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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

Food Safety and Inspection Service

9 CFR Parts 317, 318, 319, 381, and 424

[Docket No. 97–001F]

RIN 0583–AC35

Elimination of Requirements for Partial Quality Control Programs

AGENCY: Food Safety and Inspection Service.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the meat and poultry products inspection regulations by removing the remaining requirements pertaining to partial quality control (PQC) programs. A PQC program controls a single product, operation, or part of an operation in a meat or poultry establishment. FSIS is removing the design requirements for PQC programs and the requirements for establishments to have PQC programs for certain products or processes. For example, poultry slaughtering establishments operating under the New Line Speed (NELS) inspection system and the New Turkey Inspection System (NTIS) will no longer be required to operate PQC programs in conjunction with those systems. FSIS also is removing from the thermal processing regulations all requirements concerning PQC programs, the requirements for case-by-case FSIS approval of systems and devices not specified in the regulations, and several other prior approval requirements. The amended regulations will be more consistent with the Pathogen Reduction (PR)/Hazard Analysis and Critical Control Points (HACCP) regulations and inspected establishments will have greater flexibility to adopt new technologies and methods that will improve food safety and other consumer protections.

EFFECTIVE DATE: August 28, 2000. The material incorporated by reference is approved by the Director of the Federal Register as of August 28, 2000.

FOR FURTHER INFORMATION CONTACT: Dr. Daniel L. Engeljohn, Director, Regulations Development and Analysis Division, Office of Policy, Program Development, and Evaluation, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250–3700; (202) 720–5627.

SUPPLEMENTARY INFORMATION:

Background

FSIS carries out programs designed to ensure that meat, poultry, and egg products are wholesome, not adulterated, and properly marked, labeled, and packaged. FSIS is implementing the ''Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems'' final rule published July 25, 1996 (61 FR 38806), to reduce the risk of foodborne illness associated with the consumption of meat and poultry products to the maximum extent possible. The Pathogen Reduction (PR)/HACCP final rule requires establishments to take appropriate and feasible measures to prevent or reduce the likelihood of physical, chemical, and microbiological hazards in the production of meat and poultry products. Specifically, the PR/HACCP final rule: (1) Requires each official meat and poultry establishment to develop and implement written sanitation standard operating procedures (Sanitation SOP's); (2) requires regular microbial testing (for generic *Escherichia coli*) by slaughter establishments to verify the adequacy of the establishment's process controls for the prevention and removal of fecal contamination and associated bacteria; (3) establishes pathogen reduction performance standards for Salmonella that slaughter establishments producing raw ground products must meet; and (4) requires that all meat and poultry establishments develop and implement a system of preventive controls designed to improve the safety of their products, known as HACCP.

HACCP is a conceptually simple, science-based process control system by which food processors identify and evaluate hazards to the production of safe products, institute controls necessary to reduce or eliminate those hazards, monitor the performance of these controls, and maintain records of this monitoring.

FSIS is reviewing its regulations to determine how they can be revised to conform with the PR/HACCP regulations and the regulatory approach they embody. This approach favors performance-based standards over prescriptive, command-and-control regulations. In its December 29, 1995, advance notice of proposed rulemaking (ANPR) ''FSIS Agenda for Change: Regulatory Review'' (60 FR 67469), FSIS said that by eliminating unnecessary regulations and replacing command-and-control prescriptions with performance standards, inspected establishments would have greater flexibility to adopt innovations that can yield food safety benefits. Identified as candidates for modification or elimination were those regulations that delimit processing and treatment methods intended to address specific food safety hazards and requirements that establish quality control programs.

Under FSIS regulations, a company may choose to place all of the processes and products in a plant under a comprehensive, or total, quality control (TQC) system, or the company may choose to place only individual products or processes under quality control. A quality control program for only one process or product in a plant is known as a partial quality control, or PQC, program. This final rule addresses PQC programs.

Some PQC programs control potential health and safety problems; others focus on economic or quality factors. PQC programs controlling for safety factors include those for thermally processed products, which are intended primarily to prevent toxin formation in the processed product. The programs for cooked beef products are intended to ensure that the processing of the products meets the regulatory requirements for handling, processing (time, temperature, and relative humidity), and storage to prevent pathogen formation in the products. PQC programs that control for product safety have been superseded by required HACCP plans.

PQC programs that control for economic or non-food safety factors include those used to control the fat and water content of hotdogs; the number of

meatballs in or pepperoni slices on, a product; and the moisture or protein-fat-free (PFF) content of a product labeled ''ham, water added.'' The quality control program for mechanically separated (species) (MS(S)) is intended to control bone particle size, calcium content, fat and protein content, and protein efficiency ratio (9 CFR 319.5). The programs for pressed ham and spiced ham products are intended to ensure that the products meet the PFF regulatory requirements of § 319.104.

PQC programs to control products for economic factors are intended to prevent the marketing of products that are misbranded or that lack the quality or value that consumers expect. A plant operating under a PQC program for net weight keeps records of its checks and corrective actions to avoid lot inspection. Under PQC programs for fat and water in frankfurters, plants keep ingredient records by lot and results of laboratory tests for verification by FSIS inspectors. A plant operating a PQC program for boneless meat inspection does its own on-line inspection and keeps records. The FSIS inspector randomly selects samples of product that the plant has already inspected to ensure that the records are accurate.

FSIS regulations have required establishments to have PQC programs for certain products or processes, such as the one for MS(S), just mentioned. A PQC program for on-line carcass quality control has been required for an establishment operating under either the NELS or the NTIS poultry inspection system (9 CFR 381.76(c)).

In 1997, the Agency published a final rule that, among other things, removed the requirement for FSIS prior approval of most PQC programs (62 FR 45016; August 25, 1997). FSIS now thinks it appropriate to take the further step of eliminating the remaining PQC requirements so that establishments will have the flexibility they need to be innovative, consistent with HACCP and the Agency's regulatory policy.

On May 18, 1999, FSIS proposed to amend the meat and poultry products inspection regulations by removing requirements pertaining to PQC programs, except programs for poultry product irradiation plants (64 FR 26892). The December 23, 1999, final rule ''Irradiation of Meat Food Products'' removed requirements for quality control programs in such irradiation plants (64 FR 72165).

Comments Received

FSIS received six letters in response to the May 18, 1999, proposal. All were from the regulated industry and all supported the proposal. Some commenters wanted clarification of matters addressed in the preamble of the proposal, and one requested the removal of additional regulatory restrictions. The substantive comments and the Agency's responses are summarized below.

Comment: An organization representing the food processing industry supported the proposed removal from the thermal processing regulations of requirements for FSIS prior approval of systems and devices not specified in the regulations and of all requirements concerning PQC programs. This commenter also recommended the removal from these regulations of additional command-and-control provisions. The commenter asked that, in the regulations on the handling of containers after closure (9 CFR 318.301(f)(2) and 381.301(f)(2)), approval by a processing authority replace the need to obtain the FSIS Administrator's permission for a time lapse between container closing and initiation of thermal processing of greater than two hours.

Response: FSIS set the regulatory maximum 2-hour time period between container closure and initiation of the thermal process in its 1984 canning regulation amendments. The Agency did so to prevent adulteration from the holding of unprocessed products for an extended period, and because it was aware of several documented incidents of illness from staphylococcal enterotoxin in such products. The commenter's suggested change would place the judgment whether to alter the specified time interval between closure and the initiation of thermal processing with the process authority rather than the FSIS Administrator.

A processing authority is an individual or organization with expert knowledge of thermal processing requirements for foods in hermetically sealed containers, having access to facilities for making such determinations, and designated by the establishment to perform certain functions required by the regulations. FSIS already requires the processing authority to perform the vital function of developing and determining the process schedule and specifying the critical factors in the process.

The change suggested by the commenter is consistent with the Agency's stated aim of making the meat and poultry canning regulations more consistent with the Agency's new, non-command-and-control regulatory approach by eliminating some prior approval requirements. With respect to the canning regulations, however, this rulemaking addresses only PQC programs and prior approval requirements other than the one addressed by the commenter. FSIS therefore considers the commenter's request to be outside the scope of this rulemaking.

Comment: The same commenter requested the addition to the regulations on pH measurement in canning plants (9 CFR 318.304(e) and 381.304(e)) of a provision allowing use of colorimetric or other methods in addition to potentiometric methods, provided that the methods are sufficiently accurate to ensure product safety and stability. The commenter also asked for the removal of the requirement for approval by the FSIS Administrator of methods other than the potentiometric. In addition, the commenter requested the removal of the requirement at 9 CFR 318.305(h)(2) and 381.305(h)(2) for approval by the FSIS Administrator for the use in cooling canal water of chemicals other than chlorine that have a bactericidal effect equivalent to that of chlorine.

Response: As stated in the previous response, FSIS proposed to make the thermal processing regulations more consistent with its new regulatory approach by eliminating provisions concerning PQC programs and certain prior approval requirements. FSIS did not propose changes in its requirements for pH measuring devices or chemicals used in cooling canal water. These suggested changes are outside the scope of this rulemaking, and, accordingly, FSIS is not making them in this final rule.

Regarding the regulation on chemicals in cooling canal water, FSIS announced in early 1998 that it was ending its prior approval system for all non-food compounds and proprietary substances (63 FR 7319; February 13, 1998). These classes of substances include water treatment compounds. The program was ended because the Agency considered it to be redundant with those of other Federal agencies and because of the program's inconsistency with the PR/HACCP regulations.

Since establishments are responsible for developing and implementing HACCP plans incorporating the controls necessary and appropriate to produce safe meat and poultry products, FSIS is not responsible for determining whether the nonfood compounds and proprietary substances they use are safe and effective. Therefore, establishments need not obtain the approval of the Administrator to use chemicals other than chlorine in cooling canal water.

Nevertheless, FSIS retains the discretionary authority to prevent the use of such substances in official establishments if the Agency finds, through its normal inspection activities,

that the substances directly or indirectly contaminate edible product. FSIS expects establishments to use only compounds that are safe and that have the intended technical effect when used appropriately in a food preparation environment. The Agency expects establishments to keep on file any information provided by chemical manufacturers (written approvals from other agencies, letters of guaranty, etc.) as part of their sanitation SOP, HACCP, or other records.

Comment: The same commenter requested the removal of two other prior-approval requirements in the canning regulations: first, the requirement (in 9 CFR 318.305(a)(2)(ii) and 381.305(a)(2)(ii))for FSIS Administrator approval of recording devices other than temperature/time recording devices; and second, the requirement at 9 CFR 318.305(d)(5) and 381.305(d)(5) that the FSIS Administrator be notified of the use of any batch retorts with steam/air circulation systems.

Response: FSIS proposed the elimination of the requirement for prior-approval of thermometric measuring devices other than mercury-in-glass thermometers (proposed §§ 318.305(a)(1)(ii) and 381.305(a)(1)(ii)). The Agency also proposed the elimination of prior approval requirements for automated process monitoring and recordkeeping systems not specified in the canning processing regulations (proposed §§ 318.307(b) and 381.307(b)). The commenter's suggestion to remove the requirement in §§ 318.305(a)(2)(ii) and 381.305(a)(2)(ii) for prior approval of time/temperature recording devices other than chart-type devices is consistent with the Agency's proposals regarding temperature measurement and automatic process monitoring devices. Accordingly, FSIS is making the requested change to the regulations in this final rule.

Regarding the prior approval of batch retorts with steam-air cooling, FSIS finds the commenter's request to be consistent with the Agency's proposal to eliminate the requirement for prior approval of thermal processing systems other than those delineated in §§ 318.305 and 381.305 of the canning regulations (proposed §§ 318.305(f) and 381.305(f)). FSIS is therefore adopting the requested change in this final rule.

Comment: The same commenter—the organization representing the food processing industry—questioned the intent of the Agency's statement in the preamble of the proposal regarding alternative documented procedures for handling process deviations or finished product inspections. FSIS stated, at 64 FR 26894, that such procedures ''would have to ensure that only safe, stable product is shipped in commerce.'' The procedures would have to ensure that the product is free of microorganisms of public health significance and is not adulterated by other types of bacteria, such as ''flat-sour'' bacteria or other spoilage organisms.

The commenter thought that the Agency's statement could be misinterpreted to mean that a product might be adulterated if spoilage organisms were merely present in a product not likely to be subject to conditions that would lead to the growth of the organisms and deterioration of the product. Citing the regulatory definition of shelf stability (at 9 CFR 318.300 and 381.300), the commenter pointed out that the presence in low numbers of flat-sour bacteria or other spoilage organisms that would not grow under intended conditions of distribution and storage would not render the product adulterated. However, the growth of spoilage organisms to high numbers that affected product characteristics before or after processing would adulterate the finished product. The product then would not be cleared by a processing authority or released into commerce.

Response: The commenter has accurately explained the intended meaning of the phrase ''adulterated by * * * spoilage organisms'' in the preamble of the proposal (at 64 FR 26894). In stating the conditions for use of procedures alternative to the existing prescriptive requirements (9 CFR 318.308(d) and 381.308(d); 9 CFR 318.309(d) and 381.309(d)), FSIS assumed the current regulatory definitions of ''shelf stability.''

Comment: The same commenter questioned whether the Agency's example of an establishment's incorporation of a PQC program for raw materials in the establishment's HACCP plan (at 64 FR 26896) might imply that non-food safety regulatory concerns might become part of HACCP systems, which only address food safety issues.

Response: FSIS agrees with the commenter that HACCP systems are only intended to control food safety hazards. The Agency recognizes the potential for misunderstanding that can arise when PQC programs and HACCP systems are discussed because PQC programs may address either safety or quality issues or both. The context of the statements to which the commenter refers was the analysis of benefits of the rule. One benefit to establishments is a possible efficiency gain through integration of some facets of quality control with HACCP. FSIS meant to suggest by its example that a food safety-related PQC program or other food safety process control could be used in the context of an establishment's HACCP plan. The HACCP plan would include a critical control point for raw materials only if the hazard analysis identified a food safety hazard associated with raw materials. Raw material control is identified as a CCP in many HACCP plans and is not so identified in others. A PQC program for raw materials or any other step in processing a product would be relevant to HACCP and be subject to being subsumed in or superseded by a HACCP plan only if it were food safety-related.

Comment: The food-processing industry organization also read proposed § 318.308(b)(2) and § 381.308(b)(2) as inadvertently depriving very small establishments of the option of using the alternative procedures for handling process deviations (§ 318.308(d) and § 381.308(d)).

Response: The proposal language did not exclude any canning establishment without a HACCP plan that addresses microbial hazards from using the procedures in paragraph (d) of § 318.308 or § 381.308. Further, under the final rule, these procedures will continue to be available to establishments whose HACCP plans do not address microbial hazards.

Comment: Three of the commenters—the food-processing industry organization, an organization representing the Nation's turkey industry, and a producer of processed meat and poultry products—wanted FSIS to continue to recognize the value of PQC programs, and particularly of those programs that the Agency has previously approved. The food-processing industry organization expressed concern that such programs might automatically become invalid when the final rule goes into effect. The organization wanted the Agency to address this matter in implementing notices or directives to the FSIS field force lest previously approved procedures have to be re-documented.

Response: FSIS has not changed its policy of encouraging establishments to adopt statistically sound quality control systems. FSIS recognizes, however, that product formulations, processing operations, and technology may change over time, and that establishments should have the ability to change the variables and parameters of their control programs without seeking Agency revalidation of those programs. The Agency is therefore removing the

prescriptive, command-and-control regulatory requirements that may inhibit innovation—especially innovation that may yield food safety benefits. The Agency's approval process for PQC programs was part of that old command-and-control system.

Obviously, a PQC program that the Agency approved in the past may still be regarded as useful if no significant changes have been made in the process or product controlled. However, the proof of the program's effectiveness must be found primarily in the data collected under the program or other studies of the product or process controlled and not in an old approval letter. This is particularly the case with respect to food safety-related PQC programs. Where food safety is concerned, FSIS will be relying primarily on its verification of HACCP systems to determine whether official establishments are taking sound control measures.

Regarding the enforcement of this final rule, FSIS will issue appropriate instructions to its field force. Many of the changes necessary to carry out this final rule have already been instituted with the revision of the Agency's automated system for directing inspection program activities.

Comment: An organization representing the meat and poultry canning industry supported the proposal but thought the preamble should have expanded on how and why the elimination of PQC programs would not diminish consumer confidence. The commenter thought that FSIS should have furnished a more comprehensive explanation of PR/HACCP for readers unfamiliar with it, and of why and how PR/HACCP systems make PQC programs redundant. The commenter also thought the explanation for the elimination of specific PQC requirements was insufficient to allay consumer skepticism or fears about eliminating such requirements. In particular, a more substantial justification should have been given for removing FSIS case-by-case approval of thermal processing systems not specifically delineated in the regulations. In this context, the commenter thought that FSIS should have discussed the fact that scientific evaluation of all new processes by competent experts is a long-established practice of the canned food industry.

Response: FSIS made an editorial decision to limit the explanation of the PR/HACCP final rule and its underlying principles because they had been fully discussed in previous Agency publications and at the many public meetings and media events conducted since 1995. The PR/HACCP final rule and the other documents referred to in the preamble of the proposal were made available for public viewing in the FSIS Docket Room at the address given in the proposal. Nevertheless, in response to the commenter's suggestion, FSIS has added, near the beginning of this preamble, a summary of the main features of the PR/HACCP final rule.

While FSIS may not have provided a discussion of PR/HACCP sufficient to satisfy the commenter, the Agency did state in the proposal that requirements for PQC programs that control for product safety have been superseded by required HACCP plans (64 FR 26893, col. 1). The Agency also stated that requirements pertaining to PQC programs that control food safety factors are inconsistent with PR/HACCP (64 FR 26894, col. 3). The Agency further stated or implied in a number of places (64 FR 26892, col. 3; 26893, col. 3; 26894, col. 1, col. 3; 26895, col. 2, col. 3; and 26896, col. 2) that regulatory requirements for PQC programs tend to restrict innovation and perpetuate the command-and-control approach to food inspection and regulation. Such regulatory requirements are not in keeping with the Agency's new approach of defining industry compliance with performance-related objectives.

On the matter of consumer protection, the Agency stated that the proposed rule was intended to provide inspected establishments with flexibility and to encourage them to adopt new technologies and methods that will improve food safety and other consumer protections (64 FR 26892, 26895 col. 2). The Agency also stated, with respect to PQC programs required to ensure compliance with regulatory limits on certain restricted ingredients (64 FR 28693, col. 3) and with product standards, that the limits and standards themselves, as well as product labeling requirements, would continue to protect consumers (64 FR 26894, col. 3; 26895, col. 1).

FSIS stated that PQC programs were not necessary to ensure food safety protection where HACCP plans were in operation (64 FR 26894, col.2). It may be that FSIS could have said more about its regulatory provisions for continued consumer protection, but in the Agency's judgment, what it said was sufficient for the purposes of the rulemaking.

On the elimination of case-by-case approval of new types of thermal processing systems in 9 CFR 318.305(f) and 381.305(f), new systems must still meet the applicable requirements governing equipment and heat processing procedures and be capable of producing shelf-stable products consistently and uniformly. FSIS stated in the preamble of the proposal (at 64 FR 26894) that these requirements reflect the basic purposes of the canning regulations.

The canning regulations continue to address such matters as: container integrity before and after fill; container closure; thermal processing schedules; critical factors; operations in the thermal processing area; processing and production records; deviations in processing; finished product standards; recalls; and the role of the processing authority. FSIS has recognized that the thermal processing regulations are HACCP-consistent with respect to the control of microbial hazards and has supplemented them with a requirement for HACCP plans that address physical and chemical hazards. The Agency also realizes, however, that many of these regulations are excessively prescriptive and in its December 29, 1995, ANPR, cited above, listed them among candidates for revision or removal in conjunction with HACCP implementation.

The commenter's statement about the canning industry's practice of having all new processes evaluated scientifically by competent experts is a point well taken. Both the FDA and the FSIS regulations governing thermally processed, low-acid foods in hermetically sealed containers require thermal process schedules to be established by qualified persons—processing authorities—who have expert knowledge of thermal processing requirements for such foods and access to the facilities to make the necessary determinations (21 CFR 113.83; 9 CFR 318.302, 381.302). These requirements remain in effect for canned products. Also, FSIS has thought well enough of the process-authority concept to make use of it in the final rule ''Performance Standards for the Production of Certain Meat and Poultry Products'' (64 FR 732; January 6, 1999). Under that final rule, affected products not produced under a HACCP plan must be produced according to a process schedule approved in writing by a process authority for safety and efficacy in meeting the performance standards applicable to the product.

Regarding the interest commenters have shown in the few changes in the canning regulations to be made in this final rule, FSIS notes that in the December 29, 1995, ANPR cited above, FSIS listed the requirements for canning and canned products as candidates for reform. Possible actions to be taken were the conversion of these requirements to performance standards

and clarifying the role of inspection program employees. A future rulemaking to reform the canning regulations remains under consideration.

Regulation Changes Adopted

FSIS is eliminating the requirement in 9 CFR 317.21(b) that establishments have, as an alternative to State or local certification of scales, PQC programs or total quality control system provisions for checking the accuracy of scales. The Agency will simply require that there be a certification of accuracy from State or local authorities or from a State-registered or -licensed scale repair firm or person. Establishments can, of course, continue to maintain scale-checking provisions in their QC programs and systems.

The Agency is removing from the meat and poultry inspection regulations the design requirements for partial quality control programs (9 CFR § 318.4(d), § 381.145(d)).

FSIS also is removing quality control requirements governing the use of nitrites in bacon curing and the use of certain organic acids singly or in combination to delay the discoloration of fresh meat cuts (9 CFR 424.21–.22). Such requirements are incompatible with the Agency's regulatory objectives because they specify a manner of compliance rather than simply a performance standard. Both the nitrite and the organic acid regulations clearly state the maximum limits of use of the substances they concern. Also, the consumer is informed by product labeling of the presence of the substances in products. The regulations provide clear limits and adequate consumer protections without the quality control requirements. In addition, the Agency is improving the accuracy of the regulation by using the term ''production of botulinum toxin'' rather than ''growth of botulinum toxin'' (see 9 CFR 424.22(b)(1)(ii)(B)).

FSIS is eliminating a number of prior-approval requirements from the meat and poultry canning regulations. The Agency is replacing the requirement that the Agency approve temperature-indicating devices other than mercury-in-glass thermometers (at §§ 318.305(a)(1)(ii) and 381.305(a)(1)(ii)) before they could be used. The devices must meet known standards of accuracy for such devices, but the Agency is not prescribing the frequency of testing for accuracy.

The Agency is removing the requirement for FSIS prior-approval of the use of time/temperature recording devices other than chart-type devices. The alternative devices must meet known standards of accuracy (9 CFR 318.305(a)(1)(ii) and (a)(2)(ii); 9 CFR 381.305(a)(1)(ii) and (a)(2)(ii)).

In response to comments, the Agency is removing the requirement at 9 CFR 318.305(d)(5) and 381.305(d)(5) that the FSIS Administrator be notified of the use of any batch retorts with steam/air circulation systems. As explained previously in this document, FSIS regards this action as consistent with the proposed rule.

As proposed, the Agency is removing the requirement for FSIS case-by-case evaluation and prior approval of systems for thermally processing canned product other than those systems specifically delineated in the regulations. Such alternative systems must still be adequate for producing shelf-stable product consistently and uniformly. (9 CFR 318.305(f), 381.305(f).)

FSIS is removing from the thermal processing regulations (9 CFR 318.307(b) and 381.307(b)) requirements for FSIS approval of automated process monitoring and recordkeeping systems.

