Woodruff	239	284	364	482	539

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 4

C A L I F O R N I A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bakersfield, CA MSA	373	419	526	731	809	Kern
Chico-Paradise, CA MSA	341	439	584	800	957	Butte
Fresno, CA MSA	387	433	517	720	830	Fresno, Madera
Los Angeles-Long Beach, CA PMSA	516	618	782	1055	1260	Los Angeles
Merced, CA MSA	407	459	557	770	909	Merced
Modesto, CA MSA	451	485	592	825	972	Stanislaus
Oakland, CA PMSA	649	785	985	1350	1613	Alameda, Contra Costa
Orange County, CA PMSA	726	792	980	1364	1518	Orange
Redding, CA MSA	387	429	538	747	880	Shasta
Riverside-San Bernardino, CA PMSA	456	508	621	861	1018	Riverside, San Bernardino
Sacramento, CA PMSA	457	515	645	894	1054	El Dorado, Placer, Sacramento
Salinas, CA MSA	548	641	773	1074	1127	Monterey
San Diego, CA MSA	587	670	839	1167	1376	San Diego
San Francisco, CA PMSA	891	1154	1459	2001	2118	Marin, San Francisco, San Mateo
San Jose, CA PMSA	928	1058	1308	1792	2013	Santa Clara
San Luis Obispo-Atascadero-Paso Robles, CA MSA	525	593	752	1045	1234	San Luis Obispo
Santa Barbara-Santa Maria-Lompoc, CA MSA	638	708	897	1250	1411	Santa Barbara
Santa Cruz-Watsonville, CA PMSA	686	817	1091	1517	1777	Santa Cruz
Santa Rosa, CA PMSA	644	730	946	1315	1552	Sonoma
Stockton-Lodi, CA MSA	422	477	613	853	1006	San Joaquin
Vallejo-Fairfield-Napa, CA PMSA	619	703	857	1190	1405	Napa, Solano
Ventura, CA PMSA	569	655	829	1103	1284	Ventura
Visalia-Tulare-Porterville, CA MSA	378	402	524	731	834	Tulare
Yolo, CA PMSA	487	556	688	953	1126	Yolo
Yuba City, CA MSA	336	393	505	704	814	Sutter, Yuba

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alpine	310	465	526	731	787
Calaveras	374	434	577	804	947
Del Norte	317	435	577	805	949
Humboldt	320	443	580	810	958
Inyo	321	434	556	730	787
Lake	349	444	593	747	972
Mariposa	335	426	547	717	845
Modoc	339	379	488	680	787
Nevada	388	531	707	983	1138
San Benito	534	628	786	1095	1281
Siskiyou	325	379	488	680	787
Trinity	348	379	488	680	787

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Amador	428	471	629	876	976
Colusa	339	379	488	680	787
Glenn	310	379	488	680	787
Imperial	350	438	539	751	787
Kings	359	418	522	726	854
Lassen	379	384	499	680	787
Mendocino	429	517	634	883	889
Mono	473	567	754	1049	1240
Plumas	342	379	488	680	787
Sierra	310	416	512	711	839
Tehama	324	379	488	680	787
Tuolumne	343	468	624	869	1024

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 5

C O L O R A D O

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Boulder-Longmont, CO PMSA	552	661	848	1181	1392	Boulder
Colorado Springs, CO MSA	452	486	647	902	1065	El Paso
Denver, CO PMSA	481	575	765	1062	1254	Adams, Arapahoe, Denver, Douglas, Jefferson
Fort Collins-Loveland, CO MSA	447	552	681	947	1118	Larimer
Grand Junction, CO MSA	411	427	534	720	857	Mesa
Greeley, CO PMSA	462	511	643	892	1055	Weld
Pueblo, CO MSA	433	449	561	755	901	Pueblo

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alamosa	388	403	503	679	809
Baca	388	403	503	679	809
Chaffee	388	403	503	679	809
Clear Creek	388	453	512	713	840
Costilla	388	403	503	679	809
Custer	388	403	503	679	809
Dolores	388	403	503	679	809
Elbert	429	475	544	679	891
Garfield	451	483	610	763	999
Grand	461	465	589	737	893
Hinsdale	388	411	503	679	809
Jackson	388	403	503	679	809
Kit Carson	388	403	503	679	809
La Plata	507	561	739	1030	1215
Lincoln	388	403	503	679	809
Mineral	388	403	503	679	809
Montezuma	388	403	503	679	809
Morgan	388	403	503	679	809
Ouray	388	403	509	679	824
Phillips	388	403	503	679	809
Prowers	388	403	503	679	809
Rio Grande	388	403	503	679	809
Saguache	388	403	503	679	809
San Miguel	714	1032	1134	1416	1828
Summit	500	599	768	1068	1314
Washington	388	403	503	679	809

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Archuleta	464	508	601	811	964
Bent	388	403	503	679	809
Cheyenne	388	403	503	679	809
Conejos	388	403	503	679	809
Crowley	388	403	503	679	809
Delta	388	403	503	679	809
Eagle	522	569	759	1056	1245
Fremont	388	403	503	679	809
Gilpin	388	516	656	866	957
Gunnison	388	403	503	679	809
Huerfano	388	403	503	679	809
Kiowa	388	403	503	679	809
Lake	388	403	503	679	809
Las Animas	388	415	503	679	809
Logan	388	403	503	679	809
Moffat	388	403	503	679	809
Montrose	388	403	509	706	832
Otero	388	403	503	679	809
Park	388	430	560	777	884
Pitkin	582	797	1062	1400	1592
Rio Blanco	388	403	503	679	809
Routt	388	469	620	862	1016
San Juan	388	403	503	679	809
Sedgwick	388	403	503	679	809
Teller	388	460	613	852	860
Yuma	388	403	503	679	809

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 6

C O N N E C T I C U T

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Bridgeport, CT PMSA	476	619	745	932	1162	Fairfield county towns of Bridgeport town, Easton town Fairfield town, Monroe town, Shelton town Stratford town, Trumbull town New Haven county towns of Ansonia town, Beacon Falls town Derby town, Milford town, Oxford town, Seymour town
Danbury, CT PMSA	643	769	961	1268	1462	Fairfield county towns of Bethel town, Brookfield town Danbury town, New Fairfield town, Newtown town Redding town, Ridgefield town, Sherman town Litchfield county towns of Bridgewater town New Milford town, Roxbury town, Washington town
Hartford, CT MSA	443	552	706	886	1075	Hartford county towns of Avon town, Berlin town Bloomfield town, Bristol town, Burlington town Canton town, East Granby town, East Hartford town East Windsor town, Enfield town, Farmington town Glastonbury town, Granby town, Hartford town Manchester town, Marlborough town, New Britain town Newington town, Plainville town, Rocky Hill town Simsbury town, Southington town, South Windsor town Suffield town, West Hartford town, Wethersfield town Windsor town, Windsor Locks town Litchfield county towns of Barkhamsted town Harwinton town, New Hartford town, Plymouth town Winchester town Middlesex county towns of Cromwell town, Durham town East Haddam town, East Hampton town, Haddam town Middlefield town, Middletown town, Portland town New London county towns of Colchester town, Lebanon town Tolland county towns of Andover town, Bolton town Columbia town, Coventry town, Ellington town Hebron town, Mansfield town, Somers town, Stafford town Tolland town, Vernon town, Willington town Windham county towns of Ashford town, Chaplin town Windham town
New Haven-Meriden, CT PMSA	549	674	833	1067	1236	Middlesex county towns of Clinton town, Killingworth town New Haven county towns of Bethany town, Branford town Cheshire town, East Haven town, Guilford town Hamden town, Madison town, Meriden town, New Haven town North Branford tow, North Haven town, Orange town Wallingford town, West Haven town, Woodbridge town
New London-Norwich, CT-RI MSA	501	606	738	923	1055	Middlesex county towns of Old Saybrook town New London county towns of Bozrah town, East Lyme town Franklin town, Griswold town, Groton town, Ledyard town Lisbon town, Montville town, New London town North Stonington t, Norwich town, Old Lyme town Preston town, Salem town, Sprague town, Stonington town Waterford town Windham county towns of Canterbury town, Plainfield town

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 7

C O N N E C T I C U T continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Stamford-Norwalk, CT PMSA	824	964	1176	1576	1741	Fairfield county towns of Darien town, Greenwich town New Canaan town, Norwalk town, Stamford town Weston town, Westport town, Wilton town
Waterbury, CT PMSA	467	630	781	973	1091	Litchfield county towns of Bethlehem town, Thomaston town Watertown town, Woodbury town New Haven county towns of Middlebury town, Naugatuck town Prospect town, Southbury town, Waterbury town Wolcott town
Worcester, MA-CT PMSA	451	546	681	850	953	Windham county towns of Thompson town

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Hartford	366	593	669	930	1096	Hartland town
Litchfield	426	581	774	966	1100	Canaan town, Colebrook town, Cornwall town, Goshen town Kent town, Litchfield town, Morris town, Norfolk town North Canaan town, Salisbury town, Sharon town Torrington town, Warren town
Middlesex	631	715	955	1329	1567	Chester town, Deep River town, Essex town Westbrook town
New London	535	655	744	960	1218	Lyme town, Voluntown town
Tolland	366	593	669	930	936	Union town
Windham	422	516	669	838	1051	Brooklyn town, Eastford town, Hampton town Killingly town, Pomfret town, Putnam town, Scotland town Sterling town, Woodstock town

D E L A W A R E

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Dover, DE MSA	495	547	624	809	920	Kent
Wilmington-Newark, DE-MD PMSA	457	603	703	954	1153	New Castle

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Sussex	432	459	586	770	822

D I S T . O F C O L U M B I A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Washington, DC-MD-VA	647	735	863	1176	1418	District of Columbia

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 8

F L O R I D A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Daytona Beach, FL MSA	396	464	593	787	836	Flagler, Volusia
Fort Lauderdale, FL PMSA	493	580	718	999	1175	Broward
Fort Myers-Cape Coral, FL MSA	425	490	591	826	861	Lee
Fort Pierce-Port Lucie, FL MSA	473	519	672	874	942	Martin, St. Lucie
Fort Walton Beach, FL MSA	413	451	512	694	818	Okaloosa
Gainesville, FL MSA	413	451	548	751	887	Alachua
Jacksonville, FL MSA	473	530	638	843	938	Clay, Duval, Nassau, St. Johns
Lakeland-Winter Haven, FL MSA	396	433	490	607	663	Polk
Melbourne-Titusville-Palm Bay, FL MSA	396	463	579	775	903	Brevard
Miami, FL PMSA	461	579	722	991	1149	Dade
Naples, FL MSA	441	622	749	1041	1160	Collier
Ocala, FL MSA	413	451	512	672	788	Marion
Orlando, FL MSA	513	582	694	911	1112	Lake, Orange, Osceola, Seminole
Panama City, FL MSA	413	451	512	653	700	Bay
Pensacola, FL MSA	413	451	512	684	806	Escambia, Santa Rosa
Punta Gorda, FL MSA	413	474	631	875	1032	Charlotte
Sarasota-Bradenton, FL MSA	414	526	669	860	936	Manatee, Sarasota
Tallahassee, FL MSA	422	468	616	805	970	Gadsden, Leon
Tampa-St. Petersburg-Clearwater, FL MSA	440	524	649	862	1045	Hernando, Hillsborough, Pasco, Pinellas
West Palm Beach-Boca Raton, FL MSA	506	591	731	971	1202	Palm Beach

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Baker	389	425	481	597	648
Calhoun	389	425	481	597	648
Columbia	389	425	481	597	648
Dixie	389	425	481	597	648
Gilchrist	389	425	481	597	648
Gulf	389	425	481	597	648
Hardee	389	425	481	597	648
Highlands	389	425	481	599	669
Indian River	389	486	625	782	875
Jefferson	389	425	481	597	648
Levy	389	425	481	597	648
Madison	389	425	481	597	648
Okeechobee	389	425	481	597	654
Sumter	389	425	481	597	648
Taylor	389	425	481	597	649
Wakulla	389	425	481	597	648
Washington	389	425	481	597	648

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Bradford	389	425	481	597	648
Citrus	389	425	481	597	648
Desoto	389	425	481	597	648
Franklin	389	425	481	597	648
Glades	389	425	481	597	648
Hamilton	389	425	481	597	648
Hendry	389	425	495	621	696
Holmes	389	425	481	597	648
Jackson	389	425	481	597	648
Lafayette	389	425	481	597	648
Liberty	389	425	481	597	648
Monroe	556	628	807	1112	1323
Putnam	389	425	481	597	648
Suwannee	389	425	481	597	648
Union	389	425	481	597	648
Walton	389	425	481	619	774

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 9

G E O R G I A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albany, GA MSA	308	361	440	601	651	Dougherty, Lee
Athens, GA MSA	379	409	529	722	870	Clarke, Madison, Oconee
Atlanta, GA MSA	613	682	795	1060	1282	Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta Dekalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett Henry, Newton, Paulding, Pickens, Rockdale, Spalding Walton
Augusta-Aiken, GA-SC MSA	389	465	548	744	880	Columbia, Mcduffie, Richmond
Chattanooga, TN-GA MSA	372	434	522	674	768	Catoosa, Dade, Walker
Columbus, GA-AL MSA	356	396	475	620	673	Chattahoochee, Harris, Muscogee
Macon, GA MSA	398	443	516	711	731	Bibb, Houston, Jones, Peach, Twiggs
Savannah, GA MSA	371	461	536	723	752	Bryan, Chatham, Effingham

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Appling	283	340	416	539	613	Atkinson	283	340	416	539	613
Bacon	283	340	416	539	613	Baker	283	340	416	539	613
Baldwin	283	362	441	565	617	Banks	283	340	416	539	613
Ben Hill	283	340	416	539	621	Berrien	283	340	416	539	613
Bleckley	283	340	416	539	613	Brantley	283	340	416	539	613
Brooks	283	340	416	539	613	Bulloch	340	345	444	572	726
Burke	283	340	416	539	613	Butts	283	374	496	664	696
Calhoun	283	340	416	539	613	Camden	395	447	500	696	822
Candler	283	340	416	539	613	Charlton	283	340	416	539	613
Chattooga	283	340	416	539	613	Clay	283	340	416	539	613
Clinch	283	340	416	539	613	Coffee	283	340	416	539	621
Colquitt	283	340	416	539	613	Cook	283	340	416	539	613
Crawford	283	340	416	539	613	Crisp	286	340	416	539	613
Dawson	283	368	489	612	754	Decatur	283	340	416	539	613
Dodge	283	340	416	539	613	Dooly	283	340	416	539	613
Early	283	340	416	539	613	Echols	283	340	416	539	613
Elbert	283	340	416	539	613	Emanuel	283	340	416	539	613
Evans	283	340	416	539	613	Fannin	283	340	416	539	613
Floyd	283	340	417	550	613	Franklin	283	340	416	539	613
Gilmer	283	340	416	539	613	Glascock	283	340	416	539	613
Glynn	394	441	499	670	821	Gordon	335	340	424	547	699
Grady	288	340	416	539	613	Greene	283	340	416	539	613
Habersham	303	340	416	539	618	Hall	299	454	534	669	746
Hancock	283	340	416	539	613	Haralson	283	340	416	539	613
Hart	283	340	416	539	613	Heard	283	340	416	539	613
Irwin	283	340	416	539	613	Jackson	314	340	427	539	703
Jasper	283	340	421	572	613	Jeff Davis	283	340	416	539	613
Jefferson	283	340	416	539	621	Jenkins	283	340	416	539	613

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 10

G E O R G I A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Johnson	283	340	416	539	613
Lanier	283	340	416	539	613
Liberty	351	392	446	620	625
Long	283	368	416	539	613
Lumpkin	283	381	428	573	703
Macon	283	340	416	539	613
Meriwether	283	340	416	539	613
Mitchell	283	340	416	539	613
Montgomery	283	340	416	539	613
Murray	283	340	416	539	613
Pierce	283	340	416	539	613
Polk	283	340	416	563	613
Putnam	283	340	416	539	621
Rabun	283	340	416	539	613
Schley	283	340	416	539	613
Seminole	283	340	416	539	613
Stewart	283	340	416	539	613
Talbot	283	340	416	539	613
Tattnall	283	340	416	539	613
Telfair	283	340	416	539	613
Thomas	283	350	416	539	613
Toombs	283	340	416	539	613
Treutlen	283	340	416	539	613
Turner	283	340	416	539	613
Upson	292	340	416	539	613
Warren	283	340	416	539	613
Wayne	292	340	416	539	613
Wheeler	283	340	416	539	613
Whitfield	283	371	446	570	672
Wilkes	283	340	416	539	613
Worth	283	340	416	539	613