The Agency also is removing from the thermal processing regulations the requirements in §§ 318.308 and 309 and §§ 381.308 and 309 concerning partial quality control programs to control process deviations and establishment finished product inspection procedures. The Agency finds that these requirements are unnecessary. The remaining provisions in these sections, which are based on HACCP principles, remain as acceptable protections against potential microbial contamination.

The proposal would have provided additional options for establishments, such as handling the deviations under an approved total quality control system or using alternative documented procedures until the PR/HACCP rule became applicable to the establishment. The alternative documented procedures could have included partial quality control programs or other documented corrective action, monitoring, or recordkeeping procedures developed by or for the establishment, but not subject to FSIS approval. Such food safety-related PQC programs were to be integrated in or superseded by the establishment's HACCP plan. Because the effective date of the final rule is after January 25, 2000, however, the PR/HACCP regulations will be applicable to all establishments that are subject to the final rule. Thus, there is no need to provide options for establishments that are not yet subject to the PR/HACCP requirements. Deviations in processing will need to be handled according to a HACCP plan that addresses hazards associated with microbial contamination or by the alternative procedures for handling deviations during processing or through record review (§§ 318.308(d) and 381.308(d)).

A thermal processing establishment will have available at least three alternatives for handling finished product inspections. The finished product inspections could be handled under: (1) The existing regulations (§§ 318.309(d) and 381.309(d)); (2) a HACCP plan; or (3) alternative documented procedures for handling finished product inspections. The alternative documented procedures can be PQC programs or the HACCP plan provisions.

In any case, any alternative procedures for handling process deviations or finished product inspections will have to ensure that only safe, stable product is shipped in commerce. The procedures will have to ensure that the product is free of microorganisms of public health significance, and that it does not contain other types of microorganisms, such as ''flat-sour'' bacteria or other viable spoilage organisms, that could cause adulteration under intended conditions of distribution and storage of the product. This requirement is consistent with the aims of HACCP and with the statutory prohibitions against the distribution of adulterated and misbranded meat and poultry products in commerce.

These amendments and revisions will make the thermal processing regulations more consistent with the PR/HACCP final rule by explicitly providing a HACCP-plan alternative (consistent with §§ 417.2(b)(3)) to the prescriptive procedures in §§ 318.309(d) and 381.309(d). The amended and revised regulations also include, as an option for handling process deviations or final product inspections, alternative documented procedures that ensure that only safe and stable products are shipped in commerce. This option will provide the establishment with the flexibility to use PQC programs or other procedures that meet a regulatory public health standard.

It should be noted that, under the HACCP regulations, an establishment's HACCP plan does not have to address potential microbial hazards in thermally processed/commercially sterile product if the establishment is following the current regulatory requirements for such product. However, the HACCP plan must address physical and chemical hazards to which the product may be subject.

Besides removing the requirements pertaining to PQC programs that control food safety factors, which are

inconsistent with PR/HACCP, FSIS is removing the requirements affecting economic or quality-related PQC programs. FSIS considers both the food safety-related and the economic PQC requirements to be too prescriptive. They tend to perpetuate the command-and-control approach to food inspection and regulation. They are not in keeping with the Agency's new regulatory approach, which is oriented more toward monitoring industry compliance with performance-related objectives.

FSIS is removing the QC system requirements from the regulations and requirements governing the identity and composition of MS(S) product and label approval of the product (9 CFR 319.5). The MS(S) regulations specify the maximum calcium content, the minimum protein content, the protein efficiency ratio, the maximum fat content, and the maximum bone particle size for the product. The regulations also specify the elements that the QC system must contain, including a written description of the methods used by the establishment to maintain uniformity of raw materials used in manufacturing product and to control handling and processing of the raw materials and finished product. The regulations also specify the sample size and sampling frequency for food-chemistry analysis of product to determine compliance with the standards. FSIS regards these provisions as overly prescriptive and believes that, to achieve the purposes of the MS(S) regulations, it is sufficient to set the product standards for fat, protein, calcium content, and bone particle size.

The Agency also is updating the provision for finished product samples to be analyzed according to methods of the Association of Official Analytical Chemists (AOAC) or methods listed in the FSIS ''Chemistry Laboratory Guidebook'' to reflect use of the most recent edition of the AOAC compendium. In addition, establishments will have the latitude to use validated scientific methods equivalent to, but not listed in, the AOAC and FSIS references. They will have the flexibility to choose the most appropriate means of ensuring that MS(S) meets the compositional and labeling identity requirements of the regulations. The Agency cautions, however that, if the establishment is to adequately protect its interests, it should ensure that the method that it uses will produce results comparable to the relevant AOAC or FSIS method.

Second, FSIS is eliminating the quality control program requirements from the protein-fat-free (PFF) percentage regulations (§§ 319.104 and 319.105) for various ''finely divided'' cured ham products, such as patties, chopped or pressed ham, and spiced ham. Establishments, however, must continue to comply with the PFF percentage limits for these products.

Finally, FSIS is removing the requirement that poultry slaughtering establishments operating under the NELS and NTIS inspection systems have PQC programs for carcass defects. The establishments will now have the flexibility to adopt quality control programs or other measures for ensuring the quality of their products. Removing the prior-approval aspect of these requirements contributes to clarifying the respective roles of the inspection service and the regulated industry—a necessary task in making the requirements consistent with HACCP.

FSIS inspectors will continue to check poultry in NELS and NTIS plants for visible contamination and carcass trimming defects.

Executive Order 12866 and Regulatory Flexibility Act

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

FSIS is eliminating the regulatory requirements pertaining to establishment-operated PQC programs. This action removes regulatory obstacles to innovation and command-and-control requirements, which are inconsistent with the Agency's new regulatory approach and the objectives of the PR/HACCP regulations. In the Agency's August 25, 1997, final rule ''Elimination of Prior Approval Requirements for Establishment Drawings and Specifications, Equipment, and Certain Partial Quality Control Programs'' (62 FR 45016), the requirements for FSIS prior approval of most PQC programs were eliminated. This action was taken to facilitate the transition to HACCP in official establishments producing the greatest portion of meat and poultry products consumed in the United States. FSIS is now taking the additional step of eliminating the remaining requirements for establishments to have PQC programs for specific products or processes, as well as design requirements affecting PQC programs.

The alternatives to this rulemaking that FSIS considered were, in addition to the alternative of no rulemaking, those of mandating additional in-plant controls and mandating general requirements and standards for PQC programs.

The alternative of no rulemaking would impose no additional regulatory burdens on establishments, which would continue to have the assurance that their PQC programs meet basic design criteria. However, the Agency rejected this alternative. The failure to change the regulations would leave in place a prescriptive regulatory regime for process controls and PQC programs that also conflicts in a material way with the objectives of the PR/HACCP final rule. Under HACCP, establishments assume responsibility for building science-based, preventive process controls into the food production system to reduce or eliminate food safety hazards. This responsibility includes ensuring that processes conform with sound food safety performance standards. Establishments need to be able to implement better and more innovative food safety and other consumer-protection strategies, including having flexibility to design a PQC program and determine its content and implementation date.

The alternative of mandating additional in-plant controls, whether in addition to or in lieu of PQC requirements, would add regulatory assurances that processes are under control and that products are safe, wholesome, and not misbranded. However, this alternative would add prescriptive, command-and-control requirements and restrict the scope for establishment food safety initiatives, contradicting the Agency's new regulatory approach. The additional requirements also would likely not result in food safety improvement.

The alternative of mandating new general requirements or standards for PQC programs would differ little in its effects from the current requirements for PQC programs to have certain features and for process control under the programs to be based on generally accepted statistical principles (9 CFR 318.4(d); 381.145(d)). Even if the current requirements were condensed, they would still be inconsistent with the PR/HACCP regulations and with the Agency's new regulatory approach, establishments would continue to incur a substantial recordkeeping burden, and the Agency would have nearly the same burden as it now does of verifying establishment compliance with the requirements.

FSIS chose the option of eliminating regulatory requirements for all PQC programs except QC programs for the irradiation of poultry products. (As mentioned previously, the final rule ''Irradiation of Meat Food Products'' removed requirements for poultry irradiation QC programs.) This option provides establishments with the most

flexibility in implementing process control programs in a HACCP environment.

This final rule will affect, overall, as many as 72 poultry slaughtering establishments and about 3,550 establishments that process meat and poultry products beyond slaughtering, dressing, and cut-up. The most far-reaching effect of the rule will be to increase the flexibility establishments have in controlling their processes. This benefit arises from eliminating the required PQC program elements in §§ 318.4(d) and 381.145(d).

With or without this final rule, establishment HACCP plans will supersede or incorporate the few PQC programs that control food safety factors. Under the final rule, most establishments that have PQC programs that control for non-food safety factors will continue to use the programs. In all likelihood, in developing new PQC programs, they will continue to include the information now required by FSIS. They will also be free to adopt other methods of process control and different techniques of observation, measurement, documentation, recordkeeping, and evaluation than are prescribed in the current regulations. They are likely to change their PQC-controlled operations to coordinate their food quality process control more effectively with their HACCP system operations to improve overall efficiency. Thus, raw material control, which has been a required element in PQC programs, could be handled under a HACCP plan with a CCP for raw materials, and other process controls for food safety could be handled in the same manner. Similarly, the records requirements for PQC programs could be superseded by more efficient and appropriate establishment-developed systems. Establishments would thus be able to achieve unquantifiable gains in efficiency that would yield food safety and other consumer-protection benefits.

FSIS-inspected establishments develop about 1,900 PQC programs a year according to regulatory design specifications. Assuming that a PQC program is developed by a QC manager earning about $26 an hour, and that it takes about 20 hours, on average, to develop a PQC program, the cost to an establishment of developing such a program is about $520. FSIS estimates that the cost to the regulated industry of developing such programs is about $1,000,000 per year.

This cost of developing PQC programs according to FSIS requirements, plus $13 million in annual operating costs for about 1,852 mandatory (required by regulation) PQC programs ($26/hr. × 260 hrs./yr./program × 1,852 programs), add up to about $14 million in costs to the regulated industry.

For most establishments, the final rule will not yield immediate, direct savings from removal of burdens associated with developing PQC programs because most PQC programs are voluntarily adopted by establishments. Establishments likely will continue the use of QC methods in their operations, so the removal of the regulatory requirement for establishments to follow the regulatory design specifications will not immediately yield a savings to establishments. Further, a substantial proportion of the costs of complying with this regulation was removed with the publication of the final rule eliminating prior approvals for facilities, equipment, and PQC programs (62 FR 45016; August 25, 1997).

However, FSIS currently requires that if establishments adopt PQC programs, the programs must meet certain design specifications and must contain certain specified information. Some establishments that are required to have PQC programs for certain products and processes would benefit from the removal of burdens associated with developing PQC programs. These establishments, including those involved in producing MS(S), meat cuts treated with organic acids, and other processing, may benefit from shifting some portion of their PQC program development and operation costs into HACCP-related or other activities.

Also, under the final rule, establishments would have greater freedom to innovate. An indeterminate proportion of the annual burden of developing PQC programs according to FSIS specifications could eventually be channeled into more efficient and effective use of industry resources, especially where PQC programs have been operated.

Thus, although there will not be a direct savings from the removal of the regulatory requirements governing PQC programs, the industry potentially will be able to make more efficient and effective use of the $1 million or so in annual costs of developing the programs.

Finally, the final rule will permit FSIS to reallocate field inspection and headquarters resources now used in oversight of establishment-operated PQC programs to higher priority food safety-related activities.

Regulatory Flexibility Act

The Administrator of FSIS has determined that this final rule will not have a significant effect on a substantial number of small entities. The final rule will affect about 72 poultry slaughtering establishments, most of which are large business enterprises. It also will affect as many as 3,550 official meat and poultry processing establishments, of which a substantial majority, 3,330, are considered small entities under Small Business Administration criteria (500 or fewer employees per establishment). However, the rule will not have a significant effect on these establishments. It will impose no new regulatory requirements necessitating investments or other resource commitments by establishments but would, by removing a number of existing regulatory requirements, permit more efficient resource utilization, especially to support establishment HACCP systems.

The final rule will remove the remaining requirements for establishments to have PQC programs for certain products or processes and the general requirement concerning the design of such programs. The final rule will give inspected establishments greater flexibility to innovate and to introduce new processes or products that meet HACCP or other consumer protection objectives. As a result, the final rule will theoretically provide several thousand dollars of regulatory relief annually per establishment.

The final rule will enable establishments to avoid the costs associated with developing and implementing PQC programs that address regulatory requirements for the use of certain substances in preparation of meat and poultry products, such as the use of organic acids to delay discoloration of fresh meat cuts. Thermal processing establishments (of which there are about 130) will avoid the costs associated with developing PQC programs according to Agency specifications and the costs associated with obtaining Agency prior approvals.

As many as 3,330 small establishments will no longer be required to operate PQC programs for certain processes (such as PQC programs for processing cooked beef) and products (such as mechanically separated, or ''deboned,'' product). Small and large establishments will save about $520 per PQC program in development costs for 310 mandatory PQC programs, or $161,720 total. Out of this total, small establishments will save about $151,320.

Operating costs of PQC programs vary widely. A simple PQC program to verify the accuracy of scales, for example, may require that tests be performed only several times a year, at little cost in operator time. A PQC program for a complex process, on the other hand,

may require daily tests and data collection and recordkeeping tasks lasting up to 4 hours. For the purposes of this document, PQC programs are each assumed to require up to 1 hour's worth of daily attention by the establishment QC specialist. The removal of the PQC requirements will relieve small establishments of these burdens.

Assuming, for example, that small establishments incur annual costs of about $12,000,000 in operating mandatory PQC programs (solely in operating the QC evaluation process of such programs, and not including laboratory analysis or special facilities that may be required to determine whether products are in compliance with the regulations), each establishment will save about $3,600 in PQC program operations.

In addition, small establishments will benefit from savings (at the rate of $300 per establishment) that accrue from the removal of regulatory design requirements for both mandatory and voluntary PQC programs. They will have flexibility to develop and implement HACCP-consistent or other process control systems, beyond the flexibility that was provided by the FSIS final rule that removed prior approval requirements for blueprints, equipment, and certain PQC programs (62 FR 45016; August 25, 1997).

Thus, at least $3,900 in recurring savings is available to each small meat and poultry establishment. However, because many, if not most, affected establishments will be likely to continue to operate PQC programs that help in producing products with consistent and uniform characteristics, establishments may not choose to reap the savings that could result from adopting alternatives to their PQC programs. The effect of the final rule on the substantial number of affected small establishments is therefore not likely to be significant.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. States and local jurisdictions are preempted by the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) from imposing any marking or packaging requirements on federally inspected meat and meat products or poultry products that are in addition to, or different than, those imposed under the FMIA and PPIA. States and local jurisdictions may, however, exercise concurrent jurisdiction over meat and poultry products that are outside official establishments for the purpose of preventing the distribution of meat or poultry products that are misbranded or adulterated under the FMIA or PPIA, or, in the case of imported articles, which are not at such an establishment, after their entry into the United States.

This final rule is not intended to have retroactive effect.

There are no applicable administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this final rule. However, the administrative procedures specified in 9 CFR 381.35 must be exhausted prior to any judicial challenge of the application of the provisions of this final rule, if the challenge involves any decision of an FSIS employee relating to inspection services provided under the FMIA or PPIA.

Executive Order 12898

Pursuant to Executive Order 12898 (59 FR 7629; February 16, 1994), ''Federal Actions to Address Environmental Justice in Minority and Low-Income Populations,'' FSIS has considered potential impacts of this final rule on environmental and health conditions in low-income and minority communities.

This final rule will remove the requirements pertaining to PQC programs in federally inspected meat and poultry establishments. It will also remove from the canning regulations all requirements concerning PQC programs, the requirements for case-by-case FSIS approval of systems and devices not specified in the regulations, and several other prior-approval requirements.

As explained in the economic impact analysis, the regulations should generally benefit firms that process meat, meat food products, and poultry products. The regulations will not require or compel meat or poultry establishments to relocate or alter their operations in ways that could adversely affect the public health or environment in low-income and minority communities. Further, this final rule will not exclude any persons or populations from participation in FSIS programs, deny any persons or populations the benefits of FSIS programs, or subject any persons or populations to discrimination because of their race, color, or national origin. The benefits of this final rule from ensuring that products are not adulterated or misbranded will accrue to the members of all classes of the public, including minorities, women, and persons with disabilities.

About 4 percent of official meat and poultry establishments are under female or minority ownership. FSIS does not believe that the effects of this rulemaking, whether beneficial or adverse, on such establishments will be disproportionate. however, the Agency welcomes any data or information that would contribute to an understanding of the effects of this rule on minorities, women, or persons with disabilities.

Additional Public Notification

Public awareness of all stages of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this final rule, FSIS will announce it and provide copies of this **Federal Register** publication in the weekly FSIS Constituent Update. FSIS communicates the Constituent Update by fax to over 300 organizations and individuals. In addition, the update is available on line through the FSIS web page located at ''http://www.fsis.usda.gov''. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and other information that could affect or would be of interest to the Agency's constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals who have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience. For more information and to be added to the constituent fax list, readers of this document may fax their requests to the Congressional and Public Affairs Office, at (202) 720–5704.

Paperwork Requirements

Title: Processing Procedures and Quality Control Systems.

Type of Collection: Revision.

Abstract: FSIS has reviewed the paperwork and recordkeeping requirements in this final rule in accordance with the Paperwork Reduction Act. This final rule will substantially reduce reporting requirements for official establishments. The final rule will remove the design requirements affecting most PQC programs that establishments have and most requirements for establishments to have PQC programs for certain products or processes. Currently, there are 624,465 burden hours associated with the PQC program requirements. FSIS will request OMB to eliminate all these burden hours from the information collection request 0583–0089.

List of Subjects

9 CFR Part 317

Meat inspection, Reporting and recordkeeping requirements.

9 CFR Part 318

Meat inspection, Reporting and recordkeeping requirements.

9 CFR Part 319

Food labeling, Incorporation by reference, Meat inspection.

9 CFR Part 381

Poultry and poultry products, Reporting and recordkeeping requirements.

9 CFR Part 424

Food additives, Food packaging, Meat inspection, Poultry and poultry products.

For the reasons set forth in the preamble, FSIS is amending 9 CFR chapter III, the Federal meat and poultry inspection regulations, as follows:

PART 317—LABELING, MARKING DEVICES, AND CONTAINERS

1. The authority citation for part 317 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

§ 317.21 [Amended]

2. Paragraph (b) of § 317.21 is amended by removing the comma and all words following the word ''person''.

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

3. The authority citation for part 318 continues to read as follows:

Authority: 7 U.S.C. 138f, 450, 1901–1906; 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

§ 318.4 [Amended]

4. Paragraph (d) of § 318.4 is removed and reserved.

5. In § 318.305, paragraph (d)(5) is removed, and paragraphs (a)(1)(ii), (a)(2)(ii), and (f) are revised to read as follows:

§ 318.305 Equipment and procedures for heat processing systems.

(a) * * *

(1) * * *

(ii) *Other devices.* Temperature-indicating devices, such as resistance temperature detectors, used in lieu of mercury-in-glass thermometers, shall meet known, accurate standards for such devices when tested for accuracy. The records of such testing shall be available to FSIS program employees.

(2) * * *

(ii) *Other devices.* Temperature/time recording devices or procedures used in lieu of chart-type devices must meet known accurate standards for such devices or procedures when tested for accuracy. Such a device must be accurate enough for ensuring that process time and temperature parameters have been met.

* * * * *

(f) *Other systems.* All other systems not specifically delineated in this section and used for the thermal processing of canned product shall be adequate to produce shelf-stable products consistently and uniformly.

* * * * *

6. Paragraph (b) of § 318.307 is revised to read as follows:

§ 318.307 Record review and maintenance.

* * * * *

(b) *Automated process monitoring and recordkeeping.* Automated process monitoring and recordkeeping systems shall be designed and operated in a manner that will ensure compliance with the applicable requirements of § 318.306.

* * * * *

7. In § 318.308, paragraph (b) is revised, paragraph (c) is removed and reserved, and paragraph (d) introductory text is revised to read as follows:

§ 318.308 Deviations in processing.

* * * * *

(b) Deviations in processing (or process deviations) must be handled according to:

(1)(i) A HACCP plan for canned product that addresses hazards associated with microbial contamination, or

(ii) Paragraph (d) of this section.

(c) [Reserved]

(d) Alternative procedures for handling process deviations.

* * * * *

8. In § 318.309, paragraph (a) is revised, paragraphs (b) and (c) are removed and reserved, and paragraph (d) introductory text is revised, to read as follows:

§ 318.309 Finished product inspection.

(a) Finished product inspections must be handled according to:

(1) A HACCP plan for canned product that addresses hazards associated with microbiological contamination;

(2) An FSIS-approved total quality control system;

(3) Alternative documented procedures that will ensure that only safe and stable product is shipped in commerce; or

(4) Paragraph (d) of this section.

(b) [Reserved]

(c) [Reserved]

(d) Alternative procedures for handling finished product inspections.

* * * * *

PART 319—DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION

9. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 1901–1906; 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

10. Paragraph (e)(2) of § 319.5 is revised to read as follows:

§ 319.5 Mechanically Separated (Species).

* * * * *

(e) * * *

(2) Analytical methods used by establishments in verifying the fat, protein, and calcium content of product consisting of or containing Mechanically Separated (Species) shall be among those listed in ''Official Methods of Analysis of the Association of Official Analytical Chemists (AOAC),'' 16th edition, 1995, §§ 960.39, 976.21, 928.08 (Chapter 39), and 940.33 (Chapter 45), which is incorporated by reference, or, if no AOAC method is available, in the ''Chemistry Laboratory Guidebook,'' U.S. Department of Agriculture, Washington, D.C., March 1986 edition, sections 6.011–6.013, Revised June 1987 (pages 6–35 through 6–65), or by appropriate methods validated by scientific bodies in collaborative trials. The ''Official Methods of Analysis of the Association of Official Analytical Chemists,'' Chapter 39 and Chapter 45, subsection 45.2.06 (AOAC Official Method 940.33), 16th edition, 1995, are incorporated by reference with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51.

§ 319.104 [Amended]

11. Section 319.104 is amended in paragraph (a) by removing the last sentence of footnote 3 to the chart.

§ 319.105 [Amended]

12. Section 319.105 is amended in paragraph (a) by removing the last sentence of footnote 2 to the chart.

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

13. The authority citation for part 381 continues to read as follows:

Authority: 7 U.S.C. 138f, 450; 21 U.S.C. 451–470; 7 CFR 2.18, 2.53.

14. Section 381.76 is amended follows:

a. Paragraph (b)(1)(ii)(*b*) is revised.

b. Paragraph (b)(1)(iii)(*b*) is revised.

c. Paragraph (b)(4)(i)(*a*) introductory text is revised.

d. Paragraph (b)(4)(i)(*b*) is revised.

e. Paragraph (b)(4)(ii) is removed and reserved.

f. Paragraph (b)(4)(iii) is removed and reserved.

g. Paragraph (b)(5)(i)(*a*) introductory text is revised.

h. Paragraph (b)(5)(i)(*b*) is revised.

i. Paragraph (b)(5)(ii) is removed and reserved.

j. Paragraph (b)(5)(iii) is removed and reserved.

k. Paragraph (c) is removed.