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Lamar	283	349	416	539	659
Laurens	289	340	416	539	613
Lincoln	283	340	416	539	613
Lowndes	316	383	463	649	718
Mcintosh	283	340	416	539	613
Marion	283	340	416	539	613
Miller	283	340	416	539	613
Monroe	283	340	416	548	613
Morgan	283	340	431	539	613
Oglethorpe	283	340	416	539	613
Pike	328	355	450	627	631
Pulaski	283	340	416	539	613
Quitman	283	340	416	539	613
Randolph	283	340	416	539	613
Screven	283	340	416	539	613
Stephens	283	340	416	539	613
Sumter	283	345	416	539	613
Taliaferro	283	340	416	539	613
Taylor	283	340	416	539	613
Terrell	283	340	416	539	613
Tift	283	340	416	539	613
Towns	283	340	416	539	613
Troup	283	385	433	541	613
Union	283	340	434	544	613
Ware	312	350	416	539	647
Washington	283	340	416	539	613
Webster	283	340	416	539	613
White	283	340	416	539	627
Wilcox	283	340	416	539	613
Wilkinson	283	340	416	539	613

H A W A I I

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Honolulu, HI MSA	595	713	839	1134	1226	Honolulu

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 11

H A W A I I continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Hawaii	463	604	695	923	1137
Maui	748	928	1132	1462	1656
Kauai	591	884	1076	1424	1540

I D A H O

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Boise City, ID MSA	396	451	548	761	900	Ada, Canyon
Pocatello, ID MSA	284	329	423	576	681	Bannock

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	282	327	421	558	661
Benewah	282	327	421	558	661
Blaine	436	480	639	891	1049
Bonner	324	401	497	688	792
Boundary	282	327	421	558	661
Camas	282	327	421	558	661
Cassia	282	327	421	558	661
Clearwater	282	327	421	558	661
Elmore	282	327	421	558	661
Fremont	282	327	421	558	661
Gooding	282	327	421	558	661
Jefferson	290	327	421	558	661
Kootenai	358	421	551	767	907
Lemhi	282	327	421	558	661
Lincoln	282	327	421	558	661
Minidoka	282	327	421	558	661
Oneida	283	327	421	558	661
Payette	282	327	421	558	661
Shoshone	282	327	421	558	661
Twin Falls	282	327	426	562	661
Washington	282	327	421	558	661
Bear Lake	282	327	421	558	661
Bingham	300	327	421	558	661
Boise	282	363	421	558	661
Bonneville	287	361	497	668	815
Butte	282	327	421	558	661
Caribou	282	327	421	558	661
Clark	282	327	421	558	661
Custer	282	327	421	558	661
Franklin	282	327	421	558	661
Gem	282	327	421	558	661
Idaho	282	327	421	558	661
Jerome	282	327	421	558	661
Latah	282	327	421	558	670
Lewis	282	327	421	558	661
Madison	282	327	421	558	661
Nez Perce	287	327	421	558	661
Owyhee	282	327	421	558	661
Power	282	327	421	558	661
Teton	307	327	421	570	675
Valley	293	327	421	558	661

I L L I N O I S

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bloomington-Normal, IL MSA	346	422	565	785	829	Mclean
Champaign-Urbana, IL MSA	381	467	605	830	994	Champaign
Chicago, IL	551	661	788	985	1102	Cook, Dupage, Kane, Lake, Mchenry, Will
Davenport-Moline-Rock Island, IA-IL MSA	286	395	489	632	685	Henry, Rock Island

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 12

I L L I N O I S continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Decatur, IL MSA	276	357	459	620	642	Macon
De Kalb County, IL	454	528	669	930	1077	Dekalb
Grundy County, IL	394	456	605	799	850	Grundy
Kankakee, IL PMSA	358	433	576	737	809	Kankakee
Kendall County, Il	548	624	752	1047	1053	Kendall
Peoria-Pekin, IL MSA	384	423	567	755	927	Peoria, Tazewell, Woodford
Rockford, IL MSA	368	471	574	721	841	Boone, Ogle, Winnebago
St. Louis, MO-IL MSA	329	400	519	676	747	Clinton, Jersey, Madison, Monroe, St. Clair
Springfield, IL MSA	317	393	524	697	793	Menard, Sangamon

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	263	295	380	499	606	Alexander	263	295	380	499	560
Bond	263	295	380	499	560	Brown	263	295	380	499	560
Bureau	263	332	389	499	560	Calhoun	263	295	380	499	560
Carroll	263	295	380	499	560	Cass	264	295	380	499	560
Christian	283	295	382	501	560	Clark	263	295	380	499	560
Clay	263	295	380	499	560	Coles	278	331	440	585	691
Crawford	263	295	380	499	560	Cumberland	263	295	380	499	560
De Witt	267	295	380	503	560	Douglas	281	295	380	499	560
Edgar	263	295	380	499	560	Edwards	263	295	380	499	560
Effingham	263	304	380	499	560	Fayette	263	295	380	499	560
Ford	250	352	457	587	641	Franklin	263	295	380	499	560
Fulton	271	303	391	513	577	Gallatin	263	295	380	499	560
Greene	263	295	380	499	560	Hamilton	263	296	380	499	560
Hancock	263	295	380	499	560	Hardin	263	295	380	499	560
Henderson	263	295	380	499	560	Iroquois	263	295	380	499	560
Jackson	319	320	405	574	642	Jasper	263	297	380	499	560
Jefferson	264	310	387	528	560	Jo Daviess	291	315	380	499	560
Johnson	263	295	380	499	560	Knox	263	295	380	499	579
La Salle	319	374	499	674	756	Lawrence	263	295	380	499	560
Lee	293	301	404	504	566	Livingston	263	324	433	558	609
Logan	294	313	417	522	654	Mcdonough	263	300	380	499	600
Macoupin	263	295	380	499	560	Marion	268	295	380	499	560
Marshall	263	295	380	499	560	Mason	263	295	380	499	567
Massac	264	295	380	499	560	Mercer	263	295	380	499	560
Montgomery	263	295	380	499	560	Morgan	263	334	443	591	622
Moultrie	263	295	380	512	560	Perry	264	295	380	499	560
Piatt	263	320	416	567	583	Pike	263	295	380	499	560
Pope	263	295	380	499	560	Pulaski	263	295	380	499	560
Putnam	263	295	380	499	560	Randolph	263	295	380	499	560

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 13

I L L I N O I S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Richland	263	295	380	499	560
Schuyler	263	295	380	499	560
Shelby	263	295	380	499	560
Stephenson	278	318	403	503	564
Vermilion	263	336	419	524	587
Warren	278	295	380	499	560
Wayne	263	295	380	499	560
Whiteside	278	316	421	527	594
Saline	263	295	380	499	560
Scott	263	295	380	499	560
Stark	263	295	380	499	560
Union	263	295	380	499	560
Wabash	263	295	380	499	592
Washington	263	315	420	526	683
White	263	295	380	499	560
Williamson	263	295	382	531	560

I N D I A N A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bloomington, IN MSA	376	486	647	900	1063	Monroe
Cincinnati, OH-KY-IN	324	416	557	746	806	Dearborn
Elkhart-Goshen, IN MSA	380	433	547	700	804	Elkhart
Evansville-Henderson, IN-KY MSA	325	387	503	628	703	Posey, Vanderburgh, Warrick
Fort Wayne, IN MSA	325	414	515	664	720	Adams, Allen, De Kalb, Huntington, Wells, Whitley
Gary, IN PMSA	400	526	656	824	920	Lake, Porter
Indianapolis, IN MSA	371	465	559	700	785	Boone, Hamilton, Hancock, Hendricks, Johnson, Madison Marion, Morgan, Shelby
Kokomo, IN MSA	350	413	539	693	755	Howard, Tipton
Lafayette, IN MSA	354	450	599	833	984	Clinton, Tippecanoe
Louisville, KY-IN MSA	323	415	510	703	741	Clark, Floyd, Harrison, Scott
Muncie, IN MSA	302	376	446	604	713	Delaware
Ohio County, IN	301	338	433	558	614	Ohio
South Bend, IN MSA	326	434	570	712	799	St. Joseph
Terre Haute, IN MSA	294	344	439	547	611	Clay, Vermillion, Vigo

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Bartholomew	404	434	524	654	861
Blackford	284	320	422	528	592
Carroll	284	320	410	527	580
Crawford	284	320	410	527	580
Decatur	284	347	443	574	624
Fayette	300	339	433	557	655
Franklin	284	320	410	527	648
Gibson	284	320	410	527	580
Greene	284	320	410	527	580
Jackson	349	365	451	597	641
Jay	284	320	410	527	580
Benton	284	320	410	527	580
Brown	284	377	497	690	714
Cass	284	320	410	527	580
Daviess	284	320	410	527	580
Dubois	284	320	410	527	598
Fountain	284	320	410	527	580
Fulton	313	328	410	551	580
Grant	299	320	410	529	580
Henry	312	351	449	579	635
Jasper	284	345	410	527	580
Jefferson	284	320	410	527	580

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 14

I N D I A N A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Jennings	296	320	410	527	580
Kosciusko	284	376	454	589	636
La Porte	289	350	468	600	655
Marshall	337	342	454	571	636
Miami	284	320	410	527	580
Newton	296	320	410	527	580
Orange	284	320	410	527	580
Parke	284	320	410	527	606
Pike	284	320	410	527	580
Putnam	309	360	442	594	599
Ripley	284	320	410	535	607
Spencer	284	320	410	527	580
Steuben	348	392	469	587	655
Switzerland	284	320	410	527	580
Wabash	284	320	410	527	580
Washington	284	320	410	527	580
White	284	320	410	527	640

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Knox	289	320	415	527	581
Lagrange	289	334	425	553	643
Lawrence	284	320	410	531	580
Martin	284	320	410	527	580
Montgomery	409	430	536	681	753
Noble	328	335	416	536	594
Owen	284	320	410	527	607
Perry	284	320	410	527	580
Pulaski	284	320	410	527	580
Randolph	284	320	410	527	580
Rush	292	320	410	527	607
Starke	284	320	410	527	580
Sullivan	284	320	410	527	580
Union	284	320	410	527	580
Warren	284	320	410	527	580
Wayne	343	385	494	635	698

I O W A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Cedar Rapids, IA MSA	279	394	507	705	757	Linn
Davenport-Moline-Rock Island, IA-IL MSA	286	395	489	632	685	Scott
Des Moines, IA MSA	363	458	565	733	770	Dallas, Polk, Warren
Dubuque, IA MSA	297	363	466	596	727	Dubuque
Iowa City, IA MSA	351	452	582	807	954	Johnson
Omaha, NE-IA MSA	343	469	593	777	872	Pottawattamie
Sioux City, IA-NE MSA	349	419	522	651	744	Woodbury
Waterloo-Cedar Falls, IA MSA	326	418	522	695	817	Black Hawk

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adair	267	330	414	526	580
Allamakee	267	330	414	532	609
Audubon	267	330	414	526	580
Boone	267	351	414	532	630
Buchanan	281	330	414	526	580
Butler	284	330	414	526	580
Carroll	267	330	414	526	580
Cedar	267	335	414	526	580
Cherokee	267	330	414	526	580

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	267	330	414	526	580
Appanoose	267	330	414	526	584
Benton	274	330	414	526	580
Bremer	267	330	414	526	617
Buena Vista	282	330	414	526	580
Calhoun	267	330	414	526	580
Cass	267	330	414	526	580
Cerro Gordo	267	350	433	577	606
Chickasaw	267	330	414	526	580

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

I O W A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Clarke	274	330	414	526	580
Clayton	267	330	414	526	580
Crawford	267	330	414	526	580
Decatur	267	330	414	526	580
Des Moines	267	341	438	549	613
Emmet	267	330	414	526	613
Floyd	290	330	414	526	580
Fremont	293	330	414	526	611
Grundy	267	330	414	526	596
Hamilton	305	346	419	526	587
Hardin	267	330	414	526	580
Henry	267	339	430	538	609
Humboldt	267	330	414	526	580
Iowa	267	330	414	526	580
Jasper	267	339	429	536	601
Jones	276	330	414	526	580
Kossuth	267	330	414	526	580
Louisa	267	330	414	526	580
Lyon	267	330	414	526	580
Mahaska	267	330	414	526	580
Marshall	294	364	456	579	640
Mitchell	267	330	414	526	580
Monroe	267	348	414	526	611
Muscatine	305	378	501	667	700
Osceola	267	330	414	526	580
Palo Alto	267	330	414	526	580
Pocahontas	267	330	414	526	580
Ringgold	267	330	414	526	580
Shelby	267	330	414	526	580
Story	348	422	499	689	790
Taylor	267	330	414	526	581
Van Buren	267	330	414	526	580
Washington	267	330	414	526	611
Webster	267	330	420	529	589
Winneshiek	267	330	414	526	580
Wright	267	330	414	526	580

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Clay	267	330	414	526	580
Clinton	267	330	420	526	588
Davis	267	330	414	526	580
Delaware	267	330	414	526	580
Dickinson	267	330	414	526	580
Fayette	267	330	414	526	580
Franklin	274	330	414	526	580
Greene	267	330	414	526	580
Guthrie	267	330	414	526	610
Hancock	267	330	414	526	580
Harrison	267	330	414	526	580
Howard	267	330	414	526	606
Ida	274	330	414	526	580
Jackson	267	330	417	526	584
Jefferson	267	338	449	585	739
Keokuk	267	330	414	526	580
Lee	267	330	427	535	600
Lucas	267	330	414	526	580
Madison	267	330	431	552	605
Marion	267	367	449	562	630
Mills	267	357	421	529	590
Monona	267	330	414	526	580
Montgomery	293	332	414	526	580
O'Brien	267	330	414	526	580
Page	267	330	414	526	580
Plymouth	267	330	433	541	606
Poweshiek	282	351	449	562	630
Sac	267	330	414	526	580
Sioux	267	330	414	526	580
Tama	267	330	414	526	580
Union	267	330	414	526	611
Wapello	267	330	418	526	585
Wayne	267	330	414	526	580
Winnebago	267	336	414	526	580
Worth	267	330	414	526	589

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 16

K A N S A S

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Kansas City, MO-KS MSA	394	496	597	826	915	Johnson, Leavenworth, Miami, Wyandotte
Lawrence, KS MSA	361	432	554	771	888	Douglas
Topeka, KS MSA	338	389	507	685	772	Shawnee
Wichita, KS MSA	332	399	534	722	780	Butler, Harvey, Sedgwick

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Allen	272	309	396	511	568	Anderson	272	309	396	511	568
Atchison	272	309	396	511	609	Barber	272	309	396	511	568
Barton	272	309	396	511	568	Bourbon	272	309	396	511	568
Brown	272	309	396	511	568	Chase	272	309	396	511	568
Chautauqua	272	309	396	511	568	Cherokee	272	309	396	511	568
Cheyenne	272	309	396	511	568	Clark	272	309	396	511	568
Clay	272	309	396	511	568	Cloud	272	309	396	511	568
Coffey	281	309	396	511	593	Comanche	272	309	396	511	568
Cowley	290	309	396	523	568	Crawford	272	309	403	511	568
Decatur	272	309	396	511	568	Dickinson	272	309	396	511	568
Doniphan	272	309	396	511	568	Edwards	272	309	396	511	568
Elk	272	309	396	511	568	Ellis	272	309	396	511	568
Ellsworth	272	309	396	511	568	Finney	357	381	488	636	804
Ford	313	370	460	580	653	Franklin	306	321	414	530	646
Geary	335	352	440	568	616	Gove	272	309	396	511	568
Graham	272	309	396	511	568	Grant	282	358	410	561	612
Gray	272	309	396	511	568	Greeley	272	309	396	511	568
Greenwood	272	309	396	511	568	Hamilton	272	309	396	511	568
Harper	272	309	396	511	568	Haskell	272	316	396	511	568
Hodgeman	272	309	396	511	568	Jackson	272	309	396	511	568
Jefferson	272	309	403	535	568	Jewell	272	309	396	511	568
Kearny	303	309	407	548	602	Kingman	272	309	396	511	568
Kiowa	272	309	396	511	568	Labette	272	309	396	511	568
Lane	272	309	396	511	568	Lincoln	272	309	396	511	568
Linn	272	309	396	511	568	Logan	272	309	396	511	568
Lyon	272	309	396	511	606	Mcpherson	274	309	396	511	568
Marion	272	309	396	511	568	Marshall	272	309	396	511	568
Meade	272	309	396	511	568	Mitchell	272	309	396	511	568
Montgomery	272	309	396	511	568	Morris	272	309	396	511	568
Morton	272	332	396	511	568	Nemaha	272	309	396	511	568
Neosho	272	309	396	511	568	Ness	272	309	396	511	568
Norton	272	309	396	511	568	Osage	272	309	396	511	568
Osborne	272	309	396	511	569	Ottawa	272	309	396	511	568
Pawnee	272	309	396	511	568	Phillips	272	309	396	511	568