The revisions read as follows:

§ 381.76 Post-mortem inspection, when required; extent; traditional, Streamlined Inspection System (SIS), New Line Speed (NELS) Inspection System and the New Turkey Inspection (NTI) System; rate of inspection.

* * * * *

(b)(1) * * *

(ii) * * *

(*b*) The Administrator determines that the establishment has the intent and capability to operate at line speeds greater than 70 birds per minute, and meets all the facility requirements in § 381.36(d).

(iii) * * *

(*b*) The Administrator determines that the establishment meets all the facility requirements in § 381.36(e).

* * * * *

(4) * * *

(i) * * *

(*a*) *Post-mortem inspection.* The establishment shall provide three inspection stations on each eviscerating line in compliance with the facility requirements § 381.36(d)(1). The three inspectors shall inspect the inside, viscera, and outside of all birds presented. Each inspector shall be flanked by two establishment employees—the presenter and the helper. The presenter shall ensure that the bird is properly eviscerated and presented for inspection and the viscera uniformly trailing or leading. The inspector shall determine which birds shall be salvaged, reprocessed, condemned, retained for disposition by the veterinarian, or allowed to proceed down the line as a passed bird subject to reinspection. Poultry carcasses with certain defects not requiring condemnation of the entire carcass shall be passed by the inspector, but shall be subject to reinspection to ensure the physical removal of the specified defects. The helper, under the supervision of the inspector, shall mark such carcasses for trim when the defects are not readily observable. Trimming or birds passed subject to reinspection shall be performed by:

* * * * *

(*b*) A reinspection station shall be located at the end of each line. This station shall comply with the facility requirements in § 381.36(d)(2). The inspector shall ensure that the establishment has performed the indicated trimming of carcasses passed subject to reinspection by visually monitoring, checking data, or gathering samples at the station or at other critical points on the line.

(ii) [Reserved]

(iii) [Reserved]

(5) * * *

(i) * * *

(*a*) *Post-mortem inspection.* Each inspection station must comply with the facility requirements in § 381.36(e)(1). Each inspector shall be flanked by and establishment employee assigned to be the inspector's helper. The one inspector on an NTI–1 Inspection System shall be presented every bird. Each inspector on an NTI–2 Inspection System line shall be presented every other bird on the line. An establishment employee shall present each bird to the inspector properly eviscerated with the back side toward the inspector and the viscera uniformly trailing or leading. Each inspector shall inspect the inside, viscera, and outside of all birds presented. The inspector shall determine which bird shall be salvaged, reprocessed, condemned, retained for disposition by a veterinarian, or allowed to proceed down the line as a passed bird subject to reinspection. Turkey carcasses with certain defects not requiring condemnation of the entire carcass shall be passed by the inspector, but shall be subject to reinspection to ensure the physical removal of the specified defects. The helper, under the supervision of the inspector, shall mark such carcasses for trim when the defects of birds passed subject to reinspection shall be performed by:

* * * * *

(*b*) *Reinspection.* A reinspection station shall be located at the end of the lines. This station shall comply with the facility requirements in § 381.36(e)(2). The inspector shall ensure that establishments have performed the indicated trimming of each carcass passed subject to reinspection by visually monitoring, checking data, and/or sampling product at the reinspection station and, if necessary, at other points, critical to the wholesomeness of product, on the eviscerating line.

(ii) [Reserved]

(iii) [Reserved]

§ 381.121d [Amended]

15. Paragraph (b) of § 381.121d is amended by removing the comma and all words following the word ''person.''

§ 381.145 [Amended]

16. Paragraphs (d) and (e) of § 381.145 are removed and reserved.

17. In § 381.305, paragraph (d)(5) is removed, and paragraphs (a)(1)(ii), (a)(2)(ii), and (f) are revised to read as follows:

§ 381.305 Equipment and procedures for heat processing systems.

(a) * * *

(1) * * *

(ii) *Other devices.* Temperature-indicating devices used in lieu of mercury-in-glass thermometers, such as resistance temperature detectors, shall meet known, accurate standards for such devices when tested for accuracy. The records of such testing shall be available to FSIS program employees.

(2) * * *

(ii) *Other devices.* Temperature/time recording devices or procedures used in lieu of chart-type devices must meet known accurate standards for such devices or procedures when tested for accuracy. Such a device must be accurate enough for ensuring that process time and temperature parameters have been met.

* * * * *

(f) *Other systems.* All other systems not specifically delineated in this section and used for the thermal processing of canned product shall be adequate to produce shelf-stable products consistently and uniformly.

* * * * *

18. Paragraph (b) of § 381.307 is revised to read as follows:

§ 381.307 Record review and maintenance.

* * * * *

(b) *Automated process monitoring and recordkeeping.* Automated process monitoring and recordkeeping systems shall be designed and operated in a manner which will ensure compliance with the applicable requirements of § 381.306.

* * * * *

19. In § 381.308, paragraph (b) is revised, paragraph (c) is removed and reserved, and paragraph (d) introductory text is revised to read as follows:

§ 381.308 Deviations in processing.

* * * * *

(b) Deviations in processing (or process deviations) must be handled according to:

(1) A HACCP plan for canned product that addresses hazards associated with microbial contamination; or

(2) Paragraph (d) of this section.

(c) [Reserved]

(d) Alternative procedures for handling process deviations.

* * * * *

20. In § 381.309, paragraph (a) is revised, paragraphs (b) and (c) are removed and reserved, and paragraph (d) introductory text is revised, to read as follows:

§ 381.309 Finished product inspection.

(a) Finished product inspections must be handled according to:

(1) A HACCP plan for canned product that addresses hazards associated with microbiological contamination; or

(2) An FSIS-approved total quality control system; or

(3) Alternative documented procedures that will ensure that only product that is safe and stable is shipped in commerce; or

(4) Paragraph (d) of this section.

(b) [Reserved]

(c) [Reserved]

(d) Alternative procedures for handling finished product inspections.

* * * * *

PART 424—PREPARATION AND PROCESSING OPERATIONS

21. The authority citation for part 424 continues to read as follows:

Authority: 7 U.S.C. 450, 1901–1906; 21 U.S.C. 451–470, 601–695; 7 CFR 2.18, 2.53.

22. In the table in § 424.21(c), under the Class of substance ''Miscellaneous,'' the entry for the Substance ''Ascorbic acid, erythorbic acid, citric acid, sodium ascorbate, and sodium citrate, singly or in combination'' is revised to read as follows:

§ 424.21 Use of food ingredients and sources of radiation.

* * * * *

(c) * * *

Class of substance	Substance	Purpose	Products	Amount
*	*	*	*	*
Miscellaneous	Ascorbic acid, erythorbic acid, citric acid, sodium ascorbate and sodium citrate, singly or in combination.	To delay discoloration.	Fresh beef cuts, fresh lamb cuts, and fresh pork cuts.	Not to exceed, singly or in combination, 500 ppm or 1.8 mg/sq inch of product surface of ascorbic acid (in accordance with 21 CFR 182.3013), erythorbic acid (in accordance with 21 CFR 182.3041), or sodium ascorbate (in accordance with 21 CFR 182.3731); and/or not to exceed, singly or in combination, 250 ppm or 0.9 mg/sq inch of product surface of citric acid (in accordance with 21 CFR 182.6033), or sodium citrate (in accordance with 21 CFR 182.6751).
*	*	*	*	*

* * * * *

23. In § 424.22, paragraphs (b)(1)(ii)(A) and (B) are revised to read as follows:

§ 424.22 Certain other permitted uses.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(A) 100 ppm ingoing (potassium nitrite at 123 ppm ingoing); and 550 ppm sodium ascorbate or sodium erythorbate (isoascorbate) shall be used; or

(B) A predetermined level between 40 and 80 ppm (potassium nitrite at a level between 49 and 99 ppm); 550 ppm sodium ascorbate or sodium erythorbate (isoascorbate); and additional sucrose or other similar fermentable carbohydrate at a minimum of 0.7 percent and an inoculum of lactic acid producing bacteria such as *Pediococcus acetolactii* or other bacteria demonstrated to be equally effective in preventing the production of botulinum toxin at a level sufficient for the purpose of preventing the production of botulinum toxin.

* * * * *

Done at Washington, DC, on May 12, 2000.

Thomas J. Billy,

Administrator.

[FR Doc. 00–12659 Filed 5–26–00; 8:45 am]

BILLING CODE 3410–DM–P

FEDERAL RESERVE SYSTEM

12 CFR Part 261a

[Docket No. R–1071]

Rules Regarding Access to Personal Information Under the Privacy Act

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: In accordance with the Privacy Act, the Board of Governors of the Federal Reserve System (Board) is amending its Rules Regarding Access to Personal Information under the Privacy Act to include a new system of records, entitled Multi-rater Feedback Records (BGFRS–25) to the list of system of records that is exempt from certain required disclosures. Notice of the new system of records is published elsewhere in this **Federal Register**.

EFFECTIVE DATE: June 28, 2000.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boutilier, Senior Counsel, Legal Division (202/452–2418), or Chris Fields, Manager, Human Resources Function, Management Division (202/452–3654), Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW, Washington, DC 20551. For users of the Telecommunications Device for the Deaf (TDD) only, contact Janice Simms at 202/452–4984.

SUPPLEMENTARY INFORMATION:

The Board is instituting a feedback program for its managers and officers. Under this Multi-rater Feedback program, Board employees who work for or with a particular manager or officer are asked to complete a voluntary, confidential questionnaire regarding the performance of that manager/officer and send it directly to a consultant hired by the Board for this program. The consultant analyzes the completed questionnaires and compiles a report for the manager/officer that summarizes the comments from the questionnaires. This report does not identify individual comments or those who completed the questionnaires. The report is given only to the manager/officer being evaluated; no other Board

employee or officer receives a copy of the report. The consultant maintains all of the data connected with this program, identified only by the name of the manager/officer being evaluated.

Although information from the completed questionnaires is stored in the system of records without identifying the individual who completed the questionnaire, it is possible that the individual could be identified by careful study of the answers provided. To protect the confidentiality of these participants, which is expressly promised when the questionnaires are distributed, this data will not be available to the manager/officer that is the subject of the questionnaires. Accordingly, access to certain data in this system of records is restricted pursuant to the exemption provided in subsection (k)(5) of the Privacy Act, 5 U.S.C. 552a(k)(5). The Board's Rules Regarding Access to Personal Information under the Privacy Act must be amended to include this system of records in the list of ''exempt'' systems of records. In addition, the Board is taking this opportunity to remove from that list a system of records that was amended in 1998 and no longer contains information that is exempt from the access provisions of the Privacy Act.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605, the Board certifies that this rule will not have a significant economic impact on a substantial number of small entities, because it applies only to internal personnel matters of the agency.

Administrative Procedure Act

This rule is exempt from the rulemaking provisions of the Administrative Procedure Act, 5 U.S.C. 553, and the Congressional Review Act, pursuant to 5 U.S.C. 804(3)(B) and (C), because it is a rule relating to agency management or personnel and a rule of agency procedure that does not substantially affect the rights or obligations of non-agency parties.

List of Subjects in 12 CFR Part 261a

Federal Reserve System, Privacy.

For the reasons set forth in the preamble, the Board amends 12 CFR part 261a as follows:

PART 261a—RULES REGARDING ACCESS TO PERSONAL INFORMATION UNDER THE PRIVACY ACT OF 1974

1. The authority citation for part 261a is revised to read as follows:

Authority: 5 U.S.C. 552a

2. In § 261a.13, remove paragraph (b)(6), redesignate paragraphs (b)(7), (8), and (9) as paragraphs (b)(6), (7), and (8), and add a new paragraph (b)(9) to read as follows:

§ 261a.13 Exemptions.

* * * * *

(b) * * *

(9) BGFRS–25 Multi-rater Feedback Records.

* * * * *

By order of the Board of Governors of the Federal Reserve System, May 19, 2000.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 00–13127 Filed 5–26–00; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AWP–1]

Modification of Class E Airspace; Willits, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Class E airspace area at Willits, CA. The establishment of an Area Navigation (RNAV) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 16 and RWY 34 at Ells Field-Willits Municipal Airport has made this proposal necessary. Additional controlled airspace extending upward from 7000 feet or more above the surface of the earth is needed to contain aircraft executing the RBAV RWY 16 and RWY 34 SIAP to Ells Field-Willits Municipal Airport. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Ells Field-Willits Municipal Airport, Willits, CA.

EFFECTIVE DATE: 0901 UTC August 10, 2000.

FOR FURTHER INFORMATION CONTACT: Larry Tonish, Airspace Specialist, Airspace Branch, AWP–520, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6539.

SUPPLEMENTARY INFORMATION:

History

On March 22, 2000, the FAA proposed to amend 14 CFR part 71 by modifying the Class E airspace area at Willis, CA (65 FR 15282). Additional controlled airspace extending upward from 700 feet above the surface is needed to contain aircraft executing the RNAV RWY 16 and RWY 34 SIAP at Ells Field-Willis Municipal Airport. This action will provide adequate controlled airspace for aircraft executing the RNAV RWY 16 and RWY 34 SIAP at Ells Field-Willits Municipal Airport, Willits, CA.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. Class E airspace designation for airspace extending from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9G dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies the Class E airspace area at Willits, CA. The development of a RNAV RWY 16 and RWY 34 SIAP has made this action necessary. The effect of this action will provide adequate airspace for aircraft executing the RNAV RWY 16 and RWY 34 SIAP at Ells Field-Willits Municipal Airport, Willits, CA.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(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) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follow:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP CA E5 Willits, CA [Revised]

Ells Field-Willits Municipal Airport, CA
(Lat. 39°27′03″ N, long. 123°22′12″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Ells Field-Willits Municipal Airport and that airspace bounded by a line beginning at lat. 39°28′00″ N, long. 123°30′15″ W; to lat. 39°48′30″ N, long. 123°42′00″ W; to lat. 39°53′30″ N, long. 123°28′30″ W; to lat. 39°32′11″ N, long. 123°17′27″ W, thence clockwise along the 6.3-mile radius of the Ells Field-Willits Municipal Airport, to the point of beginning.

* * * * *

Issued in Los Angeles, California, on April 25, 2000.

William D. Marino, Jr.,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 00–13461 Filed 5–26–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

29 CFR Part 2584

RIN 1210–AA79

Rules and Regulations For the Allocation of Fiduciary Responsibility, Federal Retirement Thrift Investment Board

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Direct final rule.

SUMMARY: This document includes amendments authorizing the Executive Director of the Federal Retirement Thrift Investment Board (Board) to allocate certain fiduciary responsibilities for two new investment funds to investment managers. It also provides definitions for the two new funds, updates the definition of investment manager and makes other miscellaneous corrections to the regulations.

DATES: This rule is effective on July 14, 2000 without further notice, unless the Department receives significant adverse written comment by July 29, 2000. If the Department receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments (preferably at least three copies) should be submitted to the Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, Room N–5671, U.S. Department of Labor, Washington, DC 20210, and marked ''Attention: FERSA Allocation Regulation.'' All submissions will be available for public inspection in the Public Documents Room, Pension and Welfare Benefits Administration, Room N–5507, 200 Constitution Avenue NW, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Rudy Nuissl, Pension and Welfare Benefits Administration, U.S. Department of Labor, Rm 5669, 200 Constitution Ave., N.W., Washington, DC 20210, tel. (202) 219–7461. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Subchapter III of the Federal Employees' Retirement System Act of 1986 (FERSA), Pub. L. No. 99–335, 100 Stat. 514, codified largely at 5 U.S.C. 8351 and 8401–8479, created a retirement savings plan for Federal employees known as the Thrift Savings Plan (TSP). As provided at 5 U.S.C. 8437, the TSP is funded by the Thrift Savings Fund (Fund).

Pursuant to 5 U.S.C. 8474(b)(5) and (c)(1), the Executive Director of the Board is granted authority to prescribe such regulations as may be necessary for the administration of the Fund. However, these statutory provisions expressly prohibit the Executive Director from prescribing any regulations relating to fiduciary responsibilities with respect to the Fund. Instead, at 5 U.S.C. 8477(e)(1)(E), the Secretary of Labor is directed to prescribe, in regulations, procedures by which fiduciary responsibilities may be allocated among fiduciaries, including investment managers. The Secretary of Labor published regulations setting forth such procedures in final form in the **Federal Register** on December 29, 1988 (53 FR 52664). These regulations comprise 29 CFR part 2584.

Pursuant to 29 CFR 2584.8477(e)–2(b), the Executive Director may allocate certain fiduciary responsibilities in connection with the management and investment of the Fixed Income Investment Fund (F Fund) to a qualified professional asset manager(s). Section 2584.8477(e)–2(c) of title 29, Code of Federal Regulations, provides that the Executive Director may also allocate certain fiduciary responsibilities in connection with the management and investment of the Government Securities Investment Fund (G Fund) and the Common Stock Index Investment Fund (C Fund) to an investment manager(s). Section 2584.8477(e)–6 of title 29, Code of Federal Regulations, provides definitions for these investment funds.

The Thrift Savings Investment Funds Act of 1996, Pub. L. 104–208, 110 Stat. 3009–372, authorized the creation of two new investment funds. The new funds are the Small Capitalization Stock Index Investment Fund (S Fund) and the International Stock Index Investment Fund (I Fund).

This document provides in § 2584.8477(e)–2 that, in addition to the G, C, and F Funds, the Executive Director may allocate certain fiduciary responsibilities in connection with the management and investment of the two new funds (S and I Funds) to an investment manager(s). The rule also provides definitions for these two new funds in § 2584.8477(e)–6, which conform to the definitions in sections of the Thrift Savings Investment Funds Act of 1996.

Because part 2584 originally adopted the definition of investment manager provided in the Employee Retirement Income Security Act of 1974 (ERISA), Pub. L. 93–406, 88 Stat. 829, 29 U.S.C. 1002, which was later amended by Act of November 10, 1997, § 1(a), Pub. L. 105–72, 111 Stat. 1457, this document replaces the old definition of investment manager in 29 CFR 2584.8477(e)–6 with the amended definition as currently provided in ERISA.

Furthermore, this rule adds the word ''Fund'' to § 2584.8477(e)–2(c), which was inadvertently omitted from ''Common Stock Index Investment Fund'' in the final rule, and updates the United States Code citation for FERSA in § 2584.8477(e)–6(a).

Direct Final Rulemaking Procedure

The Department has determined that this rule shall be effective as a final rule 45 days after publication in the **Federal Register**. As explained more fully above,

the purpose of this rulemaking is to conform the existing regulation with the creation of two new investment funds authorized by the Thrift Savings Investment Funds Act of 1996, and to make certain other minor changes and corrections.

As a result, the Department anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. The amendment will enhance the ability of federal employees to diversify their account balances in the Thrift Investment Fund. In accordance with 5 U.S.C. 553(b), the Department for good cause finds that notice and public procedure on this rule are unnecessary.

Unless a written adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. If the Department does receive, within the comment period, an adverse or negative comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Executive Order 12866 Statement

The regulation set forth in this document is not classified as a ''significant regulatory action'' under Executive Order 12866 because it is not likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. As a result this rule is not subject to review by the Office of Management and Budget.

Regulatory Flexibility Act Statement

Because this rule is being promulgated without a notice of proposed rulemaking it is not covered by the Regulatory Flexibility Act. Nevertheless, the Department has determined that it will not have a significant economic impact on a substantial number of small entities. The rule merely makes changes necessary to permit the operation of two new investment funds authorized under the Thrift Savings Investment Funds Act of 1996 in the same manner as the existing investment funds.

Paperwork Reduction Act

The rule being issued here is not subject to the requirements of the Paperwork Reduction Act of 1996 (44 U.S.C. 3501 *et seq.*) because it does not contain an information collection request as defined in 44 U.S.C. 3502(3).

Executive Order 13132 Federalism

This rule affects only the authority of the Executive Director of the Thrift Investment Board and has no federalism implications.

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4, § 201, 109 Stat. 48, 64, the effects of this regulation on state, local, and tribal governments and the private sector have been assessed. This regulation will not compel the expenditure in any one year of $100 million or more by state, local, and tribal governments, in the aggregate, or by the private sector. Therefore, a statement under § 202, 109 Stat. 48, 64–65, is not required.

Small Business Regulatory Enforcement Fairness Act—Congressional Review

The rule being issued here is subject to the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*) and has been transmitted to Congress and the Comptroller General for review. The rule is not a ''major rule'' as that term is defined in 5 U.S.C. 804, because it is not likely to result in (1) an annual effect on the economy of $100 million or more: (2) a major increase in costs or prices for consumers, individual industries, or federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovations, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Statutory Authority

The regulation set forth herein is issued pursuant to 5 U.S.C. 8477(e)(1)(E) and under Secretary of Labor's Order No. 1–87.

List of Subjects in 29 CFR Part 2584

Employee benefit plans, Fiduciary, Government employees, Pensions, Retirement, Trusts and trustees.

In view of the foregoing, the Department of Labor amends 29 CFR part 2584 as follows:

PART 2584—[AMENDED]

1. The authority citation for part 2584 continues to read as follows:

Authority: 5 U.S.C. 8477(e)(1)(E) and Secretary of Labor's Order 1–87, 52 FR 13139 (April 21, 1987).

2. Section 2584.8477(e)–(2) is amended by revising paragraph (c) to read as follows:

§ 2584.8477(e)–2 Allocation of fiduciary duties.

* * * * *

(c) The Executive Director may allocate authority and responsibility for the investment and management of the Government Securities Investment Fund, the Common Stock Index Investment Fund, the International Stock Index Investment Fund and the Small Capitalization Stock Index Investment Fund to an investment manager(s).

* * * * *

3. Section 2584.8477(e)–6 is amended as follows:

a. by redesignating paragraphs (h), (i) and (j) as (i), (j) and (l), respectively;

b. by removing the periods in paragraph (e)(2) and the newly redesignated paragraph (j), and by inserting semicolons in their places; and

c. by revising paragraph (a) and the newly redesignated paragraph (i)(2) and inserting new paragraphs (h) and (k) to read as follows:

§ 2584.8477(e)–6 Definitions.

* * * * *

(a) *Act* means the Federal Employees' Retirement System Act of 1986, 5 U.S.C. 8401 *et seq.* (Supp. III 1997);

* * * * *

(i) * * *

(1) * * *

(2) Is:

(i) Registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1),

(ii) Not registered as an investment adviser under such Act by reason of paragraph (1) of section 203A(a) of such Act (15 U.S.C. 80b–3a) but is registered as an investment adviser under the laws of the state (referred to in such paragraph (1)) in which it maintains its principal office and place of business, and, at the time the fiduciary last filed the registration form most recently filed by the fiduciary with such state in order to maintain the fiduciary's registration under the laws of such state, also filed a copy of such form with the Secretary of Labor,

(iii) A bank, as defined in that Act, or

(iv) An insurance company qualified to perform services described in

paragraph (i)(1) of this section under the laws of more than one state, and

(3) * * *

* * * * *

(h) *International Stock Index Investment Fund* means the fund established under 5 U.S.C. 8438(b)(1)(E);

* * * * *

(k) *Small Capitalization Stock Index Investment Fund* means the fund established under 5 U.S.C. 8438(b)(1)(D);

* * * * *

Signed at Washington, DC , this 22nd day of March, 2000.