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

K A N S A S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Pottawatomie	272	309	396	511	581
Rawlins	272	309	396	511	568
Republic	272	309	396	511	568
Riley	338	372	495	618	751
Rush	272	309	396	511	568
Saline	356	368	485	670	678
Seward	328	358	476	596	665
Sherman	272	309	396	511	568
Stafford	272	309	396	511	568
Stevens	272	310	396	511	584
Thomas	272	309	396	511	568
Wabaunsee	272	309	396	511	568
Washington	272	309	396	511	568
Wilson	272	309	396	511	568

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Pratt	272	309	396	521	568
Reno	272	309	396	511	617
Rice	272	309	396	511	568
Rooks	272	309	396	511	568
Russell	272	309	396	511	568
Scott	272	309	396	521	599
Sheridan	272	309	396	511	568
Smith	272	309	396	511	568
Stanton	272	309	396	511	568
Sumner	272	309	396	535	568
Trego	272	309	396	511	568
Wallace	272	309	396	511	568
Wichita	272	309	407	511	634
Woodson	272	309	396	511	568

K E N T U C K Y

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Cincinnati, OH-KY-IN	324	416	557	746	806	Boone, Campbell, Kenton
Clarksville-Hopkinsville, TN-KY MSA	345	386	454	618	636	Christian
Evansville-Henderson, IN-KY MSA	325	387	503	628	703	Henderson
Gallatin County, KY	271	369	452	567	740	Gallatin
Grant County, KY	270	321	425	593	702	Grant
Huntington-Ashland, WV-KY-OH MSA	307	360	444	566	624	Boyd, Carter, Greenup
Lexington, KY MSA	350	435	533	727	821	Bourbon, Clark, Fayette, Jessamine, Madison, Scott Woodford
Louisville, KY-IN MSA	323	415	510	703	741	Bullitt, Jefferson, Oldham
Owensboro, KY MSA	305	316	415	557	583	Daviess
Pendleton County, KY	272	315	419	527	589	Pendleton

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adair	251	307	363	480	527
Anderson	277	293	380	474	532
Barren	251	304	363	469	527
Bell	251	293	366	469	527
Bracken	251	293	363	469	527
Breckinridge	251	293	363	469	527
Caldwell	251	293	363	469	527
Carlisle	251	293	363	469	527
Casey	251	293	363	469	527
Clinton	251	293	363	469	527

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Allen	251	293	363	469	527
Ballard	251	293	363	469	527
Bath	251	293	363	469	527
Boyle	299	303	404	506	567
Breathitt	251	293	363	469	527
Butler	251	293	363	469	527
Calloway	251	293	363	469	527
Carroll	251	293	363	469	527
Clay	251	293	363	469	527
Crittenden	251	293	363	469	527

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 18

K E N T U C K Y continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Cumberland	251	293	363	469	527
Elliott	251	293	363	469	527
Fleming	251	293	363	469	527
Franklin	251	370	453	585	739
Garrard	251	293	363	469	527
Grayson	251	293	363	469	527
Hancock	251	293	363	473	560
Harlan	251	382	435	568	670
Hart	251	293	363	469	527
Hickman	251	293	363	469	527
Jackson	251	293	363	469	527
Knott	251	293	363	469	527
Larue	251	293	363	469	527
Lawrence	251	293	363	469	527
Leslie	251	293	363	469	527
Lewis	251	293	363	469	527
Livingston	290	293	391	543	547
Lyon	251	293	363	469	527
Mccreary	251	293	363	469	527
Magoffin	251	293	363	469	527
Marshall	251	299	363	469	564
Mason	251	293	363	469	527
Menifee	251	293	363	469	527
Metcalfe	251	293	363	469	527
Montgomery	251	293	363	469	527
Muhlenberg	251	293	363	469	527
Nicholas	251	293	363	469	527
Owen	251	293	363	469	540
Perry	282	293	378	472	529
Powell	251	293	363	469	527
Robertson	251	293	363	469	527
Rowan	251	293	363	469	547
Shelby	252	332	372	519	527
Spencer	251	299	363	469	527
Todd	251	293	363	469	527
Trimble	251	293	363	469	527
Warren	251	325	434	542	627
Wayne	251	293	363	469	527
Whitley	251	293	363	469	527

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Edmonson	251	293	363	469	527
Estill	251	293	363	469	527
Floyd	265	322	363	503	578
Fulton	251	293	363	469	527
Graves	251	293	363	469	527
Green	251	293	363	469	527
Hardin	312	321	401	540	640
Harrison	251	294	372	469	574
Henry	251	293	363	469	527
Hopkins	251	293	363	469	532
Johnson	251	293	363	469	527
Knox	251	347	445	557	685
Laurel	328	371	440	593	615
Lee	251	293	363	469	527
Letcher	251	293	363	469	527
Lincoln	251	293	363	469	527
Logan	251	293	363	478	527
Mccracken	285	306	383	490	629
Mclean	251	293	363	469	527
Marion	251	293	363	469	527
Martin	251	293	363	469	527
Meade	260	323	372	491	612
Mercer	251	293	363	478	527
Monroe	251	293	363	469	527
Morgan	251	293	363	469	527
Nelson	276	293	374	469	527
Ohio	251	293	363	469	527
Owsley	251	293	363	469	527
Pike	270	308	374	469	553
Pulaski	276	293	372	470	527
Rockcastle	251	293	363	469	527
Russell	251	293	363	469	527
Simpson	251	314	368	470	527
Taylor	303	359	401	537	607
Trigg	251	293	363	469	527
Union	251	293	363	469	527
Washington	251	297	363	469	527
Webster	251	293	363	469	527
Wolfe	251	293	363	469	527

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 19

L O U I S I A N A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Alexandria, LA MSA	283	354	444	615	625	Rapides
Baton Rouge, LA MSA	307	381	473	656	775	Ascension, East Baton Rouge, Livingston, West Baton Rouge
Houma, LA MSA	279	327	419	581	688	Lafourche, Terrebonne
Lafayette, LA MSA	296	341	405	558	660	Lafayette, Acadia, St. Landry, St. Martin
Lake Charles, LA MSA	326	379	480	629	788	Calcasieu
Monroe, LA MSA	306	343	457	616	640	Ouachita
New Orleans, LA	369	423	527	717	868	Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles St. John the Baptist, St. Tammany
St. James Parish, LA	278	315	420	523	586	St. James
Shreveport-Bossier City, LA MSA	345	392	492	658	808	Bossier, Caddo, Webster

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Allen	270	293	361	473	527	Assumption	295	317	376	473	527
Avoyelles	270	293	361	473	529	Beauregard	328	358	424	554	610
Bienville	270	293	361	479	566	Caldwell	270	293	361	473	527
Cameron	270	293	361	473	527	Catahoula	270	293	361	473	527
Claiborne	270	293	361	473	527	Concordia	270	293	361	473	527
De Soto	270	293	361	473	531	East Carroll	270	293	361	473	527
East Feliciana	270	293	361	473	527	Evangeline	270	293	361	473	527
Franklin	270	293	361	473	531	Grant	270	293	361	473	527
Iberia	285	297	369	473	527	Iberville	270	293	361	473	543
Jackson	270	293	361	473	527	Jefferson Davis	270	293	361	473	535
La Salle	270	293	361	473	531	Lincoln	317	319	398	546	655
Madison	270	293	361	473	527	Morehouse	270	293	361	473	527
Natchitoches	288	295	381	528	531	Pointe Coupee	270	293	361	473	572
Red River	270	293	361	473	531	Richland	270	293	361	473	531
Sabine	270	300	361	473	556	St. Helena	270	293	361	473	527
St. Mary	295	316	397	541	564	Tangipahoa	289	300	386	506	539
Tensas	270	293	361	473	527	Union	270	293	361	473	531
Vermilion	270	293	361	473	527	Vernon	309	345	393	509	601
Washington	270	293	361	473	527	West Carroll	270	293	361	473	527
West Feliciana	270	351	470	587	659	Winn	270	293	361	473	527

M A I N E

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Bangor, ME MSA	354	432	554	724	777	Penobscot county towns of Bangor city, Brewer city Eddington town, Glenburn town, Hampden town, Hermon town Holden town, Kenduskeag town, Milford town Old Town city, Orono town, Orrington town Penobscot Indian I, Veazie town

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 20

M A I N E continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Waldo county towns of Winterport town
Lewiston-Auburn, ME MSA	326	393	505	633	718	Androscoggin county towns of Auburn city, Greene town Lewiston city, Lisbon town, Mechanic Falls tow Poland town, Sabattus town, Turner town, Wales town
Portland, ME MSA	386	497	654	818	917	Cumberland county towns of Cape Elizabeth tow, Casco town Cumberland town, Falmouth town, Freeport town Gorham town, Gray town, North Yarmouth tow Portland city, Raymond town, Scarborough town South Portland cit, Standish town, Westbrook city Windham town, Yarmouth town York county towns of Buxton town, Hollis town Limington town, Old Orchard Beach
Portsmouth-Rochester, NH-ME PMSA	497	595	765	981	1203	York county towns of Berwick town, Eliot town Kittery town, South Berwick town, York town

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Androscoggin	325	402	533	666	746	Durham town, Leeds town, Livermore town Livermore Falls to, Minot town
Aroostook	325	382	489	622	716	
Cumberland	476	485	646	878	1008	Baldwin town, Bridgton town, Brunswick town Harpswell town, Harrison town, Naples town New Gloucester tow, Pownal town, Sebago town
Franklin	332	382	489	622	716	
Hancock	350	429	531	669	743	
Kennebec	338	422	507	637	716	
Knox	325	419	543	725	763	
Lincoln	423	471	535	744	878	
Oxford	325	382	489	622	716	
Penobscot	325	382	489	622	716	Alton town, Argyle unorg., Bradford town, Bradley town Burlington town, Carmel town, Carroll plantation Charleston town, Chester town, Clifton town Corinna town, Corinth town, Dexter town, Dixmont town Drew plantation, East Central Penob, East Millinocket t Edinburg town, Enfield town, Etna town, Exeter town Garland town, Greenbush town, Greenfield town Howland town, Hudson town, Kingman unorg., Lagrange town Lakeville town, Lee town, Levant town, Lincoln town Lowell town, Mattawamkeag town, Maxfield town Medway town, Millinocket town, Mount Chase town Newburgh town, Newport town, North Penobscot un Passadumkeag town, Patten town, Plymouth town Prentiss plantatio, Seboeis plantation, Springfield town Stacyville town, Stetson town, Twombly unorg. Webster plantation, Whitney unorg., Winn town Woodville town

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 21

M A I N E continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Piscataquis	325	382	489	622	716	
Sagadahoc	457	523	646	859	1061	
Somerset	340	389	489	622	735	
Waldo	325	382	489	622	716	Belfast city, Belmont town, Brooks town, Burnham town Frankfort town, Freedom town, Islesboro town Jackson town, Knox town, Liberty town, Lincolnville town Monroe town, Montville town, Morrill town Northport town, Palermo town, Prospect town Searsmont town, Searsport town, Stockton Springs t Swanville town, Thorndike town, Troy town, Unity town Waldo town
Washington	325	382	489	622	716	
York	402	459	615	770	861	Acton town, Alfred town, Arundel town, Biddeford city Cornish town, Dayton town, Kennebunk town Kennebunkport town, Lebanon town, Limerick town Lyman town, Newfield town, North Berwick town Ogunquit town, Parsonsfield town, Saco city Sanford town, Shapleigh town, Waterboro town, Wells town

M A R Y L A N D

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Baltimore, MD	443	542	661	875	1001	Anne Arundel, Baltimore, Carroll, Harford, Howard Queen Anne's, Baltimore city
Columbia, MD	575	773	901	1190	1487	Columbia
Cumberland, MD-WV MSA	340	409	506	668	763	Allegany
Hagerstown, MD PMSA	348	418	522	683	780	Washington
Washington, DC-MD-VA	647	735	863	1176	1418	Calvert, Charles, Frederick, Montgomery, Prince George's
Wilmington-Newark, DE-MD PMSA	457	603	703	954	1153	Cecil

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Caroline	372	401	501	657	746
Garrett	332	445	501	653	823
St. Mary's	507	602	694	968	1106
Talbot	439	465	620	777	1018
Worcester	332	401	502	697	746
Dorchester	332	429	501	653	746
Kent	336	414	553	690	832
Somerset	396	444	501	695	822
Wicomico	374	432	558	708	781

M A S S A C H U S E T T S

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Barnstable-Yarmouth, MA MSA	501	671	896	1122	1256	Barnstable county towns of Barnstable town, Brewster town Chatham town, Dennis town, Eastham town, Harwich town Mashpee town, Orleans town, Sandwich town, Yarmouth town

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 22

M A S S A C H U S E T T S continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Boston, MA-NH PMSA.....	695	782	979	1223	1437	Bristol county towns of Berkley town, Dighton town Mansfield town, Norton town, Taunton city Essex county towns of Amesbury town, Beverly city Danvers town, Essex town, Gloucester city, Hamilton town Ipswich town, Lynn city, Lynnfield town, Manchester town Marblehead town, Middleton town, Nahant town Newbury town, Newburyport city, Peabody city Rockport town, Rowley town, Salem city, Salisbury town Saugus town, Swampscott town, Topsfield town Wenham town Middlesex county towns of Acton town, Arlington town Ashland town, Ayer town, Bedford town, Belmont town Boxborough town, Burlington town, Cambridge city Carlisle town, Concord town, Everett city Framingham town, Holliston town, Hopkinton town Hudson town, Lexington town, Lincoln town Littleton town, Malden city, Marlborough city Maynard town, Medford city, Melrose city, Natick town Newton city, North Reading town, Reading town Sherborn town, Shirley town, Somerville city Stoneham town, Stow town, Sudbury town, Townsend town Wakefield town, Waltham city, Watertown town Wayland town, Weston town, Wilmington town Winchester town, Woburn city Norfolk county towns of Bellingham town, Braintree town Brookline town, Canton town, Cohasset town, Dedham town Dover town, Foxborough town, Franklin town Holbrook town, Medfield town, Medway town, Millis town Milton town, Needham town, Norfolk town, Norwood town Plainville town, Quincy city, Randolph town, Sharon town Stoughton town, Walpole town, Wellesley town Westwood town, Weymouth town, Wrentham town Plymouth county towns of Carver town, Duxbury town Hanover town, Hingham town, Hull town, Kingston town Marshfield town, Norwell town, Pembroke town Plymouth town, Rockland town, Scituate town Wareham town Suffolk county towns of Boston city, Chelsea city Revere city, Winthrop town Worcester county towns of Berlin town, Blackstone town Bolton town, Harvard town, Hopedale town, Lancaster town Mendon town, Milford town, Millville town Southborough town, Upton town
Brockton, MA PMSA.....	464	611	750	932	1063	Bristol county towns of Easton town, Raynham town Norfolk county towns of Avon town Plymouth county towns of Abington town, Bridgewater town Brockton city, East Bridgewater t, Halifax town