Leslie Kramerich,

Acting Assistant Secretary, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 00–13250 Filed 5–26–00; 8:45 am]

BILLING CODE 4510–29–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH135–1a, FRL–6600–8]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving, as set forth below, a request from Ohio for a revision to the Ohio State Implementation Plan (SIP) for transportation conformity. The transportation conformity SIP revision enables the State of Ohio to implement and enforce the Federal transportation conformity requirements at the State or local level. The submitted amendments to Ohio Administrative Code reflect the third set of EPA revisions to the federal transportation conformity rules. These rule changes will assure conformity of transportation improvement programs, transportation plans and transportation projects to the SIP. On October 6, 1999, the State of Ohio submitted the adopted rules and public hearing documentation to EPA and requested a revision to the federally approved SIP.

DATES: This rule is effective on July 31, 2000, unless EPA receives adverse written comments by June 29, 2000. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Send written comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the material submitted by the State in support of this request is available for inspection at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Patricia Morris at (312) 353–8656 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Patricia Morris, Environmental Scientist, Regulation Development Section, Air Programs Branch (AR–18J), USEPA, Region 5, Chicago, Illinois 60604, (312) 353–8656.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used we mean EPA.

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I. Background

A. What is Transportation Conformity?

The purpose of transportation conformity is to assure that transportation plans, programs and projects, approved by the United States Department of Transportation conform to the purpose of the SIP to attain and maintain the public health based air quality standards. Conformity provisions first appeared in the Clean Air Act (CAA) amendments of 1977 (Public Law 95–95). Although these provisions did not define the term conformity, they provided that no Federal department could engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which did not conform to a SIP that has been approved or promulgated for the nonattainment or maintenance areas.

The CAA Amendments of 1990 expanded the scope and content of the conformity provisions by defining conformity to an implementation plan. Conformity is defined in section 176(c) of the CAA as conformity to the SIP's purpose of eliminating or reducing the severity and number of violations of the National Ambient Air Quality Standards and achieving expeditious attainment of such standards, and that affected activities will not: (1) Cause or contribute to any new violation of any standard in any area, (2) increase the frequency or severity of any existing violation of any standard in any area, or (3) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

The CAA requires EPA to promulgate criteria and procedures for determining conformity of all Federal actions in the nonattainment or maintenance areas to the SIP. Actions under title 23 United States Code (U.S.C.) or the Federal Transit Act are covered under the transportation conformity rules codified at 40 CFR part 51, subpart T and part 93, subpart A—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act. The criteria and procedures developed for all other federal actions are called ''general conformity'' rules.

B. Why Must the State Submit a Transportation Conformity SIP?

The original 1993 conformity rule required the States and local agencies to adopt and submit a transportation conformity SIP revision to the EPA not later than November 24, 1994 (40 CFR 51.396). Ohio submitted its SIP revision for state transportation conformity rules on August 17, 1995.

The federal transportation conformity rule however, was amended on August 8, 1995, and again on November 14, 1995. The November 14, 1995, amendments allow 12 months, or until November 14, 1996, for States to submit a transportation conformity SIP revision consistent with these amendments. Ohio had submitted state conformity rules consistent with the original November 24, 1994, conformity rules on August 17, 1995, and these rules were conditionally approved by EPA on May 16, 1996 (61 FR 24702). The condition of the approval was that Ohio update the State transportation conformity rules to be consistent with the federal amendments. Ohio updated its State

rules and met the condition of the conditional approval within the allotted time.

The federal conformity rule was again amended on August 15, 1997 (40 CFR parts 51 and 93 Transportation Conformity Rule Amendments: Flexibility and Streamlining). States were again given a 12 month time frame to submit State rules consistent with the amendment. Ohio proceeded to update the state transportation conformity rules and submitted the rules on October 6, 1999 (this submittal is the subject of this rulemaking action). However, on March 2, 1999, the United States Court of Appeals for District of Columbia Circuit issued its opinion in *Environmental Defense Fund* v. *Environmental Protection Agency*, No. 97–1637. The Court granted the environmental group's petition for review and ruled that several provisions in the federal transportation conformity rules were unlawful. The rules approved in this rulemaking are consistent with the August 15, 1997, federal conformity amendments that remained unchanged by the Court decision. However, Ohio will need to submit another transportation conformity SIP revision consistent with future amendments to the transportation conformity rule.

The approval of these State transportation conformity rules will update the federally approved State rules to be more consistent with the federal conformity rules, thereby improving the conformity process and providing consistency with other States rules and the federal rule.

II. Review of the State Transportation Conformity Rule

A. What Did the State Submit?

Pursuant to the requirements under section 176(c)(4)(C) of the Clean Air Act, the Ohio Environmental Protection Agency (OEPA) submitted a SIP revision to the EPA on October 6, 1999. In its submittal, the State adopted State rules to meet the requirements of 40 CFR part 51, subpart T, and part 93 subpart A, as published on August 15, 1997. Transportation conformity is required for all nonattainment or maintenance areas for any transportation related criteria pollutants (40 CFR 51.394 (b)).

The State of Ohio currently has 28 counties which are ozone nonattainment or ozone maintenance areas and thus require Ohio to prepare transportation conformity analyses. These areas are: Toledo area (Lucas and Wood Counties), Cleveland/Akron area (Lorain, Cuyahoga, Medina, Summit, Portage, Geauga, Lake, and Ashtabula Counties), Youngstown area (Trumbull and Mahoning Counties), Canton (Stark County), Columbus (Franklin, Delaware and Licking Counties), Cincinnati (Hamilton, Butler, Clermont, and Warren Counties), Dayton (Preble, Montgomery, and Greene Counties), Springfield (Miami and Clark Counties), Clinton County, Columbiana County, and Jefferson County. In addition to the ozone nonattainment and maintenance areas, Cuyahoga County is also a maintenance area for carbon monoxide.

Section 51.390 of the transportation conformity rule requires that the majority of the Federal rules be incorporated verbatim, with only a few exceptions. In addition, the rule states that State rules can not be more stringent than the Federal rules unless the conformity provisions ''apply equally to non-federal as well as Federal entities'' (40 CFR 51.396(a)). The OEPA held a public hearing on the transportation conformity submittal on December 10, 1998.

B. How Does the Submittal Change the Currently Approved State Transportation Conformity Rules?

The currently approved Ohio conformity rules comply with the 1994 federal conformity regulations. These federal regulations have been amended significantly, as discussed in the previous section. The Ohio submittal revises the State conformity regulations consistent with the 1997 Transportation Conformity Rule Amendments: Flexibility and Streamlining, which is the most current federal transportation conformity regulation.

Section 51.390 of the federal transportation conformity rule states that to be approved by the EPA, the submitted SIP revision must ''address all requirements of this subpart in a manner which gives them full legal effect.'' In particular, the revision shall incorporate the provisions of the following sections verbatim, except insofar as needed to give effect to a stated intent in the revision to establish criteria and procedure more stringent than the requirements stated in these sections: 93.101, 93.102, 93.103, 93.104, 93.106, 93.109, 93.110, 93.111, 93.112, 93.113, 93.114, 93.115, 93.116, 93.117, 93.118, 93.119, 93.120, 93.121, 93.126, and 93.127. The State of Ohio submittal incorporated all of the above sections verbatim following the August 15, 1997 version of the federal rules, with only clarifying changes. The criteria and procedures for consultation between State and local agencies, metropolitan planning organizations and federal agencies were changed from the previous State consultation rules. These changes are not being approved, as discussed further in the next section.

C. What is EPA Approving Today and Why?

We are approving certain sections of the Ohio transportation conformity rule amendments which were adopted on January 26, 1999, and became effective on February 16, 1999.

The following is a summary of the Ohio Administrative Code and the sections that are being approved and why, and the sections that are not being approved and why:

OAC 3745–101–02 *Definitions.* These definitions are consistent with the federal rule and the Court decisions. This rule is being approved.

OAC 3745–101–03 (A), (B), (C), (D), (G), (H), (I), (J), (K), (L) *Applicability, priority, and frequency of conformity determinations.* The sections listed are being approved as consistent with the federal rule and the Court decisions. However, sections (E) and (F) are not being approved. Section E allows projects to proceed to completion after completing the National Environmental Policy Act (NEPA) requirements. This provision was struck down by the court in case No. 97–1637. Section F allows a grace period of 12 months for new nonattainment areas. This was disallowed by the United States Court of Appeals for the District of Columbia Circuit in case No. 96–1007.

OAC 3745–101–04 *Consultation.* This section is not being approved. The State is required to promulgate procedures and rules for consultation between State and local agencies, metropolitan planning organizations and federal agencies. Although this section has not been affected by the Court decisions, the submitted version does not have the detail of the previously approved consultation rule. Therefore, rule OAC 3745–101–04 will remain the same as previously approved.

OAC 3745–101–05 *Content of transportation plans.* This section is being approved. It is consistent with the federal rule and the Court decisions.

OAC 3745–101–06 *Relationship with NEPA and fiscal constraints.* This section is being approved. It is consistent with the federal rule and the Court decisions.

OAC 3745–101–07 *Criteria and procedures for conformity determination, assumptions, emissions model, and consultation.* Sections A, B, C, D, E, F, G, H, I, and J are being approved except for the parts of the sections which require a submitted budget to be used 45 days after submittal to EPA. These sections are contrary to the March 2, 1999, Court

decisions. The parts of sections that are not being approved are as follows: OAC 3745–101–07 (C)(1)(a), (C)(2)(a),

OAC 3745–101–08 *Criteria and procedures for implementation of TCMs, current conformity, and projects from a plan and TIP.* This section is being approved. It is consistent with the federal rule and the Court decisions.

OAC 3745–101–09 *Localized CO and PM10 violations and compliance with PM10 control measures.* This section is being approved. It is consistent with the federal rule and the Court decisions.

OAC 3745–101–10 *Motor Vehicle Emissions Budgets.* Sections A, B, C and D are being approved because these sections are consistent with the federal rule and the Court decisions. Section E is not being approved because it is not consistent with the March 2, 1999 Court decisions.

OAC 3745–101–11 *Criteria and Procedures: Emission Reductions in Areas Without Motor Vehicle Emissions Budgets.* This section is being approved. It is consistent with the federal rule and the Court decisions.

OAC 3745–101–12 *Consequences of Control Strategy Implementation Plan Failures.* This section is being approved because it is consistent with the federal rule and the Court decisions, except for section (A)(2) which allows 120 days after a control strategy SIP disapproval before a conformity lapse takes effect. The Court ruled that a conformity lapse must take effect on the same day as the effective date of a control strategy disapproval.

OAC 3745–101–13 *Requirements for Adoption or Approval of Projects by Other Recipients of Funds Designated Under Title 23 U.S.C. or the Federal Transit Laws.* This section is being approved because it is consistent with the federal rule and the Court decisions, except for section (A)(1) which allows a regionally significant project in the first 3 years of the Transportation Improvement Program to proceed during a conformity lapse. This provision was rescinded by the Court.

OAC 3745–101–14 *Procedures for Determining Regional Transportation-Related Emissions.* This section is being approved. It is consistent with the federal rule and the Court decisions.

OAC 3745–101–15 *Procedures for Determining Localized CO and PM10 Concentrations (Hot-Spot Analysis).* This section is being approved. It is consistent with the federal rule and the Court decisions.

OAC 3745–101–17 *Enforceability of design concept and scope and project-level mitigation and control measures.* This section is being approved. It is consistent with the federal rule and the Court decisions.

OAC 3745–101–18 *Exempt projects.* This section is being approved. It is consistent with the federal rule and the Court decisions.

OAC 3745–101–19 *Traffic Signal Synchronization Projects.* This section is being approved. It is consistent with the federal rule and the Court decisions.

III. Rulemaking Actions

EPA is approving portions of the Ohio Transportation Conformity SIP revision submitted on October 6, 1999. EPA is only approving the sections detailed in the above listing. The rules being approved are consistent with the federal transportation conformity rule and the subsequent Court decisions. EPA is publishing this action without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse written comments be filed. This action will be effective without further notice unless EPA receives significant and relevant adverse written comments by June 29, 2000. Should the Agency receive such comments, it will publish a final rule informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on July 31, 2000.

IV. Administrative Requirements

A. Executive Order 12866

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

B. Executive Orders on Federalism

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation.

In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

On August 4, 1999, President Clinton issued a new executive order on federalism, Executive Order 13132, (64 FR 43255 (August 10, 1999),) which will take effect on November 2, 1999. In the interim, the current Executive Order 12612, (52 FR 41685 (October 30, 1987),) on federalism still applies. This rule will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 12612. The rule affects only one State, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

C. Executive Order 13045

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

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

D. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds

necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation.

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

E. Regulatory Flexibility Act

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

This final rule will not have a significant impact on a substantial number of small entities because SIP approvals 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).

F. Unfunded Mandates

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

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

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

H. National Technology Transfer and Advancement Act

Section 12 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.

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 31, 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, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Transportation conformity, Transportation-air quality planning, Volatile organic compounds.

Dated: April 14, 2000.

Elissa Speizman,

Acting Regional Administrator, Region 5.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart KK—Ohio

2. Section 52.1870 is amended by adding paragraph (c)(122) to read as follows:

§ 52.1870 Identification of Plan.

* * * * *

(c) * * *

(122) On October 6, 1999, the Ohio Environmental Protection Agency submitted revised Transportation Conformity rules for the State of Ohio. The submittal made revisions to the current State plan for the implementation of the federal transportation conformity requirements at the State and local level in accordance with 40 CFR part 51, subpart T—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects

Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act. Only certain sections of the submittal are approved.

(i) Incorporation by reference.

(A) Ohio Administrative Code: amended rules, OAC 3745–101–02, OAC 3745–101–03 (A), (B), (C), (D), (G), (H), (I), (J), (K), (L), except (E) and (F), OAC 3745–101–05, OAC 3745–101–06, OAC 3745–101–07 (A), (B), (C) except for (C)(1)(a) and (C)(2)(a), (D), (E), (F), (G), (H), (I), (J), OAC 3745–101–08, OAC 3745–101–09, OAC 3745–101–10, OAC 3745–101–11, OAC 3745–101–12 except for (A)(2), OAC 3745–101–13 except (A)(1), OAC 3745–101–14, OAC 3745–101–15, OAC 3745–101–17, OAC 3745–101–18, OAC 3745–101–19, effective on February 16, 1999.

(B) No action is being taken on: OAC 3745–101–04.

* * * * *

[FR Doc. 00–13334 Filed 5–26–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[CO–001–0037a; FRL–6706–5]

Approval and Promulgation of Air Quality Implementation Plans; Colorado; Designation of Areas for Air Quality Planning Purposes, Canon City

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On September 22, 1997, the Governor of the State of Colorado submitted a State Implementation Plan (SIP) revision for the purpose of establishing a redesignation for the Canon City, Colorado area from nonattainment to attainment for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 microns (PM_{10}) under the 1987 standards. The Colorado Air Pollution Control Division's (Colorado) submittal, among other things, documents that the Canon City area has attained the PM_{10} national ambient air quality standards (NAAQS), requests redesignation to attainment and includes a maintenance plan for the area demonstrating maintenance of the PM_{10} NAAQS for ten years. EPA is approving the redesignation request and maintenance plan because the State has met the applicable requirements of the Clean Air Act, as amended. Subsequent to this approval, the Canon City area will be designated attainment for the PM_{10} NAAQS. This action is being taken under sections 107, 110, and 175A of the Clean Air Act (Act).

DATES: This rule is effective on July 31, 2000, without further notice, unless EPA receives adverse comment by June 29, 2000. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, Environmental Protection Agency (EPA), Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202. Copies of the state documents relevant to this action are available for public inspection at the Colorado Department of Public Health and Environment.

FOR FURTHER INFORMATION CONTACT: Cindy Rosenberg, EPA, Region VIII, (303) 312–6436.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we,'' ''us,'' or ''our'' are used, we mean the Environmental Protection Agency (EPA).

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I. EPA's Final Action

What Action Is EPA Taking in This Direct Final Rule?

We are approving the Governor's submittal of September 22, 1997, that requests a redesignation for the Canon City nonattainment area to attainment for the 1987 PM_{10} standards. We are also approving the maintenance plan for the Canon City PM_{10} nonattainment area, which was submitted with the State's September 22, 1997 redesignation request. We are approving this request and maintenance plan because Colorado has adequately addressed all of the requirements of the Act for redesignation to attainment applicable to the Canon City PM_{10} nonattainment area. Upon the effective date of this action, the Canon City area's designation status under 40 CFR part 81 will be revised to attainment.

We are publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the ''Proposed Rules'' section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective July 31, 2000, without further notice unless the Agency receives adverse comments by June 29, 2000.

If we receive such comments, then we will publish a timely withdrawal of the direct final rule informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on July 31, 2000, and no further action will be taken on the proposed rule.

II. Summary of Redesignation Request and Maintenance Plan

A. What Requirements Must Be Followed for Redesignations to Attainment?

In order for a nonattainment area to be redesignated to attainment, the following conditions in section 107(d)(3)(E) of the Act must be met:

(i) We must determine that the area has attained the NAAQS;

(ii) The applicable implementation plan for the area must be fully approved under section 110(k) of the Act;

(iii) We must determine that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions;

(iv) We must fully approve a maintenance plan for the area as meeting the requirements of CAA section 175A; and,

(v) The State containing such area must meet all requirements applicable to the area under section 110 and part D of the CAA.

Our September 4, 1992 guidance entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment'' outlines how to assess the adequacy of redesignation requests against the conditions listed above.

On September 22, 1997, the Governor of Colorado submitted a revision to the SIP for the Canon City area and a request that we redesignate the area to attainment for PM_{10}. The following is a brief discussion of how Colorado's redesignation request and maintenance plan meets the requirements of the Act for redesignation of the Canon City area to attainment for PM_{10}.

B. Does the Canon City Redesignation Request and Maintenance Plan Meet the CAA Requirements?

i. Attainment of the PM_{10} NAAQS

A State must demonstrate that an area has attained the PM_{10} NAAQS through submittal of ambient air quality data from an ambient air monitoring network representing maximum PM_{10} concentrations. The data, which must be quality assured and recorded in the Aerometric Information Retrieval System (AIRS), must show that the average annual number of expected exceedances for the area is less than or equal to 1.0, pursuant to 40 CFR 50.6. In making this showing, three consecutive years of complete air quality data must be used.

The State operates one PM_{10} monitoring site in the Canon City PM_{10} nonattainment area. Colorado submitted ambient air quality data from the monitoring site which demonstrates that the area has attained the PM_{10} NAAQS. This air quality data was quality-assured and placed in AIRS. Only one exceedance of the 24-hour PM_{10} NAAQS was measured which occurred in 1988. Since that time, no exceedances of the 24-hour or the annual PM_{10} NAAQS have been measured. Officially, the State relied on the years 1993—1995 to show that the Canon City area had attained the PM_{10} NAAQS. The area has continued to attain the PM_{10} NAAQS since 1995. We believe that Colorado has adequately demonstrated, through ambient air quality data, that the PM_{10} NAAQS has been attained in the Canon City area.

ii. State Implementation Plan Approval

Those States containing initial moderate PM_{10} nonattainment areas were required to submit a SIP by November 15, 1991 which demonstrated attainment of the PM_{10} NAAQS by December 31, 1994. To approve a redesignation request, the SIP for the area must be fully approved under section 110(k) and must satisfy all requirements that apply to that area. We approved the PM_{10} SIP for Canon City on December 23, 1993 (58 FR 68036) as meeting those moderate PM_{10} nonattainment plan requirements that were due to EPA on November 15, 1991.

iii. Improvement in Air Quality Due to Permanent and Enforceable Measures

The State must be able to reasonably attribute the improvement in air quality to emission reductions which are permanent and enforceable. However, Canon City is a unique case in which no area-specific PM_{10} control measures were needed to bring the area into attainment (or to ensure continued attainment), even when growth in emissions through 1997 was considered, because the monitored ambient PM_{10} concentrations were (and still are) so far below the NAAQS. Colorado's September 22, 1997 submittal did cite several State-wide regulations, including SIP-approved regulations for particulates (Regulation No. 1), new source review permitting (Regulation No. 3), and residential wood burning (Regulation No. 4), as being responsible for the improvement in air quality in Canon City. Thus, we believe the Canon City area satisfies this requirement.

iv. Fully Approved Maintenance Plan Under Section 175A of the Act

Section 107(d)(3)(E) of the Act requires that, for a nonattainment area to be redesignated to attainment, we must fully approve a maintenance plan which meets the requirements of section 175A of the Act. The plan must demonstrate continued attainment of the relevant NAAQS in the area for at least 10 years after our approval of the redesignation. Eight years after our approval of a redesignation, the State must submit a revised maintenance plan demonstrating attainment for the 10 years following the initial 10 year period. The maintenance plan must also contain a contingency plan to ensure prompt correction of any violation of the NAAQS. (See sections 175A(b) and (d).) Our September 4, 1992 guidance outlines 5 core elements that are necessary to ensure maintenance of the relevant NAAQS in an area seeking redesignation from nonattainment to attainment. Those elements, as well as guidelines for subsequent maintenance plan revisions, are as follows:

a. Attainment Inventory. The maintenance plan should include an attainment emission inventory to identify the level of emissions in the area which is sufficient to attain the NAAQS. An emissions inventory was developed and submitted with the moderate PM_{10} nonattainment plan for the Canon City area on April 9, 1992. As detailed in the TSD for EPA's December 23, 1993 approval of the moderate PM_{10} nonattainment plan for Canon City, the plan contained a comprehensive emissions inventory for mobile source emissions (including re-entrained road dust), residential wood and coal combustion emissions, and stationary source emissions for wintertime emissions in the base year of 1990. The Canon City area was in attainment of the PM_{10} NAAQS in 1990, based on three complete years of data. Thus, we believe Colorado has prepared an adequate attainment inventory for the area.

b. Maintenance Demonstration. A State may generally demonstrate maintenance of the NAAQS by either showing that future emissions of a pollutant or its precursors will not exceed the level of the attainment inventory, or by modeling to show that the future mix of sources and emission rates will not cause a violation of the NAAQS. Colorado chose the modeling approach. The maintenance demonstration for the Canon City area uses emissions rollback, which was the same level of modeling used in the original attainment demonstration for the moderate PM_{10} SIP for Canon City. The State's rollback approach takes the design day PM_{10} value for 1989/1990 of 93 $\mu g/m^3$, subtracts the background concentration, and divides the remainder by the total design day actual emissions for 1989/1990. This ratio is then applied to 2015 projected emissions to calculate the projected concentration without background. The background value is then added back in to give the total 2015 projected concentration of 141 μ/m^3. Since this is below the 24-hour PM_{10} NAAQS of 150 μ/m^3, the maintenance plan demonstrates maintenance. Although EPA would normally insist on some interim year projections between 2000 and 2015, EPA has no reason to believe that total emissions will be greater than the 2015 projections in any of the interim years. The State applied simple, environmentally conservative, growth rates to all source categories other than stationary sources, and stationary sources were projected at allowable emissions. Thus, total emissions in all years before 2015 should be less than 2015 total emissions.