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 23

M A S S A C H U S E T T S continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Hanson town, Lakeville town, Middleborough town Plympton town, West Bridgewater t, Whitman town
Fitchburg-Leominster, MA MSA.....	363	510	662	851	925	Middlesex county towns of Ashby town Worcester county towns of Ashburnham town, Fitchburg city Gardner city, Leominster city, Lunenburg town Templeton town, Westminster town, Winchendon town
Lawrence, MA-NH PMSA.....	502	606	763	953	1172	Essex county towns of Andover town, Boxford town Georgetown town, Groveland town, Haverhill city Lawrence city, Merrimac town, Methuen town North Andover town, West Newbury town
Lowell, MA-NH PMSA.....	510	659	796	997	1115	Middlesex county towns of Billerica town, Chelmsford town Dracut town, Dunstable town, Groton town, Lowell city Pepperell town, Tewksbury town, Tyngsborough town Westford town
New Bedford, MA PMSA.....	487	595	677	846	950	Bristol county towns of Acushnet town, Dartmouth town Fairhaven town, Freetown town, New Bedford city Plymouth county towns of Marion town, Mattapoisett town Rochester town
Pittsfield, MA MSA.....	327	464	571	717	888	Berkshire county towns of Adams town, Cheshire town Dalton town, Hinsdale town, Lanesborough town, Lee town Lenox town, Pittsfield city, Richmond town Stockbridge town
Providence-Fall River-Warwick, RI-MA MSA.....	384	523	628	789	972	Bristol county towns of Attleboro city, Fall River city North Attleborough, Rehoboth town, Seekonk town Somerset town, Swansea town, Westport town
Springfield, MA MSA.....	407	503	635	793	976	Franklin county towns of Sunderland town Hampden county towns of Agawam town, Chicopee city East Longmeadow to, Hampden town, Holyoke city Longmeadow town, Ludlow town, Monson town Montgomery town, Palmer town, Russell town Southwick town, Springfield city, Westfield city West Springfield t, Wilbraham town Hampshire county towns of Amherst town, Belchertown town Easthampton town, Granby town, Hadley town Hatfield town, Huntington town, Northampton city Southampton town, South Hadley town, Ware town Williamsburg town
Worcester, MA-CT PMSA.....	451	546	681	850	953	Hampden county towns of Holland town Worcester county towns of Auburn town, Barre town Boylston town, Brookfield town, Charlton town Clinton town, Douglas town, Dudley town East Brookfield to, Grafton town, Holden town Leicester town, Millbury town, Northborough town Northbridge town, North Brookfield t, Oakham town Oxford town, Paxton town, Princeton town, Rutland town Shrewsbury town, Southbridge town, Spencer town Sterling town, Sturbridge town, Sutton town

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 24

M A S S A C H U S E T T S continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Uxbridge town, Webster town, Westborough town West Boylston town, West Brookfield to, Worcester city

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Barnstable	484	664	884	1106	1239	Bourne town, Falmouth town, Provincetown town Truro town, Wellfleet town
Berkshire	386	469	553	758	908	Alford town, Becket town, Clarksburg town, Egremont town Florida town, Great Barrington t, Hancock town Monterey town, Mount Washington t, New Ashford town New Marlborough to, North Adams city, Otis town Peru town, Sandisfield town, Savoy town, Sheffield town Tyringham town, Washington town, West Stockbridge t Williamstown town, Windsor town
Dukes	654	665	885	1107	1242	
Franklin	416	515	659	826	997	Ashfield town, Bernardston town, Buckland town Charlemont town, Colrain town, Conway town Deerfield town, Erving town, Gill town, Greenfield town Hawley town, Heath town, Leverett town, Leyden town Monroe town, Montague town, New Salem town Northfield town, Orange town, Rowe town, Shelburne town Shutesbury town, Warwick town, Wendell town Whately town
Hampden	420	572	763	1015	1252	Blandford town, Brimfield town, Chester town Granville town, Tolland town, Wales town
Hampshire	588	595	794	996	1114	Chesterfield town, Cummington town, Goshen town Middlefield town, Pelham town, Plainfield town Westhampton town, Worthington town
Nantucket	743	996	1328	1660	1858	
Worcester	468	488	650	814	910	Athol town, Hardwick town, Hubbardston town New Braintree town, Petersham town, Phillipston town Royalston town, Warren town

M I C H I G A N

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Ann Arbor, MI PMSA	493	596	736	965	1082	Lenawee, Livingston, Washtenaw
Benton Harbor, MI MSA	385	389	511	638	716	Berrien
Detroit, MI PMSA	406	551	666	833	933	Lapeer, Macomb, Monroe, Oakland, St. Clair, Wayne
Flint, MI PMSA	384	436	547	698	765	Genesee
Grand Rapids-Muskegon-Holland, MI MSA	402	470	574	719	805	Allegan, Kent, Muskegon, Ottawa
Jackson, MI MSA	303	407	516	644	722	Jackson
Kalamazoo-Battle Creek, MI MSA	358	432	544	682	761	Calhoun, Kalamazoo, Van Buren
Lansing-East Lansing, MI MSA	403	474	613	801	925	Clinton, Eaton, Ingham

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M I C H I G A N continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Saginaw-Bay City-Midland, MI MSA	352	388	516	644	722	Bay, Midland, Saginaw

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alcona	293	335	424	551	628
Alpena	293	335	424	551	632
Arenac	293	335	424	551	628
Barry	293	362	481	604	676
Branch	340	348	427	584	628
Charlevoix	357	361	457	621	643
Chippewa	293	335	424	551	628
Crawford	321	335	433	592	628
Dickinson	293	361	445	556	628
Gladwin	293	335	424	551	628
Grand Traverse	388	416	555	694	779
Hillsdale	293	335	424	551	628
Huron	293	335	424	551	628
Iosco	293	335	424	551	665
Isabella	328	350	468	632	768
Keweenaw	293	335	424	551	628
Leelanau	398	430	503	657	825
Mackinac	293	335	424	551	628
Marquette	293	335	424	551	628
Mecosta	293	335	424	574	681
Missaukee	309	335	424	551	628
Montmorency	293	335	424	551	628
Oceana	313	335	424	551	628
Ontonagon	293	335	424	551	628
Oscoda	293	335	424	551	628
Presque Isle	293	335	424	551	628
St. Joseph	293	342	424	553	628
Schoolcraft	293	335	424	551	628
Tuscola	319	348	464	580	648

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alger	293	335	424	551	628
Antrim	293	352	424	551	628
Baraga	293	335	424	551	628
Benzie	306	335	424	569	628
Cass	293	335	426	582	628
Cheboygan	309	335	424	551	644
Clare	304	335	424	551	628
Delta	293	335	424	551	628
Emmet	328	392	464	609	648
Gogebic	293	335	424	551	628
Gratiot	306	335	424	551	628
Houghton	293	335	424	551	628
Ionia	360	364	456	568	639
Iron	293	335	424	551	628
Kalkaska	293	335	425	553	699
Lake	296	335	424	551	628
Luce	293	335	424	551	628
Manistee	293	335	424	551	628
Mason	293	335	424	551	628
Menominee	293	335	424	551	628
Montcalm	297	335	424	551	628
Newaygo	338	362	425	551	628
Ogemaw	305	336	424	551	628
Osceola	293	335	424	551	628
Otsego	300	364	459	638	739
Roscommon	324	335	424	551	628
Sanilac	293	345	424	553	628
Shiawassee	293	368	443	617	661
Wexford	293	339	439	576	681

M I N N E S O T A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Duluth-Superior, MN-WI MSA	285	367	471	629	733	St. Louis
Fargo-Moorhead, ND-MN MSA	344	473	571	793	849	Clay
Grand Forks, ND-MN MSA	355	423	557	768	857	Polk

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 26

M I N N E S O T A continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
La Crosse, WI-MN MSA	289	372	473	633	767	Houston
Minneapolis-St. Paul, MN-WI MSA	427	549	702	950	1076	Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey Scott, Sherburne, Washington, Wright
Rochester, MN MSA	332	466	610	843	947	Olmsted
St. Cloud, MN MSA	330	427	505	637	813	Benton, Stearns

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Aitkin	273	354	471	591	659
Beltrami	269	345	461	604	645
Blue Earth	367	443	552	707	897
Carlton	269	328	416	521	596
Chippewa	269	328	416	521	596
Cook	319	328	428	585	609
Crow Wing	269	328	437	547	687
Douglas	269	328	416	521	596
Fillmore	269	328	416	521	596
Goodhue	311	400	533	680	746
Hubbard	275	328	416	521	596
Jackson	269	328	416	521	596
Kandiyohi	332	419	510	639	770
Koochiching	326	332	441	551	722
Lake	269	328	416	521	596
Le Sueur	269	328	416	521	642
Lyon	269	328	416	521	617
Mahnomen	269	328	416	521	596
Martin	269	328	416	521	596
Mille Lacs	286	328	417	581	684
Mower	269	328	416	521	596
Nicollet	338	361	480	637	674
Norman	269	328	416	521	596
Pennington	269	328	416	556	596
Pipestone	269	328	416	521	596
Red Lake	269	340	416	521	596
Renville	269	328	416	521	596
Rock	269	328	416	521	596
Sibley	269	328	416	521	596
Stevens	306	387	437	547	613
Todd	269	328	416	521	596
Wabasha	291	355	449	563	643
Waseca	351	385	489	613	701

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Becker	269	386	434	543	609
Big Stone	269	328	416	521	596
Brown	269	348	416	521	596
Cass	269	328	416	521	596
Clearwater	269	328	416	521	596
Cottonwood	269	328	416	521	596
Dodge	269	328	416	521	596
Faribault	269	328	416	521	596
Freeborn	269	328	424	558	598
Grant	269	328	416	521	596
Itasca	345	349	455	568	637
Kanabec	269	339	439	549	615
Kittson	269	328	416	521	596
Lac qui Parle	269	328	416	521	596
Lake of the Woods	269	328	416	521	596
Lincoln	269	328	416	521	596
Mcleod	320	412	549	682	766
Marshall	269	328	416	521	596
Meeker	321	377	478	601	686
Morrison	298	328	416	521	596
Murray	269	328	416	521	596
Nobles	269	328	416	521	596
Otter Tail	269	328	416	521	596
Pine	297	328	416	524	596
Pope	269	328	416	521	596
Redwood	269	328	416	521	596
Rice	319	436	582	725	812
Roseau	326	332	435	561	611
Steele	319	370	493	616	690
Swift	269	328	416	521	596
Traverse	269	328	416	521	596
Wadena	269	328	416	521	596
Watonwan	269	328	416	521	596

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 27

M I N N E S O T A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Wilkin	269	328	416	521	596
Yellow Medicine	269	328	416	521	596
Winona	314	409	518	647	725

M I S S I S S I P P I

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Biloxi-Gulfport-Pascagpula, MS MSA	401	470	541	754	889	Hancock, Harrison, Jackson
Hattiesburg, MS MSA	285	349	428	574	684	Forrest, Lamar
Jackson, MS MSA	399	455	557	740	781	Hinds, Madison, Rankin
Memphis, TN-AR-MS MSA	396	462	542	753	791	Desoto

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	250	297	370	473	603
Amite	250	297	368	473	532
Benton	250	297	368	473	532
Calhoun	250	297	368	473	532
Chickasaw	250	297	368	473	532
Claiborne	250	297	368	473	532
Clay	250	297	368	473	537
Copiah	250	297	368	473	532
Franklin	253	297	368	473	532
Greene	250	297	368	473	532
Holmes	250	297	368	473	532
Issaquena	263	362	480	601	673
Jasper	250	297	368	473	532
Jefferson Davis	250	297	368	473	532
Kemper	252	297	368	473	532
Lauderdale	250	323	406	527	570
Leake	250	297	368	473	532
Leflore	250	297	368	474	569
Lowndes	309	333	395	495	558
Marshall	250	297	368	473	540
Montgomery	250	297	368	473	532
Newton	250	297	368	473	532
Oktibbeha	307	320	391	543	641
Pearl River	263	297	368	475	532
Pike	254	297	368	473	532
Prentiss	253	297	368	473	532
Scott	250	297	368	473	532
Simpson	253	297	368	473	532

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alcorn	250	297	368	473	532
Attala	250	297	368	473	532
Bolivar	285	297	383	478	546
Carroll	250	297	368	473	532
Choctaw	250	297	368	473	532
Clarke	250	297	368	473	532
Coahoma	291	297	392	492	550
Covington	250	297	368	473	532
George	250	297	368	473	532
Grenada	250	298	368	502	532
Humphreys	250	297	368	473	532
Itawamba	250	297	368	473	532
Jefferson	250	297	368	473	532
Jones	250	297	368	473	532
Lafayette	253	347	463	580	648
Lawrence	250	297	368	473	532
Lee	313	337	406	508	570
Lincoln	250	297	368	473	532
Marion	250	297	368	473	532
Monroe	250	297	368	473	532
Neshoba	250	297	368	473	532
Noxubee	254	297	368	473	532
Panola	259	297	368	473	532
Perry	250	297	368	473	532
Pontotoc	250	297	368	473	532
Quitman	250	297	368	473	532
Sharkey	254	297	368	473	532
Smith	250	297	368	473	532

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 28

M I S S I S S I P P I continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Stone	250	297	368	473	532
Tallahatchie	250	297	368	473	532
Tippah	250	297	368	473	532
Tunica	250	297	368	473	532
Walthall	250	297	368	473	532
Washington	271	322	430	555	612
Webster	252	297	368	473	532
Winston	250	297	368	473	532
Yazoo	254	297	368	473	532

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Sunflower	277	301	368	473	565
Tate	250	338	391	490	643
Tishomingo	250	297	368	473	532
Union	250	297	368	473	532
Warren	250	327	408	564	676
Wayne	250	297	368	473	532
Wilkinson	250	297	368	473	532
Yalobusha	252	297	368	473	532

M I S S O U R I

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Columbia, MO MSA	266	374	487	677	798	Boone
Joplin, MO MSA	259	300	398	524	563	Jasper, Newton
Kansas City, MO-KS MSA	394	496	597	826	915	Cass, Clay, Clinton, Jackson, Lafayette, Platte, Ray
St. Joseph, MO MSA	249	302	403	509	565	Andrew, Buchanan
St. Louis, MO-IL MSA	329	400	519	676	747	Crawford-Sullivan (part), Franklin, Jefferson, Lincoln St. Charles, St. Louis, Warren, St. Louis city
Springfield, MO MSA	272	345	446	616	641	Christian, Greene, Webster

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adair	241	301	399	503	603
Audrain	257	277	357	482	557
Barton	241	277	357	463	532
Benton	271	277	369	463	532
Butler	241	277	357	463	532
Callaway	284	288	384	487	631
Cape Girardeau	248	305	405	540	662
Carter	241	277	357	463	532
Chariton	241	277	357	463	532
Cole	241	318	423	565	592
Crawford	264	318	358	472	532
Dallas	241	277	357	463	532
Dekalb	249	277	357	469	532
Douglas	241	277	357	463	532
Gasconade	241	277	357	463	532
Grundy	241	277	357	463	532
Henry	274	279	373	467	613
Holt	241	277	357	463	532
Howell	241	277	357	463	532

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Atchison	241	277	357	463	532
Barry	241	286	357	463	532
Bates	241	277	357	463	542
Bollinger	241	277	357	463	532
Caldwell	241	279	376	470	532
Camden	317	320	427	593	698
Carroll	241	277	357	463	532
Cedar	241	277	357	463	532
Clark	241	277	357	463	532
Cooper	241	277	357	463	532
Dade	241	277	357	463	532
Daviess	241	277	357	463	532
Dent	241	277	357	463	532
Dunklin	241	277	357	463	532
Gentry	241	277	357	463	532
Harrison	241	277	357	463	532
Hickory	241	277	357	463	532
Howard	241	277	357	463	534
Iron	241	277	357	463	532

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 29

M I S S O U R I continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Johnson	289	323	421	558	660
Laclede	241	277	357	467	532
Lewis	241	277	357	463	532
Livingston	241	277	358	463	532
Macon	259	298	383	498	571
Maries	241	277	357	463	532
Mercer	241	277	357	463	532
Mississippi	241	277	357	463	532
Monroe	241	277	357	463	532
Morgan	241	277	357	463	532
Nodaway	254	308	379	481	580
Osage	241	277	357	463	532
Pemiscot	241	277	357	463	532
Pettis	258	303	405	510	610
Pike	241	277	357	463	559
Pulaski	241	338	379	502	559
Ralls	241	277	357	463	532
Reynolds	241	277	357	463	532
St. Clair	241	277	357	463	532
St. Francois	264	332	420	527	691
Schuyler	241	277	357	463	532
Scott	289	291	390	526	606
Shelby	241	277	357	463	532
Stone	279	297	370	472	532
Taney	272	301	394	532	625
Vernon	241	277	357	475	532
Wayne	241	277	357	463	532
Wright	241	277	357	463	532

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Knox	241	277	357	463	532
Lawrence	255	284	357	463	532
Linn	241	277	357	463	532
Mcdonald	241	277	357	463	532
Madison	241	277	357	463	532
Marion	241	277	357	463	532
Miller	264	318	357	467	552
Moniteau	241	277	357	463	532
Montgomery	255	293	377	490	562
New Madrid	241	277	357	463	532
Oregon	241	277	357	463	532
Ozark	241	277	357	463	532
Perry	291	296	396	527	554
Phelps	249	299	383	520	564
Polk	241	278	357	463	557
Putnam	241	277	357	463	532
Randolph	241	277	357	463	532
Ripley	241	277	357	463	532
Ste. Genevieve	241	286	369	472	598
Saline	241	277	367	463	532
Scotland	241	277	357	463	532
Shannon	241	277	357	463	532
Stoddard	241	277	357	463	532
Sullivan	241	277	357	463	532
Texas	241	277	357	463	532
Washington	281	341	382	477	535
Worth	241	277	357	463	532

M O N T A N A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Billings, MT MSA	335	389	520	699	848	Yellowstone
Great Falls, MT MSA	335	387	510	664	790	Cascade
Missoula, MT MSA	335	393	523	674	857	Missoula

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 30

M O N T A N A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Beaverhead	301	347	458	595	695
Blaine	301	347	458	595	695
Carbon	342	401	521	678	791
Chouteau	301	347	458	595	695
Daniels	301	368	458	595	695
Deer Lodge	301	347	458	595	695
Fergus	301	347	458	595	695
Gallatin	370	432	579	744	951
Glacier	301	347	458	595	695
Granite	301	347	458	595	695
Jefferson	317	347	458	595	695
Lake	327	347	458	595	695
Liberty	301	347	458	595	695
Mccone	301	366	458	595	695
Meagher	301	368	458	595	695
Musselshell	306	347	458	595	695
Petroleum	301	347	458	595	695
Pondera	301	367	458	595	695
Powell	306	347	458	595	695
Ravalli	301	347	458	595	695
Roosevelt	314	347	458	595	695
Sanders	301	347	458	595	695
Silver Bow	301	347	458	595	695
Sweet Grass	324	347	458	595	695
Toole	307	347	458	595	695
Valley	301	347	458	595	695
Wibaux	301	368	458	595	695

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Big Horn	301	347	458	595	695
Broadwater	301	347	458	595	741
Carter	301	368	458	595	695
Custer	301	347	458	595	695
Dawson	301	347	458	595	695
Fallon	301	347	458	595	695
Flathead	301	348	465	649	764
Garfield	301	347	458	595	695
Golden Valley	301	367	458	595	695
Hill	310	347	458	595	695
Judith Basin	301	368	458	595	695
Lewis and Clark	334	391	520	723	856
Lincoln	327	347	458	595	695
Madison	307	347	458	595	695
Mineral	301	347	458	595	710
Park	301	347	458	595	703
Phillips	301	347	458	595	695
Powder River	301	352	458	595	695
Prairie	301	347	458	595	695
Richland	301	375	458	595	695
Rosebud	301	347	458	595	695
Sheridan	309	347	458	595	695
Stillwater	307	347	458	595	695
Teton	301	347	458	595	695
Treasure	301	347	458	595	695
Wheatland	301	347	458	595	695

N E B R A S K A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Lincoln, NE MSA	318	408	538	714	834	Lancaster
Omaha, NE-IA MSA	343	469	593	777	872	Cass, Douglas, Sarpy, Washington
Sioux City, IA-NE MSA	349	419	522	651	744	Dakota

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 31

N E B R A S K A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	250	335	442	554	664
Arthur	240	309	394	504	573
Blaine	240	309	394	504	573
Box Butte	260	309	394	505	595
Brown	240	309	394	504	585
Burt	240	309	394	504	573
Cedar	240	309	394	504	573
Cherry	240	324	394	507	596
Clay	240	309	394	504	573
Cuming	240	325	394	504	573
Dawes	256	309	394	508	599
Deuel	240	309	394	504	573
Dodge	240	309	406	535	573
Fillmore	240	309	394	504	573
Frontier	269	309	394	504	573
Gage	240	310	401	511	573
Garfield	240	309	394	504	573
Grant	240	309	394	504	573
Hall	287	379	505	664	744
Harlan	240	309	394	505	573
Hitchcock	240	309	394	504	573
Hooker	240	323	394	505	573
Jefferson	240	309	394	504	573
Kearney	240	309	394	504	599
Keya Paha	240	309	394	504	573
Knox	240	320	394	504	573
Logan	240	309	394	504	600
Mcpherson	240	309	394	505	573
Merrick	240	309	394	504	573
Nance	240	309	394	504	573
Nuckolls	240	309	394	504	573
Pawnee	240	309	394	508	573
Phelps	268	309	394	505	599
Platte	240	309	394	550	573
Red Willow	240	309	394	504	583
Rock	240	316	394	504	573
Saunders	240	309	394	504	573
Seward	297	309	402	504	573
Sherman	240	311	394	504	600
Stanton	240	309	394	504	573

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Antelope	240	324	394	507	573
Banner	240	309	394	505	573
Boone	240	309	394	504	596
Boyd	240	322	394	504	573
Buffalo	258	374	469	585	707
Butler	240	309	394	504	573
Chase	240	325	394	504	601
Cheyenne	268	309	394	504	573
Colfax	261	321	394	504	573
Custer	268	311	394	504	595
Dawson	263	321	394	508	573
Dixon	267	309	394	504	573
Dundy	240	309	394	504	573
Franklin	240	309	394	509	573
Furnas	240	309	394	504	596
Garden	240	321	394	507	599
Gosper	240	309	394	504	580
Greeley	240	309	394	504	583
Hamilton	240	309	394	508	573
Hayes	240	323	394	504	596
Holt	240	309	394	504	573
Howard	240	309	394	504	573
Johnson	240	313	394	504	573
Keith	240	309	394	504	573
Kimball	240	309	394	505	599
Lincoln	246	321	394	504	573
Loup	240	309	394	504	598
Madison	246	323	427	553	674
Morrill	240	311	394	504	596
Nemaha	240	309	394	504	573
Otoe	240	309	394	504	600
Perkins	240	309	394	504	573
Pierce	240	309	394	504	573
Polk	240	309	394	504	573
Richardson	240	309	394	504	573
Saline	240	322	394	504	573
Scotts Bluff	244	320	406	504	596
Sheridan	240	309	394	504	574
Sioux	240	309	394	504	599
Thayer	240	324	394	504	573

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 32

N E B R A S K A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Thomas	240	309	394	504	573
Valley	240	309	394	504	573
Webster	240	309	394	504	573
York	240	309	399	504	573
Thurston	240	309	394	504	573
Wayne	274	309	394	504	596
Wheeler	240	309	394	505	573

N E V A D A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Las Vegas, NV-AZ MSA	508	603	718	999	1180	Clark, Nye
Reno, NV MSA	492	570	733	1021	1206	Washoe

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Churchill	445	452	604	832	988
Elko	404	462	616	813	1012
Eureka	328	535	603	750	839
Lander	331	513	603	753	987
Lyon	392	469	603	838	988
Pershing	456	462	616	770	881
White Pine	329	453	603	813	854
Douglas	399	582	731	1014	1128
Esmeralda	429	535	603	751	842
Humboldt	482	506	610	800	855
Lincoln	329	494	603	754	843
Mineral	333	455	606	794	993
Storey	462	468	616	857	1012
Carson City	346	473	632	879	1037

N E W H A M P S H I R E

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Boston, MA-NH PMSA	695	782	979	1223	1437	Rockingham county towns of Seabrook town South Hampton town
Lawrence, MA-NH PMSA	502	606	763	953	1172	Rockingham county towns of Atkinson town, Chester town Danville town, Derry town, Fremont town, Hampstead town Kingston town, Newton town, Plaistow town, Raymond town Salem town, Sandown town, Windham town
Lowell, MA-NH PMSA	510	659	796	997	1115	Hillsborough county towns of Pelham town
Manchester, NH PMSA	410	585	730	913	1023	Hillsborough county towns of Bedford town, Goffstown town Manchester city, Weare town Merrimack county towns of Allenstown town, Hooksett town Rockingham county towns of Auburn town, Candia town Londonderry town
Nashua, NH PMSA	483	673	835	1136	1352	Hillsborough county towns of Amherst town, Brookline town Greenville town, Hollis town, Hudson town Litchfield town, Mason town, Merrimack town Milford town, Mont Vernon town, Nashua city New Ipswich town, Wilton town
Portsmouth-Rochester, NH-ME PMSA	497	595	765	981	1203	Rockingham county towns of Brentwood town East Kingston town, Epping town, Exeter town Greenland town, Hampton town, Hampton Falls town

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

N E W H A M P S H I R E continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Kensington town, New Castle town, Newfields town Newington town, Newmarket town, North Hampton town Portsmouth city, Rye town, Stratham town Strafford county towns of Barrington town, Dover city Durham town, Farmington town, Lee town, Madbury town Milton town, Rochester city, Rollinsford town Somersworth city

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Belknap	436	504	663	896	1089	
Carroll	364	500	666	835	1041	
Cheshire	452	537	687	895	1061	
Coos	312	382	489	638	755	
Grafton	402	485	646	835	1055	
Hillsborough	428	535	713	943	1135	Antrim town, Bennington town, Deering town Francestown town, Greenfield town, Hancock town Hillsborough town, Lyndeborough town, New Boston town Peterborough town, Sharon town, Temple town Windsor town
Merrimack	450	538	671	860	960	Andover town, Boscawen town, Bow town, Bradford town Canterbury town, Chichester town, Concord city Danbury town, Dunbarton town, Epsom town, Franklin city Henniker town, Hill town, Hopkinton town, Loudon town Newbury town, New London town, Northfield town Pembroke town, Pittsfield town, Salisbury town Sutton town, Warner town, Webster town, Wilmot town
Rockingham	468	547	733	1016	1173	Deerfield town, Northwood town, Nottingham town
Strafford	414	562	749	939	1052	Middleton town, New Durham town, Strafford town
Sullivan	435	442	574	754	804	

N E W J E R S E Y

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Atlantic-Cape May, NJ PMSA	511	582	774	970	1108	Atlantic, Cape May
Bergen-Passaic, NJ PMSA	654	797	934	1244	1535	Bergen, Passaic
Jersey City, NJ PMSA	601	709	826	1050	1155	Hudson
Middlesex-Somerset-Hunterdon, NJ PMSA	699	766	956	1298	1499	Hunterdon, Middlesex, Somerset
Monmouth-Ocean, NJ PMSA	614	735	933	1240	1454	Monmouth, Ocean
Newark, NJ PMSA	567	724	872	1099	1388	Essex, Morris, Sussex, Union, Warren
Philadelphia, PA-NJ PMSA	497	611	755	945	1185	Burlington, Camden, Gloucester, Salem
Trenton, NJ PMSA	507	707	862	1167	1409	Mercer
Vineland-Millville-Bridgeton, NJ PMSA	493	600	723	902	1014	Cumberland

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 34

N E W M E X I C O

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albuquerque, NM MSA	397	473	592	816	963	Bernalillo, Sandoval, Valencia
Las Cruces, NM MSA	296	372	442	606	714	Dona Ana
Santa Fe, NM MSA	428	607	749	1006	1139	Los Alamos, Santa Fe

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Catron	273	319	396	532	601
Cibola	284	310	396	532	601
Curry	273	317	415	532	601
Eddy	280	309	396	532	619
Guadalupe	273	309	396	532	605
Hidalgo	273	309	396	532	601
Lincoln	309	317	418	551	689
Mckinley	273	343	436	543	609
Otero	273	309	396	552	601
Rio Arriba	319	326	401	532	601
San Juan	308	330	412	572	678
Sierra	273	309	396	532	601
Taos	469	475	633	791	1042
Union	273	333	396	532	601

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Chaves	273	310	409	563	601
Colfax	273	317	396	532	601
Debaca	273	310	396	532	601
Grant	323	369	472	633	714
Harding	273	309	396	532	601
Lea	273	309	396	532	601
Luna	300	330	423	567	640
Mora	273	309	396	532	601
Quay	273	395	445	557	623
Roosevelt	273	309	396	532	601
San Miguel	302	309	408	532	601
Socorro	273	309	396	532	617
Torrance	299	323	396	532	601

N E W Y O R K

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albany-Schenectady-Troy, NY MSA	401	494	607	762	851	Albany, Montgomery, Rensselaer, Saratoga, Schenectady Schoharie
Binghamton, NY MSA	360	404	504	640	718	Broome, Tioga
Buffalo-Niagara Falls, NY PMSA	359	425	513	640	718	Erie, Niagara
Dutchess County, NY PMSA	595	754	933	1212	1416	Dutchess
Elmira, NY MSA	360	404	496	627	748	Chemung
Glens Falls, NY MSA	360	468	571	715	799	Warren, Washington
Jamestown, NY MSA	360	404	486	627	718	Chautauqua
Nassau-Suffolk, NY PMSA	798	962	1173	1633	1749	Nassau, Suffolk
New York, NY PMSA	750	836	949	1187	1330	Bronx, Kings, New York, Putnam, Queens, Richmond Rockland
Westchester County, NY	720	939	1144	1486	1774	Westchester
Newburgh, NY-PA PMSA	476	618	757	960	1095	Orange
Rochester, NY MSA	387	504	612	785	858	Genesee, Livingston, Monroe, Ontario, Orleans, Wayne
Syracuse, NY MSA	385	464	575	734	814	Cayuga, Madison, Onondaga, Oswego
Utica-Rome, NY MSA	359	403	484	686	715	Herkimer, Oneida

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 35

N E W Y O R K continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Allegany	359	403	484	626	715
Chenango	382	403	484	626	715
Columbia	448	471	604	791	846
Delaware	359	403	484	626	769
Franklin	359	403	484	626	715
Greene	359	465	557	719	878
Jefferson	386	455	535	670	750
Otsego	359	424	488	630	800
Schuyler	388	413	491	683	805
Steuben	371	422	484	633	715
Tompkins	468	504	647	903	1064
Wyoming	359	403	484	626	715

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Cattaraugus	359	403	484	626	715
Clinton	359	403	521	651	730
Cortland	359	428	536	670	793
Essex	359	408	512	641	715
Fulton	359	403	484	626	715
Hamilton	359	431	496	626	715
Lewis	359	403	484	626	715
St. Lawrence	359	403	484	626	715
Seneca	383	411	497	642	715
Sullivan	465	521	635	878	890
Ulster	440	612	736	958	1206
Yates	359	403	484	626	715

N O R T H C A R O L I N A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Asheville, NC MSA	349	422	550	717	773	Buncombe, Madison
Charlotte-Gastonia-Rock Hill, NC-SC MSA	519	585	659	869	1040	Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, Union
Fayetteville, NC MSA	382	434	487	674	801	Cumberland
Goldsboro, NC MSA	313	361	438	564	659	Wayne
Greensboro--Winston-Salem--High Point, NC MSA	414	472	562	775	788	Alamance, Davidson, Davie, Forsyth, Guilford, Randolph Stokes, Yadkin
Greenville, NC MSA	429	435	564	761	930	Pitt
Hickory-Morganton, NC MSA	395	430	499	630	746	Alexander, Burke, Caldwell, Catawba
Jacksonville, NC MSA	357	416	471	653	772	Onslow
Norfolk-Virginia Beach-Newport News, VA-NC MSA	440	496	586	817	960	Currituck
Raleigh-Durham-Chapel Hill, NC MSA	530	643	755	1013	1195	Chatham, Durham, Franklin, Johnston, Orange, Wake
Rocky Mount, NC MSA	334	361	438	581	641	Edgecombe, Nash
Wilmington, NC MSA	458	502	615	842	1004	Brunswick, New Hanover

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alleghany	295	345	413	532	630
Ashe	295	340	413	532	604
Beaufort	295	340	413	532	604
Bladen	295	340	413	532	604
Carteret	334	366	446	620	690
Cherokee	295	340	413	532	604
Clay	295	340	413	532	604
Columbus	295	340	413	532	604
Dare	306	485	558	766	783
Gates	295	340	413	532	604

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Anson	295	340	413	532	604
Avery	329	371	451	566	632
Bertie	295	340	413	532	604
Camden	295	377	502	628	705
Caswell	295	340	413	532	604
Chowan	295	340	413	532	604
Cleveland	295	346	413	547	604
Craven	295	369	444	581	622
Duplin	295	340	413	532	604
Graham	295	340	413	532	604