Since no violations of the *annual* PM_{10} NAAQS have ever occurred in Canon City and since the maintenance demonstration clearly shows maintenance of the 24-hour PM_{10} NAAQS in Canon City through the year 2015, it is reasonable and adequate to assume that protection of the 24-hour

standard will be sufficient to protect the annual standard as well. Thus, EPA believes the State has adequately demonstrated that the Canon City area will maintain the PM_{10} NAAQS for at least the next ten years.

c. Monitoring Network. Once a nonattainment area has been redesignated to attainment, the State must continue to operate an appropriate air quality monitoring network, in accordance with 40 CFR part 58, to verify the attainment status of the area. The maintenance plan should contain provisions for continued operation of air quality monitors that will provide such verification. Colorado operates one PM_{10} monitoring site in the Canon City area. We approve this site annually, and any future change would require discussion with us. In its September 22, 1997 submittal, Colorado committed to continue to operate the PM_{10} monitoring station in Canon City, in accordance with 40 CFR part 58.

d. Verification of Continued Attainment. The State's maintenance plan submittal should indicate how the State will track the progress of the maintenance plan. This is necessary due to the fact that the emissions projections made for the maintenance demonstration depend on assumptions of point and area source growth. Colorado has committed in the Canon City maintenance plan to analyze the three most recent consecutive years of ambient air quality data on an annual basis to verify continued attainment of the PM_{10} NAAQS in Canon City. In addition, they committed to conduct periodic emission inventory reviews every three years to determine if any adjustments to the assumptions used in the maintenance demonstration need to be made. The first such report will be submitted to us in October 2001 for the year 2000.

e. Contingency Plan. Section 175A(d) of the Act requires that a maintenance plan also include contingency provisions, as necessary, to promptly correct any violation of the NAAQS that occurs after redesignation of the area. For the purposes of section 175A, a State is not required to have fully adopted contingency measures that will take effect without further action by the State in order for the maintenance plan to be approved. However, the contingency plan is an enforceable part of the SIP and should ensure that contingency measures are adopted expeditiously once they are triggered. The plan should discuss the measures to be adopted and a schedule and procedure for adoption and implementation. The State should also identify the specific indicators, or triggers, which will be used to determine when the contingency plan will be implemented.

The Canon City contingency plan will be triggered upon our determination that a PM_{10} NAAQS violation has occurred in Canon City. The Canon City contingency plan provides that, within one month of our determination that a violation has occurred, Colorado and the Canon City and Fremont County governments and other interested parties will convene a contingency plan subcommittee. The subcommittee will identify the cause(s) of the violation within one month of convening. The subcommittee will then select one of the following potential contingency measures for the area to bring to the Colorado Air Quality Control Commission (AQCC) for adoption: street sweeping requirements, road paving requirements, street sand specifications, woodburning curtailment, use of liquid de-icers, re-establishing nonattainment new source review requirements, or other measures as deemed appropriate. The Canon City contingency plan provides that the contingency measures should become effective within 10 months of our determination that a violation has occurred in the Canon City area. In a letter dated April 24, 2000, from Margie Perkins, Director, Colorado Air Pollution Control Division, to Richard Long, Director, EPA Region VIII Air and Radiation Program, Colorado commits to adopt and implement contingency measures for the Canon City area within one year of a violation of either the 24-hour or annual PM_{10} standard. EPA relies on this commitment in approving the Canon City contingency plan.

f. Subsequent Maintenance Plan Revisions. In accordance with section 175A(b) of the Act, the State of Colorado is required to submit a revision to the maintenance plan eight years after the redesignation of the Canon City area to attainment for PM_{10}. This revision is to provide for maintenance of the NAAQS for an additional ten years following the first ten year period. The State committed in the Canon City redesignation request to submit a revised maintenance plan in 2006. EPA notes that the State chose 2006 based on an assumption that EPA would approve the redesignation request in 1998. Because EPA is approving the redesignation request in 2000, the State must submit the revised maintenance plan in 2008. See section 175A(b) of the Act.

v. Meeting Applicable Requirements of Section 110 and Part D of the Act

In order for an area to be redesignated to attainment, section 107(d)(3)(E) requires that it must have met all applicable requirements of section 110 and part D of the Act. We interpret this to mean that, for a redesignation request to be approved, the State must have met all requirements that applied to the subject area prior to, or at the time of, submitting a complete redesignation request. In our evaluation of a redesignation request, we don't need to consider other requirements of the CAA that became due after the date of the submission of a complete redesignation request.

a. Section 110 Requirements. Section 110(a)(2) contains general requirements for nonattainment plans. For purposes of redesignation, the Colorado SIP was reviewed to ensure that all applicable requirements under the amended Act were satisfied. These requirements were met with the Colorado's April 9, 1992 submittal for the Canon City PM_{10} nonattainment area. We approved this submittal on December 23, 1993 (58 FR 68036).

b. Part D Requirements. Before a PM_{10} nonattainment area may be redesignated to attainment, the State must have fulfilled the applicable requirements of part D. Subpart 1 of part D establishes the general requirements applicable to all nonattainment areas, subpart 4 of part D establishes specific requirements applicable to PM_{10} nonattainment areas.

The requirements of sections 172(c) and 189(a) regarding attainment of the PM_{10} NAAQS, and the requirements of section 172(c) regarding reasonable further progress, imposition of RACM, the adoption of contingency measures, and the submission of an emission inventory, have been satisfied through our December 23, 1993 approval of the Canon City PM_{10} SIP (58 FR 68036), our December 14, 1994 approval of PM_{10} contingency measures for the area (59 FR 64332), and the demonstration that the area is now attaining the NAAQS.

Although EPA's regulations (see 40 CFR 51.396) require that states adopt transportation conformity provisions in their SIPs for areas designated nonattainment or subject to an EPA-approved maintenance plan, we have decided that a transportation conformity SIP is not an applicable requirement for purposes of evaluating a redesignation request under section 107(d) of the CAA. This decision is reflected in EPA's 1996 approval of the Boston carbon monoxide redesignation. (See 61 FR 2918, January 30, 1996.)

We approved the requirements of the part D new source review permit program for the Canon City area on August 18, 1994 (59 FR 42506). Once the Canon City area is redesignated to attainment, the prevention of significant deterioration (PSD) requirements of part C of the Act will apply. We must ensure that the State has made any needed modifications to its PSD regulations so that Colorado's PSD regulations will apply in the Canon City area after redesignation. Colorado's PSD regulations, which we approved as meeting all applicable Federal requirements, apply to any area designated as unclassifiable or attainment and, thus, will become fully effective in the Canon City area upon redesignation of the area to attainment.

C. Have the Transportation Conformity Requirements Been Met?

Under our transportation conformity regulations, States are to define the mobile vehicle emissions budget to which Federal transportation plans must demonstrate conformity. The emissions budget is defined as the level of mobile source emissions relied upon in the attainment or maintenance demonstration to maintain compliance with the NAAQS.

Colorado had previously adopted mobile source emissions budgets for the years 1994 and 1997 of 4981 lb/day and 5130 lb/day, respectively. In the Canon City maintenance plan, Colorado indicated that it would adopt a new mobile source emissions budget of 7439 lb/day for the year 1997 and beyond. This value is equivalent to the year 2015 projected emissions for mobile sources. EPA believes use of this value as a budget for years before 2015 is acceptable because the available safety margin in years before 2015 is adequate to support such a budget. This is because pre-2015 projected emissions for source categories other than mobile sources are lower than 2015 projected emissions for these other source categories. EPA's approval of 7439 lb/day as the budget means that this value must be used for conformity determinations for all years after 1997, including 2015 (the end of the maintenance period) and beyond. After promulgation of approval of this redesignation request, the State indicated that it would revise its regulation entitled ''Ambient Air Standards for the State of Colorado'' to include this emissions budget for the years 1997 through 2015.

On March 2, 1999, the United States Court of Appeals for the District of Columbia Circuit issued a decision in *Environmental Defense Fund* v. *the Environmental Protection Agency,* No. 97–1637, that we must make an affirmative determination that the submitted motor vehicle emission budgets contained in SIPs are adequate before they are used to determine the conformity of Transportation Improvement Programs or Long Range Transportation Plans. In response to the court decision, we are making most submitted SIP revisions containing a control strategy plan available for public comment and responding to these comments before announcing our adequacy determination. (We do not perform adequacy determinations for SIP revisions that only create new emission budgets for years in which an EPA-approved SIP already establishes a budget, because these new budgets cannot be used for conformity until they are approved by EPA.) We make SIP revisions available for comment by posting notification of their availability on our web site (currently, these notifications are posted at www.epa.gov/oms/transp/conform/adequacy.htm). The adequacy process is discussed in greater detail in a May 14, 1999 memorandum from Gay MacGregor entitled ''Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision,'' also available on our web site (www.epa.gov/oms/transp/traqconf.htm).

As noted above, the Canon City maintenance plan was submitted to EPA on September 22, 1997. After the court decision, EPA conducted an adequacy review of all SIP submissions that had been received prior to the decision but not yet acted on. However, EPA did not conduct an adequacy review of the Canon City maintenance plan, because the Colorado AQCC voted on April 15, 1999 to request that the Governor withdraw this plan. The AQCC later rescinded its request that the plan be withdrawn, and EPA reviewed the emission budget in this plan for adequacy using the criteria located at 40 CFR 93.118(e).

This notice also serves as our determination that the emission budget in the maintenance plan of 7439 pounds per day of PM_{10} is adequate for conformity purposes. As a result of this adequacy finding, the Colorado Department of Transportation and the Federal Highway Administration are required to use this budget in future conformity analyses, even if EPA withdraws this direct final rule. This adequacy determination will be in effect as of the publication date of this direct final rule, and will remain in effect unless and until EPA disapproves the maintenance plan. EPA will not be publishing a separate notice in the **Federal Register** documenting this adequacy determination.

Notice of the availability of this SIP was posted on our adequacy web site on January 26, 2000, and a 30-day comment period for adequacy was provided following the procedures described in the May 14, 1999 Gay MacGregor memorandum referenced above. No comments were received. Interested parties can still comment on the Canon City mobile source emissions budget in response to the Notice of Proposed Rulemaking that accompanies this **Federal Register** document. If EPA receives adverse comments with respect to the adequacy of the Canon City emissions budget or any other aspect of our approval of this SIP by the time the comment period closes on the proposed rule, we will publish a timely withdrawal of the direct final rule informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time.

D. Did Colorado Follow the Proper Procedures for Adopting This Action?

The Act requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission. Section 110(a)(2) of the Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing. Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a State under the Act must be adopted by such State after reasonable notice and public hearing.

We also must determine whether a submittal is complete and therefore warrants further review and action (see section 110(k)(1) and 57 FR 13565, April 16, 1992). Our completeness criteria for SIP submittals are set out at 40 CFR part 51, appendix V. We attempt to make completeness determinations within 60 days of receiving a submission. However, a submittal is deemed complete by operation of law under section 110(k)(1)(B) if a completeness determination is not made within six months after receipt of the submission.

Copies of the proposed changes were made available to the public and the AQCC held a public hearing on October 17, 1996 to entertain public comment on the redesignation request and maintenance plan for the Canon City PM_{10} nonattainment area, after providing for more than 30 days of

public notice. Colorado did not receive any adverse comments and therefore, the redesignation request and maintenance plan were subsequently adopted by the AQCC on October 17, 1996. The request was formally submitted to us for approval on September 22, 1997. We did not issue a completeness or an incompleteness finding for the September 22, 1997 submittal. Thus, pursuant to section 110(k)(1)(B), the submittal was deemed administratively and technically complete by operation of law on March 22, 1997 (six months after the date of receipt). We have evaluated the Governor's submittal and have determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA.

III. Background

To implement our 1987 revisions to the particulate matter NAAQS, on August 7, 1987 (52 FR 29383), we categorized areas of the nation into three groups based on the likelihood that protection of the PM_{10} NAAQS would require revisions of the existing SIP. We identified Canon City as a PM_{10} ''Group I'' area of concern, *i.e.,* an area with a strong likelihood of violating the PM_{10} NAAQS and requiring a substantial SIP revision. The Canon City area was among several Group I PM_{10} areas, all of which were designated and classified as moderate PM_{10} nonattainment areas by operation of law upon enactment of the Clean Air Act Amendments of 1990 (November 15, 1990). See 56 FR 56694 at 56705–56706 (November 6, 1991).

By November 15, 1991, States containing initial moderate PM_{10} nonattainment areas were required to submit most elements of their PM_{10} SIPs. (See sections 172(c), 188, and 189 of the Act.) Some provisions, such as PM_{10} contingency measures required by section 172(c)(9) of the Act and nonattainment new source review (NSR) provisions, were due at later dates. In order for a nonattainment area to be redesignated to attainment, the above mentioned conditions in section 107(d)(3)(E) of the Act must be met. We approved Colorado's SIP for the Canon City PM_{10} nonattainment area on December 23, 1993 (58 FR 68036) and PM_{10} contingency measures for the area on December 14, 1994 (59 FR 64332).

On September 22, 1997, the Governor of Colorado submitted a request to redesignate the Canon City moderate PM_{10} nonattainment area to attainment for the 1987 PM_{10} NAAQS along with a maintenance plan for the area. Colorado's submittal was not approved at that time because we promulgated new standards for PM_{10} on September 18, 1997 and at the time of this redesignation request, we were transitioning from the 1987 PM_{10} standard to the new PM_{10} standard. Areas were to be designated under the new PM_{10} standard by July 2000 and for that reason we were encouraging areas to withdraw any redesignation requests for the pre-existing standard. The AQCC had voted to withdraw the Canon City redesignation request and maintenance plan due to the fact that Canon City would have been designated attainment by July 2000 under the 1997 PM_{10} standard. (Colorado's request for withdrawal had not yet been officially sent to us by the Governor and so we are able to process the original redesignation request and maintenance plan now.) On May 18, 1999, the United States Court of Appeals for the D.C. Circuit in *American Trucking Associations, Inc. et al.,* v. *United States Environmental Protection Agency* vacated the 1997 PM_{10} standard. Because of the Court ruling, we are continuing to implement the pre-existing PM_{10} standard, and are therefore approving redesignations to qualified PM_{10} nonattainment areas.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This 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 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective July 31, 2000 unless EPA receives adverse written comments by June 29, 2000.

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 July 31, 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

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Particulate Matter, Reporting and recordkeeping requirements.

40 CFR Part 81

Air pollution control.

Dated: May 18, 2000.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

40 CFR part 52, subpart TT of chapter I, title 40 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 TT

2. Section 52.332 is amended by adding paragraph (i) to read as follows:

§ 52.332 Moderate PM–10 nonattainment area plans.

* * * * *

(i) On September 22, 1997, the State of Colorado submitted a maintenance plan for the Canon City PM10 nonattainment area and requested that the area be redesignated to attainment for the PM10 National Ambient Air Quality Standards. An April 24, 2000 letter from Margie Perkins, Director, Colorado Air Pollution Control Division, to Richard Long, Director, EPA Region VIII Air and Radiation Program, was sent to clarify the requirements of the contingency plan section of the Canon City maintenance plan. The redesignation request and maintenance plan satisfy all applicable requirements of the Clean Air Act.

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

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

2. In § 81.306, the table entitled ''Colorado—PM–10'' is amended by revising the entry under Fremont County for ''Canon City Area'' to read as follows:

§ 81.306 Colorado.

* * * * *

COLORADO—PM–10

Designated area	Designation		Classification	
	Date	Type	Date	Type
* * *	*	*	*	*
Fremont County				
Canon City Area	July 31, 2000	Attainment.		
Township 18S—Range 70W: All of sections 21, 22, 27, 28, 33, and 34; the E½, NENW, NESW, SENW, SESW quarters of sections 20, 29, 32; and the W½ of sections 23, 26, and 35; Township 19S—Range 70W: All of sections 3, 4, 9, 10; E½, NENW, NESW, SENW, SESW quarters of sections 5 and 8; W½ of sections 2 and 11.				
* * *	*	*	*	*

* * * * *

[FR Doc. 00–13332 Filed 5–26–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[FRL–6705–4]

Removal of the Maximum Contaminant Level Goal for Chloroform From the National Primary Drinking Water Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is removing the zero MCLG for chloroform from its National Primary Drinking Water Regulations (NPDWRs) in accordance with a recent order of the U.S. Court of Appeals for the District of Columbia Circuit.

DATES: The effective date of this rule is May 30, 2000.

ADDRESSES: The public docket for this and earlier rulemakings concerning the NPDWRs for disinfectants and disinfection byproducts (D/DBPs), including the proposal, public comments in response to the proposal, other major supporting documents, and the index to the docket are available in the Water Docket, U.S. Environmental Protection Agency, 401 M Street SW, East Tower Basement, Washington, DC 20460. For information on how to access docket materials, please call the docket at (202) 260–3027 between 9 a.m. and 3:30 p.m. Eastern Standard Time, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For technical inquiries, contact Jennifer McLain at the U.S. Environmental Protection Agency, Office of Ground Water and Drinking Water (MC 4607), 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone (202) 260–0431. For general questions, please contact the Safe Drinking Water Hotline, (800) 426–4791, Monday through Friday from 9 a.m. to 5:30 Eastern Standard Time.

SUPPLEMENTARY INFORMATION:

A. Background

In December, 1998 EPA promulgated National Primary Drinking Water Regulations (NPDWRs) for disinfectants and disinfection byproducts (D/DBPs)

that included a Maximum Contaminant Level Goal (MCLG) of zero for chloroform, a disinfectant byproduct. The MCLG was challenged by the Chlorine Chemistry Council and Chemical Manufacturers Association, and the U.S. Court of Appeals for the District of Columbia Circuit found that EPA had not used the best available, peer-reviewed science to set the MCLG as required by the Safe Drinking Water Act. In *Chlorine Chemistry Council and Chemical Manufacturers Association* v. *EPA,* (No. 98–1627) filed on March 31, 2000, the Court issued an order vacating the zero MCLG. Today EPA is removing the MCLG for chloroform from its NPDWRs to ensure that the regulations conform to the Court's order. No other provision of the D/DBP regulations is affected.

B. "Good Cause" Under the Administrative Procedure Act

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because today's action is ministerial, to ensure the Code of Federal Regulations conforms to the Court's order. Thus, notice and public comment are unnecessary. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B). For this same reason, EPA has also determined that it has "good cause" under 5 U.S.C. 553(d) to make the rule effective upon publication.

C. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. Because the agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute (see section B), it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10 1998). This 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 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This rule does not impose technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in 63 FR 69390 (Dec. 16, 1998).

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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the Agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2).

As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of May 30, 2000. 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 action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 141

Environmental protection, Drinking water, Public utilities.

Dated: May 18, 2000.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, Title 40, Chapter I of the Code of Federal Regulations is amended as follows:

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

1. The authority citation for Part 141 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5,300g–6, 300j–4, 300j–9, 300j–11.

§ 141.53 [Amended]

2. Section 141.53 is amended by removing the entry for chloroform.

[FR Doc. 00–13202 Filed 5–26–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 11, 73, and 74

[FCC 00–115]

Establishment of a Class A TV Service; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Communications Commission published in the **Federal Register** of May 10, 2000, a document concerning establishment of a Class A television service. This document contains corrections to that rule. Inadvertently, the effective date of the rule and the amendatory instructions to § 73.2080 were incorrect, and a paragraph was incorrectly deleted from § 73.1690. In addition, there is a typographical error in § 11.11, a line missing in the table of contents to Subpart J of part 73, and text that was incorrectly codified in § 73.3580. This document corrects these errors.

DATES: Effective May 30, 2000.

FOR FURTHER INFORMATION CONTACT: Kim Matthews, 202–418–2130.

SUPPLEMENTARY INFORMATION: The FCC published a document in the **Federal Register** of May 10, 2000 (65 FR 29985), establishing a Class A television service. In rule FR Doc. 00–11481, published on May 10, 2000, 65 FR 29985, correct the effective date, §§ 11.11, 73.1690, 73.2080, 73.3580, and the table of contents to subpart J of part 73.

In rule FR Doc. 00–11481, published May 10, 2000 (65 FR 29985), make the following corrections:

1. On page 29985, in the second column, the effective date is corrected to read as follows:

DATES: Effective on June 9, 2000.

2. On page 29999, in the first column, in paragraph 87, the first sentence is corrected to read as follows: The amendments set forth shall be effective June 9, 2000.

3. On page 30001, the table ''Timetable Broadcast Stations'' in § 11.11(a) is corrected by revising the second entry in the first column to read as follows:

§ 11.11 The Emergency Alert System (EAS).

Section 11.11(a) is amended by revising the second entry in the first column of the table ''Timetable Broadcast Stations'' to read as follows:

''Two-tone decoder [4, 5]''

4. On page 30005, in the third column, § 73.1690 is corrected by adding paragraph (c)(3) immediately preceding paragraph (c)(4) to read as follows:

§ 73.1690 Modification of transmission systems.

* * * * *

(c) * * *

(3) A directional TV on Channels 2 through 13 or 22 through 68 or a directional Class A TV on Channels 2 through 13 or 22 through 51, or a directional TV or Class A TV station on Channels 15 through 21 which is in excess of 341 km (212 miles) from a cochannel land mobile operation or in excess of 225 km (140 miles) from a first-adjacent channel land mobile operation (*see* part 74, § 74.709(a) and (b) for tables of urban areas and reference coordinates of potentially affected land mobile operations), may replace a directional TV or Class A TV antenna by a license modification application, if the proposed horizontal theoretical directional antenna pattern does not exceed the licensed horizontal directional antenna pattern at any azimuth and where no change in effective radiated power will result. The modification of license application on Form 302–TV or Form 302–CA must contain all of the data set forth in § 73.685(f) or § 73.6025(a), as applicable.

* * * * *

5. On page 30006, in the first column, § 73.2080 is corrected by revising paragraph (a) to read as follows:

§ 73.2080 Equal employment opportunities.

(a) *General EEO Policy.* Equal opportunity in employment shall be afforded by all licensees or permittees of commercially or noncommercially operated AM, FM, TV, Class A TV, or international broadcast stations (as defined in this part) to all qualified persons, and no person shall be discriminated against in employment by such stations because of race, color, religion, national origin, or sex. Religious radio broadcasters may establish religious belief or affiliation as a job qualification for all station employees. However, they cannot discriminate on the basis of race, color, national origin or gender from among those who share their religious affiliation or belief. For purposes of this rule, a religious broadcaster is a licensee which is, or is closely affiliated with, a church, synagogue, or other religious entity, including a subsidiary of such an entity.

* * * * *

6. On page 30008, in the third column, § 73.3580(d)(5) was incorrect. Section 73.3580(d)(5) is corrected to read as follows:

§ 73.3580 Local public notice of filing of broadcast applications.

* * * * *

(d) * * *

(5) An applicant who files for a Class A television license must give notice of this filing by broadcasting announcements on applicant's station. (Sample and schedule of announcements are below.) Newspaper publication is not required.

(i) The broadcast notice requirement for those filing for Class A television license applications and amendment thereto is as follows:

(A) *Pre-filing announcements.* Two weeks prior to the filing of the license application, the following announcement shall be broadcast on the 5th and 10th days of the two week period. The required announcements shall be made between 6 p.m. and 11 p.m. (5 p.m. and 10 p.m. Central and Mountain Time) Stations broadcasting primarily in a foreign language should broadcast the announcements in that language.

On (date), the Federal Communications Commission granted (Station's call letters) a certification of eligibility to apply for Class A television status. To become eligible for a Class A certificate of eligibility, a low power television licensee was required to certify that during the 90-day period ending November 28, 1999, the station: (1) Broadcast a minimum of 18 hours per day; (2) broadcast an average of at least three hours per week of programming produced within the market area served by the station or by a group of commonly-owned low power television stations; and (3) had been in compliance with the Commission's regulations applicable to the low power television service. The Commission may also issue a certificate of eligibility to a licensee unable to satisfy the foregoing criteria, if it determines that the public interest, convenience and necessity would be served thereby.

(Station's call letters) intends to file an application (FCC Form 302–CA) for a Class A television license in the near future. When filed, a copy of this application will be available at (address of location of the station's public inspection file) for public inspection during our regular business hours. Individuals who wish to advise the FCC of facts relating to the station's eligibility for Class A status should file comments and petitions with the FCC prior to Commission action on this application.