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 36

N O R T H C A R O L I N A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Granville	311	340	413	547	619
Halifax	295	340	413	532	604
Haywood	307	349	425	571	621
Hertford	295	340	413	532	604
Hyde	295	340	413	532	604
Jackson	295	340	413	578	755
Lee	295	377	446	578	626
Mcdowell	295	360	431	589	698
Martin	295	340	413	532	604
Montgomery	295	340	413	532	604
Northampton	295	340	413	532	604
Pasquotank	340	364	453	630	636
Perquimans	295	340	413	532	604
Polk	295	374	419	532	604
Robeson	295	347	413	532	604
Rutherford	298	340	413	532	604
Scotland	295	340	413	532	604
Surry	295	340	413	532	604
Transylvania	341	365	462	612	654
Vance	312	353	413	532	604
Washington	295	340	413	532	604
Wilkes	335	378	425	588	660
Yancey	295	346	413	532	623

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Greene	295	340	413	532	604
Harnett	333	385	467	604	682
Henderson	382	393	486	646	744
Hoke	295	340	413	532	604
Iredell	398	408	538	673	752
Jones	295	340	413	532	604
Lenoir	295	340	413	532	604
Macon	295	352	413	532	604
Mitchell	295	386	443	605	632
Moore	339	409	489	668	801
Pamlico	295	340	413	532	604
Pender	356	431	498	642	784
Person	295	340	443	578	677
Richmond	295	340	413	532	604
Rockingham	295	340	413	532	604
Sampson	295	340	413	532	604
Stanly	295	340	419	566	604
Swain	295	340	413	532	604
Tyrrell	295	340	413	532	604
Warren	295	340	413	532	604
Watauga	385	462	584	795	958
Wilson	308	340	418	532	604

N O R T H D A K O T A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bismarck, ND MSA	350	392	522	727	860	Burleigh, Morton
Fargo-Moorhead, ND-MN MSA	344	473	571	793	849	Cass
Grand Forks, ND-MN MSA	355	423	557	768	857	Grand Forks

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	231	290	374	486	568
Benson	262	290	374	486	568
Bottineau	231	290	374	486	568
Burke	251	290	374	486	568
Dickey	251	290	374	486	568
Dunn	231	290	374	486	568
Emmons	231	290	374	486	568
Golden Valley	231	298	395	494	568

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Barnes	231	292	386	505	568
Billings	251	290	374	486	568
Bowman	231	290	374	486	568
Cavalier	231	299	397	495	611
Divide	231	290	374	486	568
Eddy	231	290	374	486	568
Foster	231	290	376	486	568
Grant	231	290	374	486	568

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 37

N O R T H D A K O T A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Griggs	231	290	374	486	568
Kidder	231	290	374	486	568
Logan	231	290	374	486	568
Mcintosh	231	290	374	486	568
Mclean	245	290	374	486	568
Mountrail	255	290	374	486	568
Oliver	231	290	374	486	568
Pierce	231	290	374	501	568
Ransom	236	290	374	486	568
Richland	243	290	381	486	568
Sargent	231	290	374	486	568
Sioux	231	290	374	486	568
Stark	231	290	374	486	568
Stutsman	276	290	378	527	621
Traill	243	309	374	486	568
Ward	231	318	424	573	683
Williams	231	290	374	486	568

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Hettinger	231	290	374	486	568
Lamoure	251	290	374	486	568
Mchenry	231	290	374	486	568
Mckenzie	231	290	374	486	568
Mercer	231	290	374	486	568
Nelson	231	290	374	486	568
Pembina	231	290	374	493	586
Ramsey	238	318	424	531	693
Renville	267	290	374	489	578
Rolette	250	319	384	486	568
Sheridan	231	290	374	486	568
Slope	231	290	374	486	568
Steele	231	290	374	486	568
Towner	264	298	395	494	651
Walsh	308	329	408	511	572
Wells	246	290	374	486	568

O H I O

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Akron, OH PMSA	387	469	602	753	845	Portage, Summit
Brown County, OH	301	354	441	571	630	Brown
Canton-Massillon, OH MSA	292	380	484	606	681	Carroll, Stark
Cincinnati, OH-KY-IN	324	416	557	746	806	Clermont, Hamilton, Warren
Cleveland-Lorain-Elyria, OH PMSA	415	521	645	820	924	Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina
Columbus, OH MSA	398	471	605	768	883	Delaware, Fairfield, Franklin, Licking, Madison, Pickaway
Dayton-Springfield, OH MSA	389	436	556	718	806	Clark, Greene, Miami, Montgomery
Hamilton-Middletown, OH PMSA	326	464	594	743	832	Butler
Huntington-Ashland, WV-KY-OH MSA	307	360	444	566	624	Lawrence
Lima, OH MSA	292	350	460	587	643	Allen, Auglaize
Mansfield, OH MSA	292	350	445	555	622	Crawford, Richland
Parkersburg-Marietta, WV-OH MSA	309	371	424	550	597	Washington
Steubenville-Weirton, OH-WV MSA	292	344	431	549	613	Jefferson
Toledo, OH MSA	365	444	542	698	758	Fulton, Lucas, Wood
Wheeling, WV-OH MSA	318	349	431	549	613	Belmont
Youngstown-Warren, OH MSA	342	403	505	634	722	Columbiana, Mahoning, Trumbull

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 38

O H I O continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	282	335	417	532	596
Athens	334	377	443	581	713
Clinton	322	413	496	691	697
Darke	310	335	420	532	596
Erie	282	376	469	633	768
Gallia	282	335	417	532	596
Hancock	358	362	458	585	640
Harrison	282	335	417	532	596
Highland	282	335	417	532	596
Holmes	282	335	417	532	596
Jackson	282	335	417	532	596
Logan	331	336	433	583	607
Meigs	282	335	417	532	596
Monroe	282	335	417	532	596
Morrow	282	335	417	532	596
Noble	282	335	417	532	604
Paulding	282	335	417	532	596
Pike	296	353	438	561	626
Putnam	292	335	417	532	596
Sandusky	282	366	469	592	654
Seneca	283	335	417	536	596
Tuscarawas	282	335	437	547	613
Van Wert	282	339	417	532	596
Wayne	282	373	459	583	642
Wyandot	282	335	417	532	596

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Ashland	282	335	440	550	616
Champaign	282	344	447	558	625
Coshocton	282	335	417	532	596
Defiance	335	381	502	633	703
Fayette	306	335	417	532	596
Guernsey	282	335	417	532	596
Hardin	282	335	417	532	596
Henry	325	360	449	580	659
Hocking	282	335	417	532	596
Huron	327	356	443	585	622
Knox	332	365	468	605	669
Marion	282	335	417	532	596
Mercer	282	335	417	532	613
Morgan	282	340	417	532	596
Muskingum	282	335	417	532	596
Ottawa	282	417	479	652	697
Perry	282	335	417	532	596
Preble	289	343	427	547	611
Ross	327	341	417	532	596
Scioto	282	335	417	532	596
Shelby	282	344	459	573	642
Union	282	390	515	644	745
Vinton	282	335	417	532	596
Williams	313	350	436	557	623

O K L A H O M A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Enid, OK MSA	300	304	403	561	642	Garfield
Fort Smith, AR-OK MSA	337	341	449	600	630	Sequoyah
Lawton, OK MSA	371	373	475	659	722	Comanche
Oklahoma City, OK MSA	336	366	474	659	737	Canadian, Cleveland, Logan, Mcclain, Oklahoma Pottawatomie
Tulsa, OK MSA	337	402	527	733	865	Creek, Osage, Rogers, Tulsa, Wagoner

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 39

O K L A H O M A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adair	249	286	357	475	544
Atoka	249	286	357	475	544
Beckham	253	286	357	475	544
Bryan	249	286	357	475	544
Carter	249	288	360	501	544
Choctaw	249	286	357	475	544
Coal	249	286	357	475	544
Craig	249	286	357	487	576
Delaware	249	286	357	475	554
Ellis	249	286	357	475	544
Grady	273	286	370	503	607
Greer	249	286	357	475	544
Harper	249	286	357	475	544
Hughes	249	286	357	475	544
Jefferson	249	286	357	475	544
Kay	276	292	384	535	627
Kiowa	249	286	357	475	544
Le Flore	249	286	357	475	544
Love	249	286	361	475	544
Mcintosh	249	286	357	475	544
Marshall	249	286	357	475	544
Murray	249	286	357	475	544
Noble	249	286	357	475	544
Okfuskee	249	286	357	475	544
Ottawa	268	286	357	475	544
Payne	288	340	435	601	674
Pontotoc	249	286	357	475	544
Roger Mills	249	286	357	475	544
Stephens	253	286	357	475	566
Tillman	249	286	357	475	544
Washita	249	286	357	475	544
Woodward	249	286	357	475	544

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alfalfa	249	286	357	475	544
Beaver	249	290	357	475	544
Blaine	249	286	357	475	544
Caddo	249	286	357	475	544
Cherokee	261	295	357	475	552
Cimarron	249	286	357	475	544
Cotton	249	286	357	475	544
Custer	249	286	366	509	587
Dewey	249	286	357	475	544
Garvin	249	286	357	475	548
Grant	249	286	357	475	544
Harmon	249	286	357	475	544
Haskell	249	286	357	475	544
Jackson	249	323	394	518	584
Johnston	249	286	357	475	544
Kingfisher	249	294	365	478	544
Latimer	249	286	357	475	544
Lincoln	267	286	357	475	544
Mccurtain	249	286	357	475	544
Major	249	299	357	495	544
Mayes	249	290	386	487	544
Muskogee	270	303	357	493	544
Nowata	249	286	357	475	544
Okmulgee	253	286	357	475	544
Pawnee	281	286	370	476	544
Pittsburg	249	286	357	475	544
Pushmataha	249	286	357	475	544
Seminole	249	286	357	475	544
Texas	249	296	357	476	544
Washington	249	342	416	552	645
Woods	249	286	357	475	544

O R E G O N

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Corvallis, OR MSA	385	499	633	952	1011	Benton
Eugene-Springfield, OR MSA	339	465	606	846	977	Lane
Medford-Ashland, OR MSA	348	456	610	848	945	Jackson

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 40

O R E G O N continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Portland-Vancouver, OR-WA PMSA	481	592	730	1015	1102	Clackamas, Columbia, Multnomah, Washington, Yamhill
Salem, OR PMSA	407	480	615	846	886	Marion, Polk

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Baker	315	373	484	666	742
Coos	315	384	510	710	742
Curry	315	428	568	728	895
Douglas	315	373	484	666	793
Grant	315	373	484	666	742
Hood River	370	416	565	736	870
Josephine	315	382	492	666	776
Lake	315	373	484	666	742
Linn	378	449	582	801	893
Morrow	315	373	484	666	742
Tillamook	315	373	484	666	742
Union	315	373	484	666	742
Wasco	383	475	531	723	813

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Clatsop	363	430	563	768	863
Crook	315	373	484	666	742
Deschutes	389	447	598	833	964
Gilliam	315	397	484	666	742
Harney	315	373	484	666	742
Jefferson	315	373	484	666	742
Klamath	315	373	484	666	788
Lincoln	382	388	517	719	782
Malheur	315	373	484	666	742
Sherman	315	373	484	666	742
Umatilla	315	373	484	666	742
Wallowa	315	373	484	666	742
Wheeler	315	373	484	666	742

P E N N S Y L V A N I A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Allentown-Bethlehem-Easton, PA MSA	377	511	608	792	889	Carbon, Lehigh, Northampton
Altoona, PA MSA	288	365	438	571	639	Blair
Erie, PA MSA	292	381	448	579	647	Erie
Harrisburg-Lebanon-Carlisle, PA MSA	346	443	568	716	798	Cumberland, Dauphin, Lebanon, Perry
Johnstown, PA MSA	292	371	446	579	647	Cambria, Somerset
Lancaster, PA MSA	384	470	586	765	823	Lancaster
Newburgh, NY-PA PMSA	476	618	757	960	1095	Pike
Philadelphia, PA-NJ PMSA	497	611	755	945	1185	Bucks, Chester, Delaware, Montgomery, Philadelphia
Pittsburgh, PA PMSA	389	476	574	719	803	Allegheny, Beaver, Butler, Fayette, Washington Westmoreland
Reading, PA MSA	303	448	553	691	779	Berks
Scranton--Wilkes-Barre--Hazleton, PA MSA	292	408	489	610	737	Columbia, Lackawanna, Luzerne, Wyoming
Sharon, PA MSA	320	371	446	579	647	Mercer
State College, PA MSA	419	513	635	832	890	Centre
Williamsport, PA MSA	292	373	448	579	647	Lycoming
York, PA MSA	325	446	553	690	772	York

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 41

P E N N S Y L V A N I A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	285	384	509	660	835
Bedford	285	363	434	567	633
Cameron	285	363	434	567	633
Clearfield	285	363	434	567	633
Crawford	285	363	434	567	633
Forest	285	363	434	567	633
Fulton	285	363	434	567	633
Huntingdon	285	363	434	567	633
Jefferson	285	363	434	567	633
Lawrence	285	363	434	567	633
Mifflin	317	363	434	567	633
Montour	337	363	456	633	748
Potter	285	363	434	567	633
Snyder	343	363	435	567	633
Susquehanna	341	363	434	567	673
Union	344	457	571	714	798
Warren	285	363	434	567	633

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Armstrong	289	383	434	567	712
Bradford	289	367	447	585	641
Clarion	285	363	434	567	633
Clinton	285	363	434	567	633
Elk	285	363	434	567	633
Franklin	285	363	440	606	633
Greene	285	363	434	567	633
Indiana	327	365	434	567	633
Juniata	285	363	434	567	633
Mc Kean	285	365	434	567	633
Monroe	456	544	672	917	1025
Northumberland	301	381	465	618	688
Schuylkill	285	363	452	567	633
Sullivan	285	363	434	567	633
Tioga	285	363	434	567	633
Venango	285	363	434	567	633
Wayne	286	442	521	664	853

R H O D E I S L A N D

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
New London-Norwich, CT-RI MSA	501	606	738	923	1055	Washington county towns of Hopkinton town, Westerly town
Providence-Fall River-Warwick, RI-MA MSA	384	523	628	789	972	Bristol county towns of Barrington town, Bristol town Warren town Kent county towns of Coventry town, East Greenwich tow Warwick city, West Greenwich tow, West Warwick town Newport county towns of Jamestown town Little Compton tow, Tiverton town Providence county towns of Burrillville town Central Falls city, Cranston city, Cumberland town East Providence ci, Foster town, Glocester town Johnston town, Lincoln town, North Providence t North Smithfield t, Pawtucket city, Providence city Scituate town, Smithfield town, Woonsocket city Washington county towns of Charlestown town, Exeter town Narragansett town, North Kingstown to, Richmond town South Kingstown to

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 42

R H O D E I S L A N D continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Newport	565	658	845	1058	1183	Middletown town, Newport city, Portsmouth town
Washington	667	751	844	1089	1199	New Shoreham town

S O U T H C A R O L I N A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Augusta-Aiken, GA-SC MSA	389	465	548	744	880	Aiken, Edgefield
Charleston-North Charleston, SC MSA	410	476	546	726	846	Berkeley, Charleston, Dorchester
Charlotte-Gastonia-Rock Hill, NC-SC MSA	519	585	659	869	1040	York
Columbia, SC MSA	439	484	556	735	846	Lexington, Richland
Florence, SC MSA	333	370	481	600	673	Florence
Greenville-Spartanburg-Anderson, SC MSA	395	478	539	679	799	Anderson, Cherokee, Greenville, Pickens, Spartanburg
Myrtle Beach, SC MSA	431	438	561	702	786	Horry
Sumter, SC MSA	352	390	442	605	719	Sumter

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Abbeville	290	338	411	528	604	Allendale	290	338	411	528	604
Bamberg	290	338	411	528	604	Barnwell	305	338	413	528	604
Beaufort	414	508	585	730	818	Calhoun	290	338	411	528	604
Chester	290	338	411	528	604	Chesterfield	290	338	411	528	604
Clarendon	290	338	411	528	604	Colleton	290	338	411	528	604
Darlington	290	338	411	528	604	Dillon	290	338	411	528	604
Fairfield	290	389	443	552	619	Georgetown	290	369	414	528	629
Greenwood	291	338	411	528	604	Hampton	290	338	411	528	604
Jasper	290	338	411	528	604	Kershaw	290	338	411	528	604
Lancaster	304	339	411	528	604	Laurens	290	338	411	528	604
Lee	290	338	411	528	604	Mccormick	290	338	411	528	643
Marion	290	338	411	528	604	Marlboro	290	338	411	528	604
Newberry	290	338	411	528	604	Oconee	290	338	411	528	604
Orangeburg	290	338	411	528	604	Saluda	290	338	411	528	604
Union	290	338	411	528	604	Williamsburg	290	338	411	528	604

S O U T H D A K O T A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Rapid City, SD MSA	362	431	574	781	945	Pennington
Sioux Falls, SD MSA	350	484	614	777	892	Lincoln, Minnehaha

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 43

S O U T H D A K O T A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Aurora	256	343	427	565	654
Bennett	256	340	427	565	654
Brookings	274	435	482	652	769
Brule	256	340	427	565	654
Butte	296	403	536	700	825
Charles Mix	256	340	427	565	654
Clay	256	340	427	565	701
Corson	256	340	427	565	654
Davison	268	340	427	572	654
Deuel	256	340	427	565	654
Douglas	284	340	427	565	654
Fall River	292	340	427	565	654
Grant	256	340	427	565	654
Haakon	256	348	427	565	654
Hand	256	340	427	565	654
Harding	256	348	427	565	654
Hutchinson	256	340	427	565	654
Jackson	256	345	427	565	654
Jones	256	340	427	565	654
Lake	256	345	427	565	654
Lyman	256	340	427	565	654
Mcpherson	256	340	427	565	654
Meade	360	406	542	709	837
Miner	256	345	427	565	654
Perkins	256	340	427	565	654
Roberts	256	340	427	565	654
Shannon	256	345	427	565	654
Stanley	256	348	427	565	654
Todd	282	340	427	565	654
Turner	256	340	427	565	654
Walworth	256	348	427	565	654
Ziebach	256	340	427	565	654

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Beadle	256	340	427	565	654
Bon Homme	284	340	427	565	654
Brown	256	340	427	565	654
Buffalo	256	340	427	565	660
Campbell	256	340	427	565	654
Clark	256	340	427	565	654
Codington	256	340	427	565	654
Custer	256	340	427	565	654
Day	286	340	427	565	654
Dewey	256	340	427	565	654
Edmunds	256	340	427	565	654
Faulk	256	340	450	565	654
Gregory	257	340	427	565	654
Hamlin	256	340	427	565	654
Hanson	260	356	474	596	667
Hughes	281	340	450	592	701
Hyde	256	346	427	565	654
Jerauld	256	343	427	565	654
Kingsbury	279	340	427	565	654
Lawrence	294	423	532	728	824
Mccook	256	340	427	565	654
Marshall	303	340	427	565	654
Mellette	306	345	427	565	654
Moody	256	340	427	565	654
Potter	256	340	427	565	654
Sanborn	256	340	427	565	654
Spink	278	340	434	565	654
Sully	256	340	427	565	654
Tripp	256	340	427	565	654
Union	269	340	427	565	654
Yankton	256	340	427	565	654

T E N N E S S E E

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Chattanooga, TN-GA MSA	372	434	522	674	768	Hamilton, Marion
Clarksville-Hopkinsville, TN-KY MSA	345	386	454	618	636	Montgomery
Jackson, TN MSA	267	353	473	654	658	Madison, Chester

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 44

T E N N E S S E E continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Johnson City-Kingsport-Bristol, TN-VA MSA	310	370	458	594	704	Carter, Hawkins, Sullivan, Unicoi, Washington
Knoxville, TN MSA	310	381	479	639	767	Anderson, Blount, Knox, Loudon, Sevier, Union
Memphis, TN-AR-MS MSA	396	462	542	753	791	Fayette, Shelby, Tipton
Nashville, TN MSA	434	520	641	873	979	Cheatham, Davidson, Dickson, Robertson, Rutherford Sumner, Williamson, Wilson

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Bedford	240	309	378	476	529	Benton	259	295	355	468	524
Bledsoe	240	282	355	468	524	Bradley	240	303	404	547	665
Campbell	242	282	355	468	524	Cannon	240	282	355	468	524
Carroll	240	292	355	468	524	Claiborne	240	282	355	468	524
Clay	244	282	355	468	524	Cocke	240	282	355	468	524
Coffee	240	335	377	524	597	Crockett	240	282	355	468	524
Cumberland	253	282	369	514	524	Decatur	240	282	355	468	524
Dekalb	240	282	355	468	524	Dyer	300	304	405	507	632
Fentress	240	282	355	468	524	Franklin	251	282	355	489	575
Gibson	240	282	355	468	524	Giles	240	306	379	474	530
Grainger	244	282	355	468	524	Greene	240	282	355	468	524
Grundy	240	282	355	468	524	Hamblen	240	283	371	493	524
Hancock	240	282	355	468	524	Hardeman	240	282	355	468	524
Hardin	240	282	355	468	524	Haywood	252	293	391	489	547
Henderson	240	282	355	468	524	Henry	240	282	355	468	524
Hickman	284	288	382	503	534	Houston	240	282	355	468	524
Humphreys	240	293	355	468	524	Jackson	240	282	355	468	524
Jefferson	262	282	365	468	580	Johnson	240	282	355	468	524
Lake	240	282	355	468	524	Lauderdale	240	282	359	468	524
Lawrence	240	282	355	468	524	Lewis	240	282	355	468	524
Lincoln	240	282	360	468	524	Mcminn	240	282	355	470	524
Mcnairy	240	282	355	468	524	Macon	240	282	355	468	524
Marshall	283	308	401	507	564	Maury	344	351	468	586	653
Meigs	240	282	355	468	524	Monroe	240	282	355	468	524
Moore	240	282	355	468	524	Morgan	240	282	355	468	524
Obion	279	283	362	479	524	Overton	240	282	355	468	524
Perry	240	284	355	468	524	Pickett	240	282	355	468	524
Polk	240	282	355	468	524	Putnam	292	295	379	521	560
Rhea	240	300	355	473	524	Roane	259	282	355	478	575
Scott	240	282	355	468	524	Sequatchie	240	282	355	468	524
Smith	240	282	355	468	524	Stewart	240	282	355	468	524
Trousdale	240	295	392	492	644	Van Buren	240	282	355	468	524
Warren	267	282	364	468	524	Wayne	240	282	355	468	524

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 45

T E N N E S S E E continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Weakley	260	282	355	468	524
White	244	282	355	468	524

T E X A S

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Abilene, TX MSA	338	376	485	654	795	Taylor
Amarillo, TX MSA	286	361	449	626	738	Potter, Randall
Austin-San Marcos, TX MSA	509	615	819	1137	1344	Bastrop, Caldwell, Hays, Travis, Williamson
Beaumont-Port Arthur, TX MSA	326	394	480	636	673	Hardin, Jefferson, Orange
Brazoria, TX PMSA	473	527	658	917	1079	Brazoria
Brownsville-Harlingen-San Benito, TX MSA	300	378	472	591	738	Cameron
Bryan-College Station, TX MSA	381	443	560	781	921	Brazos
Corpus Christi, TX MSA	357	438	559	761	900	Nueces, San Patricio
Dallas, TX	529	609	781	1080	1277	Collin, Dallas, Denton, Ellis, Hunt, Kaufman, Rockwall
El Paso, TX MSA	402	451	534	739	877	El Paso
Fort Worth-Arlington, TX PMSA	452	491	637	889	1048	Hood, Johnson, Parker, Tarrant
Galveston-Texas City, TX PMSA	464	477	597	829	979	Galveston
Henderson County, TX	296	352	430	586	704	Henderson
Houston, TX PMSA	440	495	640	892	1051	Chambers, Fort Bend, Harris, Liberty, Montgomery, Waller
Killeen-Temple, TX MSA	401	418	529	735	808	Bell, Coryell
Laredo, TX MSA	325	374	491	614	691	Webb
Longview-Marshall, TX MSA	322	363	445	607	662	Gregg, Harrison, Upshur
Lubbock, TX MSA	308	390	506	704	780	Lubbock
Mc Allen-Edinburg-Mission, TX MSA	278	370	424	529	594	Hidalgo
Odessa-Midland, TX MSA	308	356	475	660	765	Ector, Midland
San Angelo, TX MSA	286	365	443	608	717	Tom Green
San Antonio, TX MSA	376	434	561	781	923	Bexar, Comal, Guadalupe, Wilson
Sherman-Denison, TX MSA	286	391	472	603	721	Grayson
Texarkana, TX-Texarkana, AR MSA	311	380	464	612	649	Bowie
Tyler, TX MSA	358	395	482	668	707	Smith
Victoria, TX MSA	354	358	452	627	707	Victoria
Waco, TX MSA	311	381	502	667	703	Mclennan
Wichita Falls, TX MSA	343	383	462	615	725	Archer, Wichita

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 46

T E X A S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Anderson	333	375	420	585	591
Angelina	302	351	395	548	646
Armstrong	277	320	418	525	591
Austin	277	320	386	529	591
Bandera	297	320	386	525	591
Bee	277	320	386	518	591
Borden	277	320	386	518	591
Brewster	277	320	386	522	625
Brooks	277	320	386	518	591
Burleson	277	320	405	548	668
Calhoun	296	320	386	534	632
Camp	375	380	475	594	664
Cass	277	320	386	518	591
Cherokee	309	321	393	518	591
Clay	277	326	386	518	603
Coke	277	320	386	518	591
Collingsworth	277	320	386	518	591
Comanche	277	320	386	518	591
Cooke	300	320	406	552	613
Crane	277	320	386	518	591
Crosby	277	320	386	518	591
Dallam	277	320	386	518	591
Deaf Smith	277	320	386	518	601
Dewitt	277	320	386	518	591
Dimmit	277	320	386	518	591
Duval	277	320	386	518	591
Edwards	277	320	386	518	591
Falls	277	320	386	518	591
Fayette	277	320	386	518	591
Floyd	277	320	386	518	591
Franklin	277	320	386	534	591
Frio	277	320	386	518	591
Garza	277	320	386	518	591
Glasscock	277	320	386	518	591
Gonzales	277	320	386	518	591
Grimes	277	320	386	522	616
Hall	277	320	386	518	591
Hansford	277	320	386	518	607
Hartley	277	320	386	518	591
Hemphill	277	357	399	557	591

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Andrews	277	320	386	518	591
Aransas	277	341	454	632	636
Atascosa	277	320	386	518	591
Bailey	277	320	386	518	591
Baylor	277	320	386	518	591
Blanco	277	320	408	569	600
Bosque	277	320	386	518	591
Briscoe	277	320	386	518	591
Brown	277	320	387	520	635
Burnet	277	320	394	547	640
Callahan	277	320	386	518	591
Carson	277	320	386	518	591
Castro	279	320	386	518	591
Childress	277	320	386	518	591
Cochran	277	320	386	518	591
Coleman	277	320	386	518	591
Colorado	277	320	386	518	591
Concho	277	320	386	518	591
Cottle	277	320	386	518	591
Crockett	277	320	386	518	591
Culberson	277	320	386	518	591
Dawson	277	320	386	518	591
Delta	277	332	386	518	591
Dickens	277	320	386	518	591
Donley	277	320	386	518	591
Eastland	277	320	386	518	591
Erath	287	325	420	544	591
Fannin	281	320	386	520	591
Fisher	277	320	386	518	591
Foard	277	320	386	518	591
Freestone	277	320	386	518	591
Gaines	283	320	386	518	591
Gillespie	277	349	452	622	634
Goliad	277	320	386	518	591
Gray	303	320	411	518	611
Hale	277	320	386	518	591
Hamilton	277	320	386	518	591
Hardeman	277	320	386	518	591
Haskell	277	320	386	518	591
Hill	277	320	386	518	591

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 47

T E X A S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Hockley	283	330	386	523	591
Houston	277	320	386	518	591
Hudspeth	334	377	420	528	693
Irion	277	320	386	518	591
Jackson	277	321	386	518	591
Jeff Davis	277	320	386	518	591
Jim Wells	277	320	386	518	599
Karnes	277	320	386	518	591
Kenedy	277	320	386	518	591
Kerr	277	359	448	624	736
King	277	320	386	518	591
Kleberg	337	349	425	594	699
Lamar	277	344	404	565	668
Lampasas	277	320	386	525	620
Lavaca	277	320	386	518	591
Leon	277	356	398	518	656
Lipscomb	277	320	386	518	591
Llano	277	357	475	595	780
Lynn	277	320	386	518	591
Mcmullen	277	320	386	518	591
Marion	277	320	386	518	613
Mason	277	320	386	518	591
Maverick	277	320	386	518	591
Menard	277	320	386	518	591
Mills	277	320	386	518	591
Montague	277	320	386	518	591
Morris	277	320	386	518	591
Nacogdoches	292	353	457	571	675
Newton	277	320	386	518	591
Ochiltree	277	320	386	518	591
Palo Pinto	277	320	386	518	615
Parmer	277	320	386	518	591
Polk	309	338	393	529	642
Rains	277	359	434	602	607
Real	277	320	386	518	591
Reeves	277	320	386	518	591
Roberts	277	323	386	518	591
Runnels	277	320	386	518	591
Sabine	277	320	386	518	591
San Jacinto	290	327	386	518	605

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Hopkins	323	348	408	569	613
Howard	295	320	386	522	591
Hutchinson	277	320	399	557	658
Jack	277	320	386	518	591
Jasper	277	320	394	525	644
Jim Hogg	277	320	386	518	591
Jones	277	320	386	518	591
Kendall	277	404	454	632	747
Kent	277	320	386	518	591
Kimble	277	320	420	527	591
Kinney	277	320	386	518	591
Knox	277	320	386	518	591
Lamb	277	320	386	518	591
La Salle	277	320	386	518	591
Lee	314	353	396	553	621
Limestone	277	320	386	518	591
Live Oak	277	320	386	518	591
Loving	277	320	386	518	591
Mcculloch	285	320	386	518	591
Madison	277	329	386	518	609
Martin	277	320	386	518	591
Matagorda	320	350	434	602	607
Medina	277	320	386	518	591
Milam	277	320	386	518	591
Mitchell	277	320	386	518	591
Moore	277	325	386	518	601
Motley	277	320	386	518	591
Navarro	332	349	419	532	591
Nolan	285	320	386	518	591
Oldham	277	320	418	525	614
Panola	277	326	386	518	591
Pecos	277	320	386	522	616
Presidio	277	320	386	518	591
Reagan	353	359	477	599	783
Red River	277	357	399	518	591
Refugio	277	320	386	518	591
Robertson	277	367	409	518	591
Rusk	289	320	386	518	591
San Augustine	277	320	386	518	591
San Saba	277	320	386	518	591

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 48

T E X A S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Schleicher	277	320	386	518	591
Shackelford	277	320	386	518	591
Sherman	277	320	386	518	591
Starr	277	320	386	518	591
Sterling	277	320	386	518	591
Sutton	277	320	386	518	591
Terrell	277	320	386	518	591
Throckmorton	277	320	386	518	591
Trinity	288	325	386	518	591
Upton	277	320	386	518	591
Val Verde	277	368	433	540	637
Walker	374	397	486	645	681
Washington	344	351	469	585	769
Wheeler	277	320	386	518	591
Willacy	277	320	386	518	591
Wise	277	323	388	541	591
Yoakum	277	365	448	560	736
Zapata	277	320	386	518	591

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Scurry	277	320	400	559	660
Shelby	277	320	386	518	591
Somervell	317	357	399	548	591
Stephens	277	320	386	518	591
Stonewall	277	320	386	518	591
Swisher	277	320	386	518	591
Terry	277	320	386	518	591
Titus	294	366	414	572	591
Tyler	277	320	412	518	679
Uvalde	277	320	386	518	591
Van Zandt	296	320	400	546	660
Ward	277	320	386	518	591
Wharton	277	320	386	518	591
Wilbarger	277	320	386	518	610
Winkler	277	320	386	518	591
Wood	277	320	399	557	658
Young	277	320	386	518	599
Zavala	277	320	386	518	591

U T A H

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Kane County, UT	318	391	489	655	788	Kane
Provo-Orem, UT MSA	440	464	574	796	941	Utah
Salt Lake City-Ogden, UT MSA	449	520	660	918	1076	Davis, Salt Lake, Weber

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Beaver	301	368	461	617	742
Cache	335	412	516	690	830
Daggett	327	447	593	744	833
Emery	301	368	461	617	742
Grand	301	368	461	617	742
Juab	301	368	461	617	742
Morgan	301	368	461	617	742
Rich	301	368	461	617	742
Sanpete	301	368	461	617	742
Summit	445	549	685	924	1124
Uintah	301	368	461	617	742
Washington	370	456	605	809	990

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Box Elder	335	371	465	622	750
Carbon	323	368	461	617	742
Duchesne	301	368	461	617	742
Garfield	301	368	461	617	742
Iron	307	418	520	651	765
Millard	301	368	461	617	742
Piute	301	368	461	617	742
San Juan	301	368	461	617	742
Sevier	305	368	461	617	742
Tooele	301	382	461	617	742
Wasatch	301	382	461	617	742
Wayne	301	368	461	617	742