(B) *Post-filing announcements.* The following announcement shall be broadcast on the 1st and 10th days following the filing of an application for a Class A television license. The required announcements shall be made between 6 p.m. and 11 p.m. (5 p.m. and 10 p.m. Central and Mountain Time). Stations broadcasting primarily in a foreign language should broadcast the announcements in that language.

On (date of filing license application) (Station's call letters) filed an application, FCC Form 302–CA, for a Class A television license. Such stations are required to broadcast a minimum of 18 hours per day, and to average at least 3 hours of locally produced programming each week, and to comply with certain full-service television station operating requirements.

A copy of this application is available for public inspection during our regular business hours at (address of location of the station's public inspection file). Individuals who wish to advise the FCC of facts relating to the station's eligibility for Class A status should file comments and petitions with the FCC prior to Commission action on this application.

(ii) [Reserved]

* * * * *

7. On page 30009, in the first and second columns, the table of contents to subpart J of part 73 is corrected to read as follows:

Subpart J—Class A Television Broadcast Stations

Sec.
73.6000 Definitions.
73.6001 Eligibility and service requirements.
73.6002 Licensing requirements.
73.6003–73.6005 [Reserved]
73.6006 Channel assignments.
73.6007 Power limitations.
73.6008 Distance computations.
73.6010 Class A TV station protected contour.
73.6011 Protection of TV broadcast stations.
73.6012 Protection of Class A TV, low power TV, and TV translator stations.
73.6013 Protection of DTV stations.
73.6014 Protection of digital Class A TV stations.

73.6016 Digital Class A TV station protection of TV broadcast stations.
73.6017 Digital Class A TV station protection of Class A TV, low power TV, and TV translator stations.
73.6018 Digital Class A TV station protection of DTV stations.
73.6019 Digital Class A TV station protection of digital Class A TV stations.
73.6020 Protection of stations in the land mobile radio service.
73.6022 Negotiated interference and relocation agreements.
73.6024 Transmission standards and system requirements.
73.6025 Antenna system and station location.
73.6026 Broadcast regulations applicable to Class A television stations.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–13402 Filed 5–26–00; 8:45 am]

BILLING CODE 5712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket Nos. 96–45 and 97–21; FCC 00–180]

Federal-State Joint Board on Universal Service and Changes to the Board of Directors of the National Exchange Carrier Association, Inc.

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document concerning the Federal-State Joint Board on Universal Service and Changes to the Board of Directors of the National Exchange Carriers Association, Inc. amends a procedural rule which sets out the time period by which the Common Carrier Bureau or the Commission must take action on a request for review of a decision issued by the Schools and Libraries Division of the Universal Service Administrative Company (USAC or Administrator). This document makes clear that a decision of the Administrator will not be deemed approved upon the running of the 90-day deadline for taking action on requests for review that are pending before the Bureau.

DATES: Effective May 30, 2000.

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

SUPPLEMENTARY INFORMATION: This is a summary of a Commission's Order in CC Docket Nos. 96–45 and 97–21 released on May 22, 2000. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, SW., Washington, DC, 20554.

1. On March 1, 2000, the Commission released the *Bureau Extension Order,* 65 FR 12135 (March 8, 2000), that amended a rule to make clear that the Common Carrier Bureau (Bureau) may extend, for up to ninety days, the time period for taking action on a request for review of the Schools and Libraries Division of the Universal Service Administrative Company's (USAC or Administrator) decision that is pending before the Bureau or the Commission pursuant to § 54.724 of the Commission's rules. The *Bureau Extension Order* clarified that the Commission may extend the time period for taking action on a pending request for review of an Administrator's decision that is before either the Bureau or the Commission, but the Commission is not limited to a maximum 90-day extension period. In this Order, we amend a procedural rule which sets out the time period by which the Bureau or the Commission must take action on a request for review of a decision issued by the Administrator). We amend § 54.724 of the Commission's rules to make clear that a decision of the Administrator will not be deemed approved upon the running of the 90-day deadline for taking action on requests for review that are pending before the Bureau.

2. Section 54.724(a) of the Commission's rules establishes procedures for a request for review of an Administrator decision that is properly before the Bureau. Matters that are properly before the Bureau are appeals of Administrator decisions that do not involve novel issues of fact, law or policy. If the Bureau does not take action within 90 days regarding a request for review not involving novel issues, the decision issued by the Administrator is deemed approved. The rule also specifies that either the Commission or the Bureau may extend the time period for taking action on a matter before the Bureau.

3. In contrast, § 54.724(b) of the Commission's rules directs the Commission to issue, within 90 days, a written decision resolving a request for review of an Administrator decision that involves novel questions of fact, law or policy. The rules provide that the Commission or Bureau may extend the time period for taking action. Unlike appeals pending before the Bureau, if the Commission does not issue a decision within 90 days or does not extend the time period for taking action on the request for review, the Commission's rules do not provide that the Administrator's decision will be automatically approved.

4. The procedural distinction between matters pending before the Commission and those pending before the Bureau may pose problems for schools and libraries that request reviews of Administrator decisions. The appellants will not be certain whether or not their requests for review raise novel questions of fact, law or policy. As a consequence, appellants are not in a position to determine whether their appeals are pending before the Bureau or the Commission. Without knowledge of whether an appeal is being considered by the Bureau or Commission, a school or library cannot determine whether its appeal remains pending before the Commission or was subject to automatic denial where the 90-day time period for taking action ran without a decision or extension of time having been issued by the Bureau. Because of this lack of certainty, appellants cannot know when a denial is final and when the time period for pursuing further review has begun.

5. We believe that this uncertainty puts appellants in an untenable position. A party adversely affected by a Bureau decision has the right to seek reconsideration or Commission review of the decision. In order to exercise their right to seek review of an adverse decision, however, appellants must file either a petition for reconsideration or an application for review within thirty days from the date of public notice of the final action or release of the decision. The rules fail, however, to set forth a mechanism for public notice of Administrator decisions that are deemed approved upon the passage of 90 days in the absence of action by the Bureau.

6. The requirement in § 54.724(a) that Administrator decisions will be deemed approved in the absence of Bureau action on matters not involving new or novel issues was adopted to promote the prompt and efficient resolution of pending requests for review. We did not anticipate, however, that this means of streamlining our review process would add uncertainty to the appeals process or interfere with the ability of appellants to seek further review. Because we conclude that the different procedural processes found in §§ 54.724(a) and (b) generate uncertainty as to the status of certain requests for review, we find that it is in the public interest to eliminate the provision in § 54.724(a) specifying that a decision by the Administrator will be deemed approved where the Bureau has not acted within the 90-day review period. Accordingly, we find

that it is appropriate to amend § 54.724(a) in this respect to conform to the rule that applies to Commission-level appeals. At the same time, we recognize the need of applicants under the schools and libraries program to have certainty over the status of their funding requests, and we remain committed to timely resolution of all appeals before us.

7. We believe this procedural amendment will clarify our administrative processes and prevent confusion regarding the procedural status of requests for review of Administrator decisions that are pending before the Bureau. Accordingly, as set forth, we amend § 54.724(a) of the Commission's rules to clarify that a decision of the Administrator will not be deemed approved upon the running of the 90-day time period for taking action on requests for review that are pending before the Bureau.

Ordering Clauses

8. The authority contained in sections 1–4, 201–205, 218–220, 254, 303(r), 403, and 405 of the Communications Act of 1934, as amended, and § 1.108 of the Commission's rules, is adopted.

9. Part 54 of the Commission's Rules 47 CFR part 54, is revised as set forth.

10. This action is exempt from the notice and comment requirements of the Administrative Procedure Act, 5 U.S.C. 553, because it affects only rules of agency procedure or practice.

11. Because this action involves an internal procedural matter, it is further ordered that the rule change set forth is May 30, 2000.

List of Subjects in 47 CFR Part 54

Universal service.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

Part 54 of title 47 of the Code of Federal Regulations is amended as follows:

PART 54—UNIVERSAL SERVICE

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

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

2. Amend § 54.724 by revising paragraph (a) to read as follows:

§ 54.724 Time periods for Commission approval of Administrator decisions.

(a) The Common Carrier Bureau shall, within ninety (90) days, take action in response to a request for review of an Administrator decision that is properly before it. The Common Carrier Bureau may extend the time period for taking action on a request for review of an Administrator decision for a period of up to ninety days. The Commission may also, at any time, extend the time period for taking action on a request for review of an Administrator decision pending before the Common Carrier Bureau.

* * * * *

[FR Doc. 00–13401 Filed 5–26–00; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 991210333–0089–02; I.D. 111099C]

RIN 0648–AN37

Dolphin-Safe Tuna Labeling; Official Mark

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to designate an official mark that can be used to label tuna products as being ''dolphin-safe.'' The Dolphin Protection Consumer Information Act (DPCIA), as amended by the International Dolphin Conservation Program Act (IDCPA), requires the Secretary of Commerce to develop an official mark that can be used to label tuna products as ''dolphin-safe.'' The intent of this rule is to establish and designate that mark.

DATES: Effective June 29, 2000.

ADDRESSES: A full color version of the official mark is available at the NMFS Southwest Region website at http://swr.ucsd.edu/dsl.htm or by contacting J. Allison Routt, NMFS, Southwest Region, Protected Resources Division, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: J. Allison Routt, NMFS, Southwest Region, Protected Resources Division, (562) 980–4020, fax (562) 980–4027.

SUPPLEMENTARY INFORMATION:

Background

The DPCIA, 16 U.S.C. 1385, as amended by the IDCPA, requires the Secretary of Commerce to develop an official mark that can be used to label tuna products as ''dolphin-safe.'' The IDCPA and the official mark provisions of the DPCIA became effective on March 3, 1999, when the Secretary of State certified to Congress that the Agreement on the International Dolphin Conservation Program had been adopted and was in force.

Official Mark

As discussed in the proposed rule to implement the IDCPA (December 22, 1999; 64 FR 71722), the Secretary of Commerce considered the designation of a commonly used ''dolphin-safe'' logo as the official mark, but instead decided to develop a unique logo as the official mark.

The DPCIA establishes ''dolphin-safe'' standards applicable to tuna products labeled with either the official mark or an alternative mark (16 U.S.C. 1385(d)). The DPCIA does not mandate the use of the official mark nor does it prohibit the use of alternative marks. However, as set forth under paragraph (d)(3)(B) of the DPCIA, whenever a tuna product bears the official mark, it may not bear any other mark or label that refers to dolphins, porpoises, or marine mammals. The dolphin-safe labeling standards, which are not a part of this rule-making, appear at 50 CFR 216.91 through 216.94. The standards are the subject of ongoing litigation. This final rule codifies the official mark at 50 CFR 216.96.

Proposed Rule

On December 22, 1999, NMFS published proposed regulations to designate an official mark that can be used to label tuna products as being dolphin-safe (64 FR 71722). Public comments on the proposed rule were accepted through January 5, 2000. In addition to publishing the proposed rule in the **Federal Register**, NMFS sent via fax and mail the notice to industry representatives, environmental groups, the Department of State, the Inter-American Tropical Tuna Commission (IATTC), the U.S. Commissioners to the IATTC, the Secretary of the Treasury, the U.S. Customs Service, the Marine Mammal Commission, and the Federal Trade Commission. NMFS also issued a press release summarizing the major issues contained in the proposed rule. Information in the press release was sent to several national newspapers and published on e-mail discussion groups and NMFS websites.

Responses to Comments

NMFS received 43 letters of comment in response to the proposed rule. Comments were received from environmental organizations and members of the public.

Numerous comments received were beyond the scope of the proposed rule to designate an official mark. These comments included concerns about subjects other than the official mark itself, such as: the dolphin-safe labeling standards, the initial finding required by the IDCPA on whether chase and encirclement of dolphins by the tuna purse seine fishery is having an adverse impact on depleted dolphin stocks in the eastern tropical Pacific Ocean (ETP) (notice published at 64 FR 24590), World Trade Organization influence and decisions related to U.S. embargoes against tuna harvested by purse seine in the ETP, enforcement of the Tuna Tracking and Verification Program, observer safety and objectivity, foreign trade interests and influence on the United States legislative process, the effects of purse seine fishing methods on dolphin stocks, mixed well storage of caught tuna onboard purse seine vessels, and decisions and procedures of the IATTC. The scope of the proposed rule is limited to the design elements of an official mark such as the graphics, color, appearance, and shape. The following is a summary of the comments NMFS received and NMFS responses.

Comment 1: Several commenters indicated that the short 14-day comment period and the publishing of the rule near the holidays did not provide adequate time for public comment.

Response: NMFS disagrees. The short comment period was adequate given the limited scope of the proposed rule.

Comment 2: Several commenters indicated that by designating an official mark NMFS would be intentionally defrauding the public about the effects of chase and encirclement on dolphins and unnecessarily confusing consumers with regard to the dolphin-safe status of labeled tuna.

Response: NMFS disagrees. The commenters appear to disagree with the standards for designating tuna products as being dolphin-safe. The standards are not the subject of this rule-making. The subject of this rule-making is an appropriate mark that can be used to show that a product is in compliance with the standards.

Comment 3: To avoid fraudulent representations, one commenter indicated ''dolphin-safe'' should not be used on the official mark without additional clarifying language such as ''Dolphin Safe as Defined by Congressional Committee.''

Response: NMFS disagrees. The official mark may only be used to label tuna products that meet the ''dolphin-safe'' standards set forth in the DCPIA and its implementing regulations. The words ''Dolphin Safe'' are defined in the DCPIA (16 U.S.C. 1385(d)). A reference to Congressional committees is inappropriate since the law was enacted by the entire Congress and signed by the President.

Comment 4: One commenter indicated that use of the official mark would be damaging to alternative tracking and certification programs.

Response: NMFS disagrees. Use of the official mark is discretionary and not mandated (16 U.S.C. 1385 (d)(3)(2)). Tuna products labeled as being dolphin-safe by any mark must meet the dolphin-safe labeling standards (16 U.S.C. 1385(d)) and the standards of the Tuna Tracking and Verification Program (16 U.S.C. 1385 (d)(3)(c)(ii)), this does not preclude the use of alternative marks or alternative tracking and certification programs.

Comment 5: One environmental organization asserted that the proposed official mark would detract, or undermine, their trademarked ''Flipper Seal of Approval'' by misleading the consumer about the ''true'' definition of dolphin-safe tuna.

Response: NMFS disagrees. The commenter appears to disagree with the standards for designating tuna products as being dolphin-safe. The standards are not the subject of this rule-making. The subject of this rule-making is an appropriate mark that can be used to show that a product is in compliance with the standards.

The design and layout of the official mark and the Flipper Seal of Approval are very different and do not resemble each other. The official mark contains the words ''U.S. Department of Commerce'' in red letters, along with a blue-colored dolphin profile facing the upper left, and a tricolor (light blue, blue, and a dark blue) banner along the bottom of the mark that overlaps the dolphin's fluke. In contrast, the Flipper Seal of Approval depicts a partly submerged dolphin that is smiling and waving, with the word ''Flipper'' written across the top in bright yellow letters and the words ''Seal of Approval'' along the bottom of the mark. The unique official mark is easily distinguishable and could not mislead consumers into believing that it was the Flipper Seal of Approval.

Comment 6: Several commenters felt that the development and designation of the official mark is a waste of taxpayer money and contrary to the will of United States consumers.

Response: The DPCIA (16 U.S.C. 1385) requires the Secretary of Commerce to develop an official mark that may be used to label tuna products as ''dolphin-safe.'' The Secretary is obligated to implement this mandate.

Comment 7: One commenter expressed concern that the designation of an official mark would limit the right of tuna companies to use an alternative dolphin-safe marks.

Response: The DPCIA does not mandate the use of the official mark nor does it prohibit the use of alternative marks. However, as set forth under paragraph (d)(3)(B) of the DPCIA, whenever a tuna product bears the official mark, it may not bear any other mark or label that refers to dolphins, porpoises, or marine mammals.

After considering the comments received, there are no changes to the regulatory text from the proposed rule.

Classification

Executive Order 12866

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

Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this final rule would not have a significant economic impact on a substantial number of small entities. NMFS received one comment regarding this certification. The commenter indicated that a Regulatory Flexibility Analysis should be completed before designating the official mark because of potential impacts and costs to small businesses to educate the consumer about the official mark. Because the IDCPA does not mandate the use of the official mark, and use of the official mark is discretionary, there are no compliance costs associated with use of the official mark. This comment did not cause NMFS to change its determination regarding the certification. As a result, no regulatory flexibility analysis was prepared.

List of Subjects in 50 CFR Part 216

Dolphin-safe, Exports, Fish, Imports, Labeling, Marine mammals, Penalties, Reporting and recordkeeping requirements, Transportation.

Dated: May 22, 2000.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 216 is amended as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

2. Section 216.96 is added to read as follows:

§ 216.96 Official mark for ''Dolphin-safe'' tuna products.

(a) This is the ''official mark'' (see figure 1) designated by the United States Department of Commerce that may be used to label tuna products that meet the ''dolphin-safe'' standards set forth in the Dolphin Protection Consumer Information Act, 16 U.S.C. 1385, and implementing regulations at §§ 216.91 through 216.94:

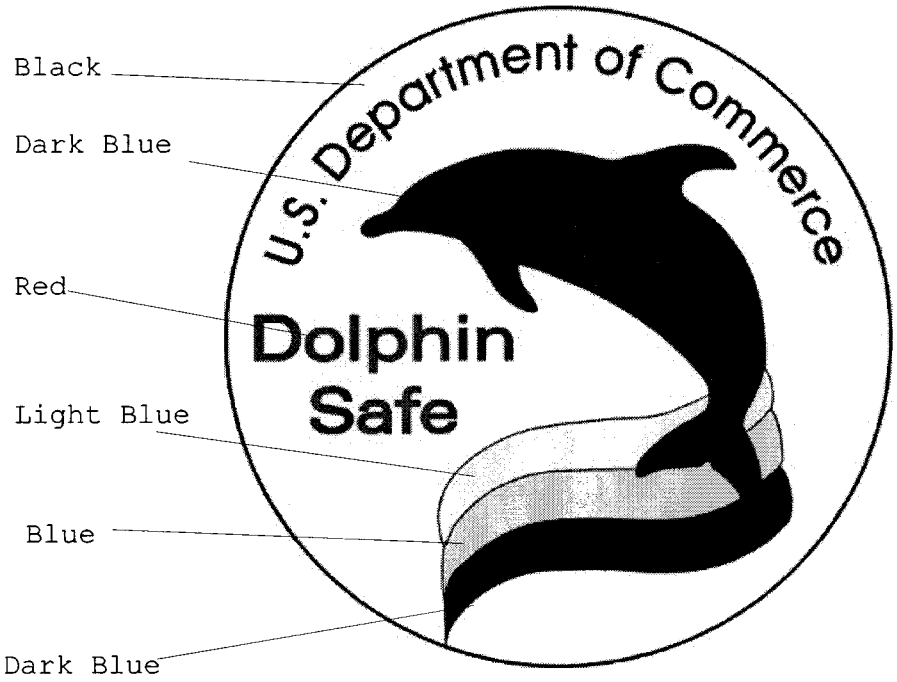

Figure 1.

(b) *Location and size of the official mark.* The official mark on labels must allow the consumer to identify the official mark and be similar in design and scale to figure 1. A full color version of the official mark is available at http://swr.ucsd.edu/dsl.htm.

[FR Doc. 00–13374 Filed 5–26–00; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 65, No. 104
Tuesday, May 30, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 929

[Docket No. FV00–929–2 PR]

Cranberries Grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington and Long Island in the State of New York; Establishment of Marketable Quantity and Allotment Percentage and Other Modifications Under the Cranberry Marketing Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would establish the quantity of cranberries that handlers may purchase from, or handle for, growers during the 2000–2001 crop year, which begins on September 1, 2000, and ends on August 31, 2001. The Cranberry Marketing Committee (Committee), the agency responsible for local administration of the cranberry marketing order, recommended a marketable quantity of 5.4 million barrels and an allotment percentage of 85 percent. This rule invites comments on the Committee's recommendation as well as two alternative levels of regulation being proposed by the Department. This action is designed to stabilize marketing conditions and improve grower returns. Fresh and organically-grown cranberries would be exempt from the volume limitations to facilitate marketing of these products. Also proposed are improvements in the way producer allotments are calculated, including proposals initiated by the Department to revise the way in which growers' sales histories are computed and to suspend certain dates in the order which are impractical.

DATES: Comments must be received by June 14, 2000.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456, Fax: (202) 720–5698 or E-mail: moab.docketclerk@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours or can be viewed at the following website: www.ams.usda.gov/fv/moab.html.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella or Kenneth G. Johnson, DC Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, Suite 5D03, Unit 155, 4700 River Road, Riverdale, Maryland 20737, telephone: (301) 734–5243; Fax: (301) 734–5275; or Anne M. Dec, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This proposal is issued under Marketing Order No. 929 [7 CFR Part 929], as amended, regulating the handling of cranberries grown in Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the ''Act.''

Question and Answer Overview

What Are Marketing Orders?

Marketing orders are rules which are authorized under the Agricultural Marketing Agreement Act of 1937 and which are based on evidence developed at a formal hearing. Marketing orders help fruit and vegetable growers work together to solve marketing problems that cannot be solved individually. Industries voluntarily enter into these programs and choose to have Federal oversight of certain aspects of their operations.

The cranberry industry has operated under a marketing order since 1962. The order's primary regulatory authority is volume control, utilizing either a producer allotment program, or establishing a withholding percentage where the amount of cranberries that handlers can handle is limited. The order also authorizes reporting and record keeping activities related to the gathering of statistical information and supporting volume control activities, as well as research and promotion activities. Volume control has not been used since 1971.

The Committee, which is responsible for local administration of the order, recommended this action to stabilize marketing conditions and improve grower returns. The Department is also proposing some changes in the way the volume control program would be implemented to improve the process.

Who Would Be Affected by This Action?

Growers and handlers/processors located in the 10-State production area would be affected by this action. The 10-State production area covers cranberries grown in Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York.

Why Is Volume Control Being Recommended for This Year?

The Committee recommended volume control this year in order to address the serious oversupply situation being experienced by the industry. For the 1999 crop year, industry reports show that continued low grower prices will accompany record high production and inventories. Many cranberry growers are experiencing difficulties dealing with these extreme market conditions. The Committee recommended implementing volume regulations at its March 30, 2000, meeting in Minneapolis, Minnesota.

The Committee determined the best method of volume control would be the producer allotment program which provides for an annual marketable quantity and allotment percentage.

The use of volume control is not the only avenue that could be used to address the oversupply situation being

experienced by the industry. The industry is also looking into methods of increasing demand by developing new markets, both domestic and foreign, by developing new products and by increasing promotional efforts.

What Is Marketable Quantity and Allotment Percentage?

Marketable quantity is defined as the number of pounds of cranberries needed to meet total market demand and to provide for an adequate carryover into the next season. The Committee determined that the marketable quantity for the 2000–2001 crop year should be established at 5.4 million barrels. This is equal to the expected demand for fruit for processing.

The allotment percentage equals the marketable quantity divided by the total of all growers' sales histories. Total growers' sales histories were set at 6.35 million barrels. Using the formula established under the order (5.4 million barrels divided by 6.35 million barrels), the annual allotment percentage is 85 percent.

The Department is proposing a change in the way sales histories are calculated, which would bring the industry total to 7.6 million barrels. Using the 5.4 million barrel marketable quantity recommended by the Committee would yield an allotment percentage of 71 percent. To keep the allotment percentage at the level recommended by the Committee (85 percent), the marketable quantity would have to be increased to 6.46 million barrels. Comments are invited on the Committee's proposed recommendation for setting a volume regulation for the 2000 cranberry crop and on the two alternative methods proposed by the Department.

Sales of fresh and organically-grown fruit would be exempt from the proposed volume regulation. In addition, the Committee and the Department recommended other modifications to implement volume regulation.

How Are Growers' Annual Allotments Calculated?

A grower's annual allotment is the result of multiplying the individual grower's sales history by the allotment percentage.

How Are Sales Histories Calculated?

The Cranberry Marketing Committee (Committee) is responsible for calculating each grower's sales history on an annual basis. For growers with existing cranberry acreage, sales history is established by computing an average of the best four years' sales out of the last six years' sales. For growers with four years or less of commercial sales history, the sales history is calculated by averaging all available years of such grower's sales. A grower with no sales history would be issued allotment based on the State average yield per acre or the total estimated commercial sales, whichever is greater. For the 2000–2001 crop, the State average yield would be defined as the average State yield for the year 1997 or the average of the best four years out of the last six years, whichever is greater.

The Department is proposing a change in this calculation. For all existing growers, sales histories would be based on the best year out of the last six. For a grower with less than six years of sales, the sales history would be the highest year of sales available. Growers with no sales history would be issued allotment as described in the previous paragraph.

How Can I Comment on This Action?

Interested persons have 15 days from the date of publication of the proposed rule to file written comments. Such comments should be sent to: Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456, Fax: (202) 720–5698 or E-mail: moab.docketclerk@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours or can be viewed at the following website: www.ams.usda.gov/fv/moab.html. In addition, small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov.

When Will This Action Be Effective?

After the 15-day comment period ends, the Department will analyze the comments and issue its decision. Depending on the results of its analysis of the rulemaking proceeding, the Department could issue a final rule similar to, or the same as, this proposal. It could also issue a rule with appropriate modifications, based on the comments and on the rulemaking record, or it could terminate this rulemaking. In rare instances, the Department has issued a second proposal. Any final rule would be effective for the 2000–2001 crop year which begins on September 1, 2000. It would affect all current growers and handlers of cranberries in the production area.

Executive Orders 12866 and 12998

The Department of Agriculture (Department) is issuing this proposed rule in conformance with Executive Order 12866.

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order provisions now in effect, a marketable quantity and allotment percentage may be established for cranberries during the crop year. This rule would establish a marketable quantity and allotment percentage for cranberries for the 2000–2001 crop year beginning September 1, 2000, through August 31, 2001. This proposal will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after date of the entry of the ruling.

This proposal invites comments on establishing a marketable quantity and allotment percentage for the 2000–2001 crop year. This action would also exempt fresh and organically-grown cranberries from volume regulation, define State average yield per acre, increase the barrels per acre for determining a commercial crop, and revise the Committee review procedures for re-determination of sales histories. These actions were recommended by the Committee at its March 30, 2000, meeting. The volume regulation would be in effect September 1, 2000, through August 31, 2001.

This action also invites comments on two proposals being suggested by the Department. The first would change the

way in which growers' sales histories are computed, which would result in a revised marketable quantity or allotment percentage. The second would suspend the order requirement that grower allotments be issued by June 1.

Marketable Quantity and Allotment Percentage

Section 929.49 of the order currently provides that if the Secretary finds from the recommendation of the Committee or from other available information, that limiting the quantity of cranberries purchased from or handled on behalf of growers during a crop year would tend to effectuate the declared policy of the Act, the Secretary shall determine and establish a marketable quantity for that year. In addition, the Secretary would establish an allotment percentage which shall equal the marketable quantity divided by the total of all growers' sales histories. Handlers cannot handle cranberries unless they are covered by a grower's annual allotment.

The cranberry industry has operated under a Federal marketing order since 1962. The last season volume regulation was recommended was in 1971.

The order covers a ten-State area. The highest producing States are Massachusetts and Wisconsin, which together account for about 80 percent of total production. Over 95 percent of the crop is processed, with the remainder being sold as fresh fruit.

For many years, the industry has enjoyed increasing demand for cranberry products, primarily due to the success of cranberry juice-based drinks. This situation encouraged additional production. From 1960 through 1999, production increased from 1.34 million barrels (one barrel equals 100 pounds of cranberries) to 6.39 million barrels. This represents a 377 percent increase. Production in 1999 was an all-time high, and was 17 percent above that of the previous year.

The growth rate in production is attributable to a 76 percent increase in harvested area (from 21,140 to 37,200 acres) and an even higher increase (171 percent) in yields (from 63.4 to 171.7 barrels per acre).

While production continues to rise, demand has leveled off. Total domestic sales peaked in 1994 at 4.7 million barrels, and declined to 4.5 million barrels in 1998.

Increased total supplies in excess of demand have resulted in large inventories. Carryover inventories have grown from 883,773 barrels in 1988 to 3,107,366 barrels in 1999. From 1988 through 1997, carryover as a percent of production ranged from 21 to 36 percent. However, in 1998, carryover as a percent of production increased to 40 percent; in 1999 it increased to 49 percent. Carryover inventory for the 1999 season exceeded 3 million barrels for the first time in the industry's history.

When supply outpaces demand, resulting in high levels of carryover inventories, grower prices can be negatively impacted. Grower prices rose from $8.83 per barrel in 1960 to a peak level of $65.90 per barrel in 1996. These rising price levels provided an incentive for producers to expand planted acres and to increase yields. Over the past two seasons, prices have started to decline. In 1998, grower prices decreased to $38.80 per barrel. The returns for the 1999 crop year are expected to fall below $30.00 per barrel. The industry anticipates further price reductions if supplies are not brought more in line with demand.

Increasing inventories and the high costs associated with storing these inventories have resulted in the industry considering the use of volume control regulations. The goal of such regulations is to obtain a higher and more stable price than would exist in their absence.

In an industry such as the cranberry industry, where the product can be stored for long periods of time, volume control is a method that could be used to reduce unwanted inventories. Large inventories are costly to maintain and, with the outlook for continued high production levels, these inventories would be difficult to market.

Section 929.46 of the order requires the Committee to develop a marketing policy each year prior to May 1. In its marketing policy, the Committee projects expected supply and market conditions for the upcoming season, including an estimate of the marketable quantity (defined as the number of pounds of cranberries needed to meet total market demand and to provide for an adequate carryover into the next season).

At a March 30, 2000, meeting, the Committee estimated the 2000–2001 domestic production of cranberries at 5.89 million barrels. Carryover as of September 1, 2000 is estimated at 4.6 million barrels. Foreign production (primarily Canada) is projected at 800,000 barrels. Allowing for shrinkage of approximately 3 percent, the total adjusted available supply of cranberries is expected to be 10,930,000 barrels.

Based in large part on historical sales figures, the Committee estimated utilization of processing fruit at 5.4 million barrels and of fresh fruit at 280,000 barrels.

A summary of the marketing policy follows:

CRANBERRY MARKETING POLICY

[2000 crop year estimate]

	Barrels
Carryin as of 9/1/2000	4,600,000
Domestic production	5,890,000
Foreign production	800,000
Available supply (sum of the above)	11,290,000
Minus shrinkage	360,000
Adjusted Supply	10,930,000
Fresh Fruit	280,000
Processing fruit	5,400,000
Total Sales and Usage	5,680,000
Carryover as of 8/31/2001	5,250,000

The Committee determined that the marketable quantity for the 2000–2001 crop year should be established at 5.4 million barrels. This is equal to the expected demand for processing fruit. Fresh fruit sales were not included because (as discussed later in this document) fresh fruit would not be covered by the allotment percentage. Using a marketable quantity equal to processed fruit demand should result in a more stable level of inventories. Supplies in inventory could easily cover any unexpected increases in market demand.

Section 929.49(b) of the order provides that the marketable quantity be apportioned among growers by applying the allotment percentage to each grower's sales history. The allotment percentage equals the marketable quantity divided by the total of all grower's sales histories. No handler can purchase or handle cranberries on behalf of any grower not within the grower's annual allotment.

Total growers' sales histories were set at 6.35 million barrels. Using the formula established under the order in § 929.49 (5.4 million barrels divided by 6.35 million barrels), the annual allotment percentage is 85 percent.

As described later in this document, the Department is proposing a change in the way growers' sales histories are computed. If this change is adopted, each grower's sales history would be recalculated. The Committee staff reports that this would result in a new industry total sales history of 7.6 million barrels. Using the 5.4 million barrel marketable quantity recommended by the Committee would result in an allotment percentage of 71 percent. To retain an allotment percentage of 85 percent, the marketable quantity would need to be increased to 6.46 million barrels. The Department is

soliciting comments on the Committee's original recommendation of marketable quantity and allotment percentage as well as the two alternatives proposed by the Department. To summarize, the three options are as follows (the marketable quantity and total sales histories figures are all in million barrel units):

	Marketable quantity	Total sales histories	Allotment percentage
Committee Recommendation	5.4	6.35	85
USDA Option 1	5.4	7.6	71
USDA Option 2	6.46	7.6	85

A marketable quantity and allotmentment percentage for the 2000–2001 crop year are proposed to be established by adding a new § 929.250 to the order's rules and regulations. The Committee could at any time, by reason of changed conditions, recommend modification, suspension or termination of this section.

Determination of New Sales History

Section 929.48 of the order provides for computing growers' sales histories to be used in calculating marketable quantities and allotment percentages under § 929.49. Sales history is defined in section 929.13 as the number of barrels of cranberries established for a grower by the Committee. The Committee has been updating growers' sales histories each season. The Committee accomplishes this by using information submitted by the grower on a production and eligibility report filed with the Committee. The order sets forth that a grower's sales history is established by computing an average of the best four years' sales out of the last six years' sales for those growers with existing acreage. For growers with four years or less of commercial sales history, the sales history is calculated by averaging all available years of such grower's sales. A new sales history for a grower with no sales history is calculated by using the State average yield per acre or the total estimated commercial sales, whichever is greater.

The Committee considered for the 2000–2001 crop that the State average yield be defined as the average State yields for the year 1997 or the average of the best four years out of the last six years, whichever is greater. This calculation is similar to that used to compute sales history (an average of the best four years out of the last six years), and would average out seasonal variations in yields. However, if estimated commercial sales are greater than what is computed above, the Committee would use the commercial sales estimated by the grower.

In order to take into account the differences among the States, the Committee recommended calculating the average yield for each State using the best four of the last six years, and comparing it to the average yield for that State in 1997. The higher of the two figures for each State would be used to calculate new sales histories for new growers. This rule proposes adding a new § 929.148 to set forth this calculation.

Some existing growers may also have newly planted acreage that has not yet established a sales history. Sales histories for such acreage would be calculated in the same way as sales histories for new growers.

Growers are required to file a form with the Committee by April 15 each year if they wish to receive an annual allotment. Growers also must notify the Committee of any new acreage that will be coming into production for the 2000–2001 crop year. The Committee would notify each grower of his or her annual allotment and notify each handler of the annual allotment that can be handled for each grower whose total crop will be delivered to such handler. In cases where a grower delivers a crop to more than one handler, such grower may determine how to apportion the annual allotment among those handlers.

A grower who does not produce cranberries equal to his or her annual allotment would transfer such unused allotment to such grower's handler(s). The handlers would then be required to equitably allocate the unused allotment to growers with excess cranberries (those not covered by allotment) who deliver to those handlers. Unused allotment remaining after all such transfers have taken place would be forfeited to the Committee.

Handlers who receive more cranberries than are covered by their growers' annual allotments have excess cranberries. The Committee would equitably distribute unused allotment to those handlers that have excess cranberries.

Outlets for Excess Cranberries

The purpose of the producer allotment program proposed to be implemented by this rule is to limit the amount of the total crop that can be marketed for normal uses. As previously indicated, a large portion of the U.S. cranberry crop is processed. Most of it is marketed domestically.

There is no need to limit the volume of cranberries that may be marketed in noncommercial or noncompetitive outlets. Thus, in accordance with § 929.61, handlers would be able to dispose of excess cranberries in certain designated outlets. Noncommercial outlets include charitable institutions and research and development projects for market development purposes. Noncompetitive outlets are any nonhuman food use and foreign markets, except Canada. Canada is excluded because significant sales of cranberries to Canada could result in transshipment back to the United States of the cranberries exported there. This could disrupt the U.S. market, counter to the intent of the volume regulation.

To ensure that excess cranberries diverted to the specified outlets do not enter normal market channels, certain safeguard provisions are established under § 929.61. These provisions require handlers to provide documentation to the Committee to prove that the diverted cranberries were actually used in a noncommercial or noncompetitive outlet. In the case of nonhuman food use, a handler would be required to notify the Committee at least 48 hours prior to disposition so that the Committee staff would have sufficient time to be available to observe the disposition of the cranberries.

Section 929.104 of the rules and regulations is proposed to be revised to list the outlets in which handlers can divert excess cranberries. That section currently lists outlets for ''restricted cranberries.'' ''Restricted cranberries'' is a term used in connection with withholding requirements—another type of volume regulation authorized under the order. While the specific outlets listed are not being proposed for revision, changes are proposed in the regulatory text to provide that these outlets are authorized for excess cranberries under a producer allotment program.

Fresh and Organic Fruit Exemption

The Committee also recommended that fresh fruit and organically-grown

cranberries be exempted from regulation this season. Fresh and organically-grown fruit would be exempt pursuant to § 929.58 of the order which provides that the Committee may relieve from any or all requirements cranberries in such minimum quantities as the Committee, with the approval of the Secretary, may prescribe.

Fresh fruit accounts for about 4.7 percent of the total production. The Committee estimated that about 280,000 barrels will be sold fresh this year, compared to 260,000 barrels sold last season.

Under current marketing practices, there is a distinction between cranberries for fresh market and those for processing markets. Cranberries intended for fresh fruit outlets are grown and harvested differently. Fresh cranberries are dry picked while cranberries used for processing are water picked. When cranberries are water picked, the bog is flooded and the cranberries that rise to the top are harvested. Dry picking is a more labor intensive and expensive form of harvesting. Cranberry bogs are designated as ''fresh fruit'' bogs and are grown and harvested accordingly. Only the lower quality fruit from a fresh bog goes to processing outlets.

In addition, fresh cranberry sales constitute less than 5 percent of the cranberry market. All fresh cranberries can be marketed and do not compete with processing cranberries. Fresh cranberries are seasonal (due to their limited shelf life) and are not a part of the growing industry inventories. The Committee concluded that fresh supplies do not contribute significantly to the current cranberry surplus. Thus, the Committee recommended that such cranberries be exempt from the allotment percentage this rule proposes.

Organically-grown cranberries comprise an even smaller portion of the total crop than fresh cranberries. The Committee estimated that about 1,000 barrels of organic fruit will be sold this season, compared to 450 barrels last season. Organic cranberries are a growing niche market and regulating them could have an adverse effect on the production and marketing of this product. Like fresh cranberries, demand for organic cranberries is in line with the current limited production. Thus, organic cranberries do not contribute in any meaningful way to the current oversupply experienced with processing fruit. The Committee therefore recommended that organically-grown cranberries be exempt from volume regulation during the upcoming season.

In order to be exempt, organic cranberries would have to be certified as such by a third party organic certifying organization that is acceptable to the Committee.

Exemptions for fresh and organically-grown cranberries would be provided in a proposed new § 929.158.

Definition of Commercial Crop

The Committee also recommended that the amount of barrels that defines a commercial crop under the marketing order be increased. Calculations of sales histories are based on ''commercial'' cranberry acreage. Currently, section 929.107 defines a commercial crop as acreage that has a sufficient density of growing vines to produce at least 15 barrels per acre without replanting or renovation. The Committee has recommended that the 15 barrels per acre be increased to 50 barrels per acre. Acreage producing less than 50 barrels per acre would not be considered to produce a commercial crop. This increase would bring the order more in line with current growing conditions.

This action would assist growers who harvested cranberries for the first time in 1999. These growers would qualify for a new sales history determination. As previously discussed, sales history on new acreage would be the State average yield or the grower's estimated commercial sales, whichever is greater.

A full commercial cranberry crop is usually not harvested until 3 or 4 years after being planted. Production is usually limited during the first year, with increases in subsequent years until full capacity is reached. If a grower harvested a bog for the first time in 1999, and achieved a yield of 25 barrels per acre, such grower's sales history would be calculated by using the determination for a grower with four years or less of production. This would be the actual production for that year. Therefore, in this example, for the 2000–2001 crop year the grower's sales history would be 25 barrels multiplied by the number of acres such grower harvested. The 25 barrels would be used in the calculation since it is greater than the 15 barrels per acre used to define commercial cranberry acreage.

Under the proposed revision, such grower's first year of sales harvested from that acreage would not count since it is less than 50 barrels per acre. Therefore, the grower would be eligible to receive the determination for growers with no sales history on such acreage (which would be the State average yield or the grower's estimated commercial sales, whichever is greater). This would benefit growers who had very low yields per acre for their first year of production.

Appeal Procedures

Finally, the Committee recommended that the current review procedures for appeals be revised. Currently, section 929.125 provides an appeal procedure for growers who are dissatisfied with their sales histories, as determined pursuant to § 929.48(a) and (b) of the order. Under the current procedures, a grower may submit to the Committee a written argument within 30 days after receiving the Committee's determination of that grower's sales history, if such grower disagrees with the determination. The Committee shall review its determination within a reasonable time, reviewing all the material submitted by the grower, and notify the grower of its decision. If the grower is not satisfied with the Committee's decision, that grower may appeal to the Secretary, through the Committee, within 30 days after being notified about the Committee's decision. The Secretary shall review all pertinent information and render a decision. The Secretary's decision shall be final.

The Committee recommended revising the current process. Specifically, it proposed that an appeals subcommittee be established and that the full Committee be provided with 15 days to further review appeals by growers. The Committee believes that this process would be more efficient in considering grower appeals. The subcommittee, appointed by the Chairman, would be composed of two independent and two cooperative representatives, as well as a public member. Although an additional level of review is being established, the Committee believes that it would be more efficient for a subcommittee composed of 5 members to meet and discuss the appeals. The subcommittee would have 30 days to render a decision on the request.

If the grower is not satisfied with the appeal subcommittee's decision, the grower could further appeal to the full Committee. The grower would submit his or her written argument to the Committee along with any pertinent information for the Committee's review within 15 days after being notified about the determination by the subcommittee. The Committee would have 15 days from the receipt of the grower's appeal to respond. The Committee would inform the grower of its decision, including the reasons for its decision.

The grower may further appeal to the Secretary within 15 days after notification of the Committee's findings, if such grower is not satisfied with the Committee's decision. The Committee would forward a file with all pertinent

information related to the grower's appeal. The Secretary would inform the grower and Committee staff of the Secretary's decision. All decisions by the Secretary are final.

USDA Proposal—Recalculation of Sales Histories

As previously discussed, the order sets forth that a grower's sales history is established by computing an average of the best four years' sales out of the last six years' sales for those growers with existing acreage. For growers with four years or less of commercial sales history, the sales history is calculated by averaging all available years of such grower's sales. A new sales history for a grower with no sales history is calculated by using the State average yield per acre or the total estimated commercial sales, whichever is greater.

Since the Committee met on March 30, 2000, the Department has received additional information from cranberry growers and handlers pertaining to the way in which sales histories are computed. Of primary concern is the potential inequities that could result from the current process. Specifically, newer growers would be restricted to a greater extent than more established growers. That is because a cranberry bog does not reach full capacity until several years after being planted. Using an average of early years' sales (which are low) would likely result in a sales history substantially below current sales potential. A more established grower, on the other hand, would have a sales history more reflective of his or her production capacity.

The Committee's recommendation concerning the definition of ''commercial crop'' (previously discussed in this document) was in response to this concern. However, the Department believes a further modification is needed to lessen the differential impact a volume regulation would have on individual cranberry growers. For this reason, The Department is proposing that a sales history for each existing grower be calculated using the best single sales year in the past six years. For a grower with less than six years of sales, the sales history would be the highest year of sales available. This proposal is authorized under § 929.48(a)(2) of the order which provides that the number and identity of the years used to compute sales histories may be altered by regulation. The Department is not proposing a change in the way sales histories are computed for brand new growers (those without any history of sales).

The Department is inviting comments on this proposed change. As previously discussed, this change in the way sales histories are computed would result in a revised industry total sales history of 7.6 million barrels. This would also result in a modification of the marketable quantity or the allotment percentage. It is expected that the Committee would meet to consider this proposal and provide the Department with its views and any recommended revisions prior to finalization of this proposed rule.

This proposal would be implemented by adding a new § 929.149 to the order's rules and regulations.

USDA Proposal—Suspension of Deadline for Notifying Growers of Their Annual Allotment

Section 929.49 of the order provides that in any year in which an allotment percentage is established by the Secretary, the Committee must notify growers of their annual allotment by June 1. That section also requires the Committee to notify each handler of the annual allotments for that handler's growers by June 1.

This rule proposes establishing an allotment percentage for the 2000 cranberry crop. To allow adequate time for interested parties to comment on this proposal and for the Department to give due consideration to the comments received, a final decision on this rule may not be reached before June 1. Therefore, the Department is proposing that the June 1 deadline be suspended for the 2000–2001 crop year.

The Regulatory Flexibility Act and Effects on Small Businesses

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 20 handlers of cranberries who are subject to regulation under the order and approximately 1,100 producers of cranberries in the regulated area. Small agricultural service firms, which includes handlers, have been defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. The majority of cranberry handlers and producers may be classified as small businesses.

This rule would establish a marketable quantity and an allotment percentage for cranberries in a 10 State production area during the crop year from September 1, 2000, through August 31, 2001. Handlers would only be allowed to handle those cranberries that are covered by annual allotment. This action would also exempt fresh and organic cranberries from volume regulation, define the State average yield, increase the barrels per acre for determining a commercial crop, and revise the Committee review procedures. These actions are designed to improve the operation of the volume regulation program.

Over the past several years, per capita consumption of cranberries has averaged 1.69 pounds. Per capita consumption peaked in 1994 at 1.80 pounds and began trending downward. In 1998, per capita consumption was 1.67 pounds. Associated with these per capita consumption figures is the fact that total domestic sales also peaked in 1994 at 4,692,507 barrels and has declined to 4,506,632 barrels in 1998. However, cranberry production reached an all-time high of 6,389,000 barrels in 1999. This is a 17 percent increase over 1998 production of approximately 5.4 million barrels. Available cranberry supplies continue to out pace demand, resulting in high levels of carryover inventories. Over the past two seasons, prices have started to decline. In 1998 grower prices decreased to $38.80 per barrel. In 1999, prices are expected to fall to $18–$30 per barrel.

The cranberry industry has operated under a Federal marketing order since 1962. The last season of volume regulation was in 1971. The order covers a ten-State area. The highest producing States are Massachusetts and Wisconsin, which together account for about 80 percent of total production. Over 90 percent of the crop is processed, with the remainder being sold as fresh fruit.

For many years the industry has enjoyed increasing demand for cranberry products, primarily due to the success of cranberry juice-based drinks. This situation encouraged additional production. From 1960 through 1999, production increased from 1.34 million barrels (one barrel equals 100 pounds of cranberries) to 6.39 million barrels. This

represents a 377 percent increase. Production in 1999 was an all-time high, and was 17 percent above that of the previous year.