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 49

V E R M O N T

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Burlington, VT MSA	432	529	706	962	1161	Chittenden county towns of Burlington city Charlotte town, Colchester town, Essex town Hinesburg town, Jericho town, Milton town, Richmond town St. George town, Shelburne town, South Burlington c Williston town, Winooski city Franklin county towns of Fairfax town, Georgia town St. Albans city, St. Albans town, Swanton town Grand Isle county towns of Grand Isle town South Hero town

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Addison	426	514	598	834	935	
Bennington	378	477	613	779	908	
Caledonia	335	401	489	616	707	
Chittenden	392	632	713	991	1168	Bolton town, Buels gore, Huntington town, Underhill town Westford town
Essex	328	395	489	616	707	
Franklin	352	399	489	620	713	Bakersfield town, Berkshire town, Enosburg town Fairfield town, Fletcher town, Franklin town Highgate town, Montgomery town, Richford town Sheldon town
Grand Isle	328	395	489	616	707	Alburg town, Isle La Motte town, North Hero town
Lamoille	340	473	564	772	885	
Orange	353	463	571	754	845	
Orleans	328	395	489	616	707	
Rutland	383	496	606	760	851	
Washington	366	454	613	767	860	
Windham	415	480	637	808	890	
Windsor	446	504	630	810	959	

V I R G I N I A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Charlottesville, VA MSA	434	513	656	872	977	Albemarle, Fluvanna, Greene, Charlottesville city
Clarke County, VA	321	453	586	805	821	Clarke
Culpeper County, VA	388	566	658	870	1042	Culpeper
Danville, VA MSA	296	373	438	588	709	Pittsylvania, Danville city
Johnson City-Kingsport-Bristol, TN-VA MSA	310	370	458	594	704	Scott, Washington, Bristol city
King George County, VA	389	517	581	807	813	King George
Lynchburg, VA MSA	352	388	447	588	709	Amherst, Bedford, Campbell, Bedford city, Lynchburg city
Norfolk-Virginia Beach-Newport News, VA-NC MSA	440	496	586	817	960	Gloucester, Isle of Wight, James City, Mathews, York Chesapeake city, Hampton city, Newport News city Norfolk city, Poquoson city, Portsmouth city

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 50

V I R G I N I A continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Richmond-Petersburg, VA MSA	479	542	631	878	1036	Suffolk city, Virginia Beach city, Williamsburg city Charles City, Chesterfield, Dinwiddie, Goochland, Hanover Henrico, New Kent, Powhatan, Prince George Colonial Heights city, Hopewell city, Petersburg city Richmond city
Roanoke, VA MSA	298	373	484	621	773	Botetourt, Roanoke, Roanoke city, Salem city
Warren County, VA	314	430	573	751	938	Warren
Washington, DC-MD-VA	647	735	863	1176	1418	Arlington, Fairfax, Loudoun, Prince William, Spotsylvania Stafford, Alexandria city, Fairfax city Falls Church city, Fauquier, Fredericksburg city Manassas city, Manassas Park city

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Accomack	343	371	433	575	693	Alleghany	301	365	428	575	693
Amelia	289	365	428	575	693	Appomattox	289	365	428	575	693
Augusta	289	375	455	599	729	Bath	289	365	428	575	693
Bland	289	365	428	575	693	Brunswick	289	365	428	575	693
Buchanan	289	365	428	575	693	Buckingham	289	365	428	575	693
Caroline	410	415	555	736	776	Carroll	289	365	428	575	693
Charlotte	289	365	428	575	693	Craig	289	365	428	575	693
Cumberland	289	397	460	575	693	Dickenson	289	365	428	575	693
Essex	289	407	480	669	789	Floyd	289	365	428	575	693
Franklin	289	365	428	575	693	Frederick	393	453	545	746	893
Giles	289	365	428	575	693	Grayson	289	365	428	575	693
Greensville	289	375	428	575	693	Halifax	289	365	428	575	693
Henry	289	365	428	575	693	Highland	289	365	428	575	693
King and Queen	289	415	467	584	693	King William	289	397	444	575	693
Lancaster	362	406	458	610	743	Lee	289	365	428	575	693
Louisa	289	377	464	645	693	Lunenburg	289	365	428	575	693
Madison	290	431	485	608	796	Mecklenburg	289	365	428	575	693
Middlesex	289	367	428	575	693	Montgomery	297	391	459	637	754
Nelson	289	365	428	575	693	Northampton	289	365	428	575	693
Northumberland	289	365	428	575	693	Nottoway	289	365	428	575	693
Orange	321	436	584	813	954	Page	336	379	428	575	693
Patrick	289	365	428	575	693	Prince Edward	324	367	428	575	693
Pulaski	289	365	428	575	693	Rappahannock	293	475	535	742	875
Richmond	289	386	432	575	710	Rockbridge	289	365	428	575	693
Rockingham	289	401	507	695	815	Russell	289	365	428	575	693
Shenandoah	381	391	481	667	757	Smyth	289	365	428	575	693
Southampton	289	365	428	575	693	Surry	300	365	428	575	693
Sussex	289	365	428	575	693	Tazewell	289	365	428	575	693

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 51

V I R G I N I A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Westmoreland	289	391	519	653	845
Wythe	302	365	428	575	693
Wise	289	365	428	575	693

W A S H I N G T O N

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bellingham, WA MSA	401	520	692	956	1133	Whatcom
Bremerton, WA PMSA	454	524	679	917	1115	Kitsap
Olympia, WA PMSA	467	573	716	985	1162	Thurston
Portland-Vancouver, OR-WA PMSA	481	592	730	1015	1102	Clark
Richland-Kennewick-Pasco, WA MSA	500	572	685	954	1119	Benton, Franklin
Seattle-Bellevue-Everett, WA PMSA	525	639	809	1123	1327	Island, King, Snohomish
Spokane, WA MSA	321	436	527	716	801	Spokane
Tacoma, WA PMSA	404	482	642	893	1009	Pierce
Yakima, WA MSA	361	444	551	739	771	Yakima

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	319	382	497	656	728
Chelan	319	382	497	656	728
Columbia	319	382	497	656	728
Douglas	373	394	497	656	728
Garfield	319	382	497	656	728
Grays Harbor	326	382	502	677	781
Kittitas	319	382	497	656	728
Lewis	319	382	497	656	728
Mason	362	449	552	726	781
Pacific	319	382	497	656	728
San Juan	394	538	717	945	1125
Skamania	319	382	497	656	728
Wahkiakum	319	382	497	656	728
Whitman	344	391	521	723	857
Asotin	319	382	497	656	728
Clallam	372	460	585	753	823
Cowlitz	358	400	516	716	728
Ferry	319	382	497	656	728
Grant	343	382	497	656	728
Jefferson	319	412	507	687	728
Klickitat	319	382	497	656	728
Lincoln	319	382	497	656	728
Okanogan	319	382	497	656	728
Pend Oreille	319	382	497	656	873
Skagit	435	531	627	783	875
Stevens	319	382	497	656	728
Walla Walla	319	382	497	665	786

W E S T V I R G I N I A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Berkeley County, WV	422	451	531	663	745	Berkeley
Charleston, WV MSA	290	393	499	685	749	Kanawha, Putnam
Cumberland, MD-WV MSA	340	409	506	668	763	Mineral
Huntington-Ashland, WV-KY-OH MSA	307	360	444	566	624	Cabell, Wayne
Jefferson County, WV	427	473	586	762	863	Jefferson

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 52

W E S T V I R G I N I A continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Parkersburg-Marietta, WV-OH MSA	309	371	424	550	597	Wood
Steubenville-Weirton, OH-WV MSA	292	344	431	549	613	Brooke, Hancock
Wheeling, WV-OH MSA	318	349	431	549	613	Marshall, Ohio

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Barbour	257	326	365	469	546
Braxton	257	313	365	469	546
Clay	257	313	365	469	546
Fayette	257	313	365	469	546
Grant	257	313	365	469	546
Hampshire	257	313	367	482	546
Harrison	282	347	401	500	600
Lewis	257	343	365	469	546
Logan	263	313	365	472	559
Marion	257	324	400	512	591
Mercer	257	313	365	469	546
Monongalia	323	358	435	600	709
Morgan	349	394	441	554	617
Pendleton	257	313	365	469	546
Pocahontas	257	313	365	469	546
Raleigh	296	349	407	524	613
Ritchie	257	313	365	469	546
Summers	257	313	365	469	546
Tucker	257	313	365	469	546
Upshur	257	313	367	469	546
Wetzel	290	313	394	491	620
Wyoming	257	313	365	469	546

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Boone	257	313	365	469	546
Calhoun	257	313	365	469	546
Doddridge	266	313	365	469	546
Gilmer	282	313	365	469	546
Greenbrier	257	354	378	471	546
Hardy	257	313	365	469	546
Jackson	257	321	365	499	546
Lincoln	257	313	365	469	546
Mcdowell	257	313	365	469	546
Mason	257	313	365	469	561
Mingo	257	313	365	469	553
Monroe	257	313	365	469	546
Nicholas	257	313	365	469	546
Pleasants	265	313	365	469	560
Preston	257	329	365	469	546
Randolph	257	313	365	469	546
Roane	257	313	365	469	546
Taylor	314	339	371	469	546
Tyler	257	313	384	480	546
Webster	257	313	365	469	546
Wirt	257	313	365	469	546

W I S C O N S I N

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Appleton-Oshkosh-Neenah, WI MSA	325	400	509	641	740	Calumet, Outagamie, Winnebago
Duluth-Superior, MN-WI MSA	285	367	471	629	733	Douglas
Eau Claire, WI MSA	351	382	501	642	723	Chippewa, Eau Claire
Green Bay, WI MSA	385	424	544	756	760	Brown
Janesville-Beloit, WI MSA	358	452	559	700	785	Rock
Kenosha, WI PMSA	403	500	614	844	950	Kenosha
La Crosse, WI-MN MSA	289	372	473	633	767	La Crosse
Madison, WI MSA	445	559	676	938	1107	Dane

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 53

W I S C O N S I N continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Milwaukee-Waukesha, WI PMSA	386	504	633	794	887	Milwaukee, Ozaukee, Washington, Waukesha
Minneapolis-St. Paul, MN-WI MSA	427	549	702	950	1076	Pierce, St. Croix
Racine, WI PMSA	343	425	561	724	792	Racine
Sheboygan, WI MSA	310	399	487	609	756	Sheboygan
Wausau, WI MSA	381	394	492	672	745	Marathon

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	279	326	415	529	597
Barron	279	326	415	529	597
Buffalo	279	326	415	529	597
Clark	279	326	415	529	597
Crawford	279	326	415	529	597
Door	279	346	429	552	670
Florence	279	326	415	529	597
Forest	279	326	415	529	597
Green	284	326	415	558	597
Iowa	289	326	415	545	597
Jackson	279	326	415	529	597
Juneau	285	326	415	529	597
Lafayette	284	326	415	529	597
Lincoln	279	326	415	529	597
Marinette	279	326	415	529	597
Menominee	279	326	415	529	597
Oconto	279	326	415	529	597
Pepin	279	326	415	529	597
Portage	340	359	465	581	718
Richland	279	326	415	529	597
Sauk	327	338	450	561	629
Shawano	284	326	415	529	597
Trempealeau	279	326	415	529	597
Vilas	279	326	415	529	597
Washburn	279	326	415	529	597
Waushara	279	326	415	529	597

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Ashland	304	338	415	529	597
Bayfield	279	326	415	529	597
Burnett	279	326	415	529	597
Columbia	279	332	436	571	641
Dodge	354	359	471	591	659
Dunn	279	326	426	569	703
Fond du Lac	324	439	520	707	729
Grant	283	326	415	529	597
Green Lake	279	326	415	529	597
Iron	279	326	415	529	597
Jefferson	279	370	480	621	679
Kewaunee	279	326	415	529	597
Langlade	279	326	415	529	597
Manitowoc	282	326	415	529	597
Marquette	279	326	415	529	597
Monroe	279	326	415	553	597
Oneida	279	327	415	533	639
Polk	279	326	422	529	597
Price	279	326	415	529	597
Rusk	279	326	415	529	597
Sawyer	279	326	415	529	597
Taylor	279	326	415	529	597
Vernon	279	326	415	529	597
Walworth	291	410	532	693	779
Waupaca	279	326	415	529	627
Wood	302	347	430	539	606

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 54

W Y O M I N G

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Casper, WY MSA	328	381	487	667	788	Natrona
Cheyenne, WY MSA	371	465	621	794	964	Laramie

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Albany	311	389	519	721	852
Campbell	320	340	436	580	685
Converse	296	340	436	578	665
Fremont	296	340	436	578	665
Hot Springs	296	340	436	578	665
Lincoln	296	340	436	578	665
Park	296	340	436	578	672
Sheridan	296	340	436	578	672
Sweetwater	308	340	436	580	685
Uinta	310	340	436	579	700
Weston	296	340	436	578	665

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Big Horn	296	340	436	578	665
Carbon	296	340	436	578	665
Crook	296	340	436	578	665
Goshen	296	340	436	578	665
Johnson	296	340	436	578	665
Niobrara	296	340	436	578	665
Platte	296	340	436	578	665
Sublette	329	370	436	578	665
Teton	394	502	667	897	978
Washakie	296	340	436	578	665

P A C I F I C I S L A N D S

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Pacific Islands	691	830	983	1232	1386

P U E R T O R I C O

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Aguadilla, PR MSA	215	261	311	386	435	Aguada Municipio, Aguadilla Municipio, Moca Municipio
Arecibo, PR PMSA	232	282	331	415	467	Arecibo Municipio, Camuy Municipio, Hatillo Municipio
Caguas, PR PMSA	272	326	385	485	539	Caguas Municipio, Cayey Municipio, Cidra Municipio Gurabo Municipio, San Lorenzo Municipio
Mayaguez, PR MSA	255	311	369	459	517	Anasco Municipio, Cabo Rojo Municipio Hormigueros Municipio, Mayaguez Municipio Sabana Grande Municipio, San German Municipio
Ponce, PR MSA	253	310	365	457	513	Guayanilla Municipio, Juana Diaz Municipio Penuelas Municipio, Ponce Municipio, Villalba Municipio Yauco Municipio
San Juan-Bayamon, PR PMSA	341	416	491	614	690	Aguas Buenas Municipio, Barceloneta Municipio Bayamon Municipio, Canovanas Municipio Carolina Municipio, Catano Municipio, Ceiba Municipio Comerio Municipio, Corozal Municipio, Dorado Municipio Fajardo Municipio, Florida Municipio, Guaynabo Municipio Humacao Municipio, Juncos Municipio Las Piedras Municipio, Loiza Municipio Luquillo Municipio, Manati Municipio, Morovis Municipio

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 55

P U E R T O R I C O continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
						Naguabo Municipio, Naranjito Municipio Rio Grande Municipio, San Juan Municipio Toa Alta Municipio, Toa Baja Municipio Trujillo Alto Municipio, Vega Alta Municipio Vega Baja Municipio, Yabucoa Municipio

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adjuntas Municipio.....	202	249	292	369	408
Arroyo Municipio.....	202	249	292	369	408
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NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
St. Johns/St. Thomas....	619	750	884	1105	1237

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042000

Schedule D: FY 2001 40th Percentile Fair Market Rents For Manufactured Home Spaces in the Section 8 Housing Choice Voucher Program

Area Name	Space Rent
California	
Los Angeles, CA	$392
Orange County, CA	$479
Riverside-San Bernardino, CA	$310
San Diego, CA	$441
San Jose, CA	$524
Colorado	
Boulder-Longmont, CO	$362
Denver, CO	$344
Maryland	
Hagerstown, MD	$222
Nevada	
Reno, NV	$295
New York	
Dutchess County, NY	$383
Newburgh, NY-PA	$350
Rochester, NY	$246
Utica-Rome, NY	$221
Oregon	
Portland-Vancouver, OR-WA	$296
Deschutes County, OR	$261

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H.R. 1658/P.L. 106–185
Civil Asset Forfeiture Reform Act of 2000 (Apr. 25, 2000; 114 Stat. 202)

S.J. Res. 43/P.L. 106–186
Expressing the sense of Congress that the President of the United States should encourage free and fair elections and respect for democracy in Peru. (Apr. 25, 2000; 114 Stat. 226)

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