The growth rate in production is attributable to a 76 percent increase in harvested area (from 21,140 to 37,200 acres) and an even higher increase (171 percent) in yields (from 63.4 to 171.7 barrels per acre).

While production continues to rise, demand has leveled off. Total domestic sales peaked in 1994 at 4.7 million barrels, and declined to 4.5 million barrels in 1998.

Increased total supplies in excess of demand have resulted in large inventories. Carryover inventories have grown from 883,773 barrels in 1988 to 3,107,366 barrels in 1999. From 1988 through 1997, carryover as a percent of production ranged from 21 to 36 percent. However, in 1998, carryover as a percent of production increased to 40 percent; in 1999 it increased to 49 percent. Carryover inventory for the 1999 season exceeded 3 million barrels for the first time in the industry's history.

When supply outpaces demand, resulting in high levels of carryover inventories, grower prices could be negatively impacted. Grower prices rose from $8.83 per barrel in 1960 to a peak level of $65.90 per barrel in 1996. These rising price levels provided an incentive for producers to expand planted acres and to increase yields. Over the past two seasons, prices have started to decline. In 1998, grower prices decreased to $38.80 per barrel. The returns for the 1999 crop year are expected to fall below $30.00 per barrel. The industry anticipates further price reductions if supplies are not brought more in line with demand.

Increasing inventories and the high costs associated with storing these inventories have resulted in the industry considering the use of volume control regulations. The goal of such regulations is to obtain a higher and more stable price than would exist in their absence.

In an industry such as cranberries, where the product can be stored for long periods of time, volume control is a method that can be used to reduce unwanted inventories. Large inventories are costly to maintain and, with the outlook for continued high production levels, these inventories would be difficult to market.

Based in large part on historical sales figures, the Committee estimated utilization of processing fruit at 5.4 million barrels and of fresh fruit at 280,000 barrels.

The Committee determined that the marketable quantity for the 2000–2001 crop year should be established at 5.4 million barrels. This is equal to the expected demand for processing fruit. Fresh fruit sales were not included because fresh fruit would not be covered by the allotment percentage. Organically-grown cranberries would also be exempted because projected sales are only about 1,000 barrels. Using a marketable quantity equal to processed fruit demand should result in a more stable level of inventories. Supplies in inventory could easily cover any unexpected increases in market demand.

Section 929.49(b) provides that the marketable quantity be apportioned among growers by applying the allotment percentage to each grower's sales history. The allotment percentage equals the marketable quantity divided by the total of all grower's sales histories. No handler can purchase or handle cranberries on behalf of any grower not within the grower's annual allotment.

Total growers' sales histories were set at 6.35 million barrels. Using the formula established under the order (5.4 million barrels divided by 6.35 million barrels), the annual allotment percentage is 85 percent.

Currently, a grower's sales history is established by computing an average of the best four years' sales out of the last six years' sales for those growers with existing acreage. For growers with four years of less of commercial sales history, the sales history is calculated by averaging all available years of such growers' sales.

The Department is proposing that a sales history for each existing grower be recalculated, using the best single sales year in the past six years. For a grower with less than six years of sales, the sales history would be the highest year of sales available. This change is being proposed to take care of potential inequities that could result from the current process of computing sales histories. Specifically, newer growers are restricted to a greater extent than more established growers. That is because a cranberry bog does not reach full capacity until several years after being planted. Using an average of early years' sales (which are low) would likely results in a sales history substantially below current sales potential. A more established grower, on the other hand, would have a sales history more reflective of his or her production capacity.

If adopted, each grower's sales history would be recalculated. The Committee staff reports that this would result in a new total industry sales history of 7.6 million barrels (compared to the current total of 6.35 million barrels). Since the allotment percentage is determined by dividing the marketable quantity by the total sales history, a change in the total sales history could impact the level of volume regulation.

If the 5.4 million barrel marketable quantity recommended by the Committee is used, the allotment percentage would change from the 85 percent recommended by the Committee to 71 percent. Increasing the restricted percentage from 15 to 29 percent could result in a higher level of restriction than recommended by the Committee.

To retain the Committee's recommended allotment percentage of 85 percent with the new sales history total, the marketable quantity would have to be increased from the current 5.4 million barrels to 6.46 million barrels. This would result in a lower restriction than recommended by the Committee.

The Department is soliciting comments on all the proposals, including the Committee's original recommendation of marketable quantity and allotment percentage, as well as two alternatives proposed by the Department. Particular attention should be given to the expected impacts of these different levels of regulation on cranberry growers and processors, and whether there would be a differential impact on small versus large entities.

The Committee could at any time, by reason of changed conditions, recommend modification, suspension or termination of the marketable quantity or allotment percentage proposed in this rule.

The impact of this rule should be beneficial to both growers and handlers. The regulation is intended to decrease the build-up of excessive inventories and help stabilize grower prices and returns.

Discussions at the meeting indicated that the establishment of a producer allotment program is the best alternative for the industry at this time. Six months ago, the Committee established a volume regulation subcommittee that researched the two methods of volume regulation available under the order. Those two methods are a producer allotment program and handler withholding program. The subcommittee's primary mission was to determine what method of volume control would be best for the industry if volume regulations were recommended. After holding several meetings, the subcommittee concluded that a producer allotment is the best

method available to the industry at this time.

The withholding program has not been used since 1971. The provisions of the producer allotment program were amended in 1992, but never used. Under the withholding program, growers deliver all their cranberries to their respective handlers. The handler is responsible for setting aside restricted cranberries and ultimately disposing of the cranberries in authorized noncommercial and noncompetitive outlets. This could result in a large volume of cranberries being disposed of and perhaps destroyed. In addition, the withholding provisions require that all withheld cranberries be inspected by the Federal or Federal-State Inspection Service, which could be costly.

The producer allotment program would allow cultural practices to be changed at the grower level prior to harvest. This could result in less fruit being produced and would not require the disposal of as many cranberries as with the withholding provisions. In addition, inspections are not required under the producer allotment method, which is more cost effective and would be simpler to administer. For these reasons, the subcommittee recommended to the full Committee that if volume regulations were recommended, that the producer allotment program be the method for regulation.

In its review of the producer allotment program, the subcommittee recommended that cranberries intended for fresh market be exempt from the volume regulation. This recommendation was unanimously approved by the full Committee. The Committee also recommended by unanimous vote that organic cranberries be exempt from volume regulations.

Fresh and organically-grown fruit would be exempt pursuant to section 929.58 of the order which provides that the Committee may relieve from any or all requirements, cranberries in such minimum quantities as the Committee, with the approval of the Secretary, may prescribe.

Fresh fruit accounts for about 4.7 percent of the total production. The Committee estimated that about 280,000 barrels will be sold fresh this year, compared to 260,000 barrels sold last season.

Under current marketing practices, there is a distinction between cranberries for fresh market and those for processing markets. Cranberries intended for fresh fruit outlets are grown and harvested differently. Fresh cranberries are dry picked while cranberries used for processing are water picked. When cranberries are water picked, the bog is flooded and the cranberries that rise to the top are harvested. Dry picking is a more labor intensive and expensive form of harvesting. Cranberry bogs are designated as ''fresh fruit'' bogs and are grown and harvested accordingly. Only the lower quality fruit from a fresh bog goes to processing outlets.

In addition, fresh cranberry sales constitute approximately 5 percent of the cranberry market. All fresh cranberries can be marketed and do not compete with processing cranberries. Fresh cranberries are seasonal (due to their limited shelf life) and are not part of the growing industry inventories.

The Committee concluded that fresh supplies do not contribute significantly to the current cranberry surplus. Thus, the Committee recommended that such cranberries be exempt from the allotment percentage this rule proposes.

Organically-grown cranberries comprise an even smaller portion of the total crop than fresh cranberries do. The Committee estimated that about 1,000 barrels of organic fruit will be sold this season, compared to 450 barrels last season. Organic cranberries are a growing niche market and regulating them could have an adverse effect on marketing this product. Demand for organic cranberries is in line with the current limited production. Thus, all organic cranberries can be marketed, and they do not contribute in any meaningful way to the current oversupply experienced with processing fruit. The Committee therefore recommended that organically-grown cranberries be exempt from volume regulation during the upcoming season.

In order to receive an exemption for fresh or organic cranberries a handler would be required to report such quantities on the current grower acquisition listing form.

The Committee also recommended, by unanimous vote, that the sales history re-determination procedures be modified by appointing a subcommittee composed of two independent and two cooperative representatives and one public member to be the first level of review.

Currently, section 929.125 provides an appeal procedure for growers that are dissatisfied with a determination made pursuant to section 929.48(a) and (b) of the order which describes the computation for a grower's sales history. A grower may submit to the Committee a written argument within 30 days of receiving the Committee's determination for sales history, if such grower disagrees with the determination. The Committee shall review its determination within a reasonable time, reviewing all the material submitted by the grower. If the grower is not satisfied with the Committee's decision such grower may appeal through the Committee, within 30 days of the Committee's decision, to the Secretary. The Secretary shall review all pertinent information and render a prompt decision. The Secretary's decision shall be final.

The Committee recommended that an appeals subcommittee be established and the full Committee have less time to further review appeals by growers. The Committee believed that this process would prove to be more efficient in considering grower appeals. Although an additional level of review is being established, the Committee believed that it would be more efficient for a subcommittee composed of 5 members to meet and discuss the appeals. Scheduling a meeting of the entire Committee to discuss and make determinations of grower appeals could be cumbersome and time consuming.

The Committee also recommended, by unanimous vote, to raise the amount of barrels that defines a commercial crop under the marketing order from 15 to 50 barrels. Calculations of sales histories are made on ''commercial'' cranberry acreage. This action would assist growers who harvested cranberries for the first time in 1999. These growers would qualify for a new sales history determination. As previously discussed, sales history on new acreage would be the State average yield or the grower's estimated commercial sales, whichever is greater.

Under the proposed revision, such grower's first year of sales harvested from that acreage would not count since it is less than 50 barrels per acre. Therefore, the grower would be eligible to receive the determination for growers with no sales history on such acreage (which would be the State average yield or the grower's estimated commercial sales, whichever is greater). This would benefit growers who had very low yields per acre for their first year of production.

The Committee also considered that State average yield for the 2000–2001 crop be defined as the average yields during the year 1997 or the average of the best four years out of the last six years, whichever is greater. This calculation is similar to that used to compute sales history (an average of the best four years out of the last six years), and would average out seasonal variations in yields. However, if estimated commercial sales are greater than what is computed above, the

Committee would use the commercial sales estimated by the grower.

In order to take into account the differences among the States, the Committee recommended calculating the average yield for each State using the best four of the last six years, and compare it to the average yield for that State in 1997. The higher of the two figures for each State would be used to calculate new sales histories for new growers. This rule proposes adding a new § 929.148 to set forth this calculation.

The Department's proposal to change the way in which sales histories are computed (the best out of the past six years) should result in a more equitable distribution of annual allotment among individual cranberry growers. The proposal to suspend the June 1 deadline for notifying growers and handlers would allow for adequate time to complete this rulemaking proceeding, without unduly impacting the cranberry industry.

Some handlers at the meeting indicated that they do not have large inventories and therefore, may have to purchase fruit from their competitors to meet customer needs. They in turn favored a lesser restriction, rather than 15 percent as proposed. Some growers indicated that they have not contributed to the surplus problem, and they should not be regulated. Those at the meeting further expressed that Wisconsin has expanded its production and Massachusetts has not in the past five years. Massachusetts growers and handlers believe they should not have to be regulated. However, other growers and handlers at the meeting expressed that the surplus is a industry problem and must be dealt with by the entire industry.

The Committee discussed the alternative of not regulating at all. Economic reports of the condition of the cranberry industry indicated that if supplies were not controlled, grower prices would continue to drop. The Committee does not know how small growers as well as large ones could sustain further price drops.

Some growers expressed that the Committee should consider other methods of increasing demand rather than regulating the industry at this time. They suggested implementing a domestic promotion program in addition to the export promotion activities already underway. The Committee did recommend that a subcommittee be established to research such a possibility. They also suggested that effort in market development and new product development would increase demand for cranberries and better address the oversupply situation.

The Committee recommendation for volume regulation passed by a seven to one vote. The person voting against the recommendation felt a volume regulation would adversely affect the growers and handlers in his district, New Jersey. All of the other recommendations were passed by unanimous votes. The proposed marketable quantity and allotment percentage is not expected to cause a shortage of cranberries.

The other changes discussed in this document are designed to improve the operation of the volume regulation this season.

As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors. In addition, the Department has not identified any relevant Federal rules which duplicate, overlap or conflict with this rule.

In compliance with Office of Management and Budget (OMB) regulations (5 CFR Part 1320) which implement the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements imposed by this order have been previously approved by OMB and assigned OMB Number 0581–0103.

There are some reporting and recordkeeping and other compliance requirements under the marketing order. The reporting and recordkeeping burdens are necessary for compliance purposes and for developing statistical data for maintenance of the program. The forms require information which is readily available from handler records and which can be provided without data processing equipment or trained statistical staff. This rule does not change those requirements.

The Committee's meetings were widely publicized throughout the cranberry industry and all interested persons were invited to attend them and participate in Committee deliberations. Like all Committee meetings, the March 2000 meeting was a public meeting and all entities, both large and small, were able to express their views on these issues. The Board itself is composed of eight members, of which seven members are growers and one represents the public. Also, the Committee has a number of appointed subcommittees to review certain issues and make recommendations. The Committee manager also held several meetings with growers throughout the production area to discuss the methods of volume regulation and the procedures for regulation.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following website: http://www.ams.usda.gov/fv/moab.html. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 15-day comment period is provided to allow interested persons to respond to this proposal. Fifteen days is deemed appropriate so that any final rule which is issued may be applicable to 2000–2001 crop year cranberries. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 929

Cranberries, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 929 is proposed to be amended as follows:

PART 929—CRANBERRIES GROWN IN THE STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

1. The authority citation for 7 CFR Part 929 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 929.49 [Amended]

2. In paragraph (d) of § 929.49, the phrase ''On or before June 1'' is suspended.

3. In paragraph (e) of § 929.49, the phrase ''On or before June 1 of any year in which an allotment percentage is established by the Secretary'' is suspended.

4. Section 929.104 is revised to read as follows:

§ 929.104 Outlets for excess cranberries.

(a) In accordance with § 929.61, excess cranberries may be disposed of only in the following noncommercial or noncompetitive outlets, but only if the requirements in paragraph (b) of this section are complied with:

(1) Foreign countries, except Canada.

(2) Charitable institutions.

(3) Any nonhuman food use.

(4) Research and development projects dealing with dehydration, radiation, freeze drying, or freezing of cranberries, for the development of foreign markets.

(b) Handlers may divert excess cranberries in the outlets listed in paragraph (a) of this section only if they meet the diversion requirements specified in § 929.61(c).

§ 929.107 [Amended]

5. In § 929.107, paragraphs (a) and (c) are amended by removing the number ''15'' and adding in its place the number ''50''.

6. Section 929.125 is revised to read as follows:

§ 929.125 Committee review procedures.

Growers may request, and the Committee may grant, a review of determinations made by the Committee pursuant to section 929.48, in accordance with the following procedures:

(a) If a grower is dissatisfied with a determination made by the Committee which affects such grower, the grower may submit to the Committee within 30 days after receipt of the Committee's determination of sales history, a request for a review by an appeals subcommittee composed of two independent and two cooperative representatives, as well as a public member. Such appeals subcommittee shall be appointed by the Chairman of the Committee. Such grower may forward with the request any pertinent material for consideration of such grower's appeal.

(b) The subcommittee shall review the information submitted by the grower and render a decision within 30 days of receipt of such appeal. The subcommittee shall notify the grower of its decision, accompanied by the reasons for its conclusions and findings.

(c) If the grower is not satisfied with the subcommittee's decision, the grower may further appeal to the full Committee. The grower must submit its written argument to the Committee along with any pertinent information for the Committee's review within 15 days after notification of the subcommittee's decision. The Committee shall respond within 15 days of the receipt of the grower's appeal. The Committee shall inform the grower of its decision, accompanied by the reasons for its decision.

(d) The grower may further appeal to the Secretary, within 15 days after notification of the Committee's findings, if such grower is not satisfied with the Committee's decision. The Committee shall forward a file with all pertinent information related to the grower's appeal. The Secretary shall inform the grower and all interested parties of the Secretary's decision. All decisions by the Secretary are final.

7. A new § 929.148 is added to read as follows:

§ 929.148 State average yield.

The State average yield pursuant to section 929.48(a)(5)(ii) is defined as the yield per State for the year 1997 or the best four years out of the last six years whichever is greater. However, if the estimated commercial sales are greater than the volume computed by this method, the Committee will use the grower's estimated commercial sales.

8. A new § 929.149 is added to read as follows:

§ 929.149 Determination of sales history.

A sales history for each grower shall be computed by using the sales in the highest one of the most recent six seasons of sales. For a grower with less than six seasons of sales, the sales history shall be computed using the highest sales season. Sales history for a grower with no previous sales will be computed according to § 929.48 of the order.

9. A new § 929.158 is added to read as follows:

§ 929.158 Exemptions.

Sales of organic and fresh cranberries shall be exempt from volume regulation provisions. Handlers shall qualify for such exemption by filing the amount of fresh or organic cranberry sales on the grower acquisition listing form. In order to receive an exemption for organic cranberry sales, such cranberries must be certified as such by a third party organic certifying organization acceptable to the Committee.

10. A new § 929.250 is added to read as follows:

Option 1

§ 929.250 Marketable quantity and allotment percentage for the 2000–2001 crop year.

The marketable quantity for the 2000–2001 crop year is set at 5.4 million barrels and the allotment percentage is designated at 85 percent.

Option 2

§ 929.250 Marketable quantity and allotment percentage for the 2000–2001 crop year.

The marketable quantity for the 2000–2001 crop year is set at 5.4 million barrels and the allotment percentage is designated at 71 percent.

Option 3

§ 929.250 Marketable quantity and allotment percentage for the 2000–2001 crop year.

The marketable quantity for the 2000–2001 crop year is set at 6.46 million barrels and the allotment percentage is designated at 85 percent.

Dated: May 24, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–13467 Filed 5–25–00; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–260–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 777–200 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 777–200 series airplanes, that currently requires a one-time inspection to determine the serial numbers of various switch modules on the overhead panel and control stand, and replacement of switch modules with new, improved modules. The existing AD also requires repetitive tests of the cargo fire extinguishing system, and one-time tests of the fuel crossfeed valve, pack, trim air, and alternate flap control switches; and repair or replacement of switch modules with new improved modules, if necessary.

This action would revise the applicability of the existing AD. This action also would require replacement of the existing switch modules with new switch modules; replacement of the existing module assemblies with new module assemblies; or reworked module assemblies; as applicable. This proposal is prompted by the FAA's determination that certain switches are susceptible to contamination. The actions specified by the proposed AD are intended to minimize contamination of the switch contacts and consequent failure of the switches, which, if not corrected, could result in inability of the flight crew to activate the cargo fire extinguishing, fuel, air conditioning, and alternate flap systems.

DATES: Comments must be received by July 14, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–260–AD, 1601 Lind Avenue, SW.,

Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

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:

Mohamed Jamil, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2677; 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 97–NM–260–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. 97–NM–260–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On October 2, 1996, the FAA issued AD 96–20–01, amendment 39–9767 (61 FR 53035, dated October 10, 1996), applicable to certain Boeing Model 777–200 series airplanes, to require a one-time inspection to determine the serial numbers of various switch modules on the overhead panel and control stand, and replacement of switch modules with new, improved modules. This AD also requires repetitive tests of the cargo fire extinguishing system, and one-time tests of the fuel crossfeed valve, pack, trim air, and alternate flap control switches; and repair or replacement of switch modules with new improved modules, if necessary.

That action was prompted by a report indicating that the flight crew received a warning of fire in the forward cargo compartment during flight; later inspection revealed that the metered fire bottles failed to discharge possibly due to contamination in the arming switch of the cargo fire extinguishing system. The requirements of that AD are intended to minimize contamination of the switch contacts and consequent failure of the switches, which, if not corrected, could result in inability of the flight crew to activate the cargo fire extinguishing, fuel, air conditioning, and alternate flap systems.

Actions Since Issuance of Previous Rule

In the preamble to AD 96–20–01, the FAA specified that the actions required by that AD were considered to be interim action. The FAA indicated that it may consider further rulemaking to address other switches that may be susceptible to contamination. The FAA has determined that further rulemaking action is indeed necessary; this proposed AD follows from that determination.

Since the issuance of AD 96–20–01, the FAA has determined that certain switches, including the ten switches previously replaced in accordance with AD 96–20–01, are susceptible to the contamination as a result of particles originating from a component internal to the switches (as discussed in the preamble of AD 96–20–01). Such contamination could result in the failure of the switches and consequent inability of the flight crew to activate the cargo fire extinguishing, fuel, air conditioning, and alternate flap systems. In addition, analysis indicates that the functional tests required by AD 96–20–01 do not provide any additional increase in safety. Therefore, this proposed AD would eliminate the repetitive functional tests of the cargo fire extinguishing system previously required by AD 96–20–01.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 777–31A0019, Revision 4, dated April 27, 2000, which describes procedures for replacing the switch modules in certain pushbutton switches in the flight compartment with new, improved switch modules. Operators would have the option of choosing one of the following methods for replacing the switch modules:

- Method I: Replacement of the existing switch modules with new switch modules (including changing the part number of the reworked module assemblies and control stand assembly).
- Method II: Replacement of the existing switch modules with new switch modules, and replacement of existing module assemblies with new module assemblies or reworked module assemblies (including changing the part number of the control stand assembly).

Accomplishment of the actions specified in the 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 96–20–01 to require accomplishment of the actions specified in the service bulletin described previously. The proposed AD also would revise the applicability of the existing AD to include additional airplanes that are subject to the identified unsafe condition.

Explanation of Change Made to Applicability Statement

Operators should note that the applicability of the proposal differs from the applicability of AD 96–20–01. The applicability has been revised to include additional airplanes (*i.e.,* line positions 41 through 85 inclusive) that are subject to the identified unsafe condition of this AD.

Operators also should note that the applicability of AD 96–20–01 identified the affected airplanes by ''line positions.'' The terminology ''line positions'' refers to airplane line numbers, rather than the manufacturer's tracking numbers for production airplanes. To clarify the affected airplanes, the applicability of this AD has been revised to identify those airplanes by ''line numbers.''

Cost Impact

There are approximately 85 airplanes of the affected design in the worldwide fleet. The FAA estimates that 23 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 20 work hours (for Method I) or 9 work hours (for Method II) per airplane to accomplish the proposed replacement, at an average labor rate of $60 per work hour. Required parts would cost approximately $12,785 per airplane. Based on these figures, the cost impact of the proposed requirements of this AD on U.S. operators is estimated to be $321,655, or $13,985 per airplane (for Method I), or $306,475, or $13,325 per airplane (for Method II).

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9767 (61 FR 53035, dated October 10, 1996), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 97–NM–260–AD. Supersedes AD 96–20–01, Amendment 39–9767.

Applicability: Model 777–200 series airplanes, line numbers 1 through 85 inclusive, 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)(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 minimize contamination of the switch contacts and consequent failure of the switches, which, if not corrected, could result in inability of the flight crew to activate the cargo fire extinguishing, fuel, air conditioning, and alternate flap systems, accomplish the following:

Replacement and Reidentification

(a) For Groups 1 and 2 airplanes identified in Boeing Alert Service Bulletin 777–31A0019, Revision 4, dated April 27, 2000, except as provided in paragraph (b) of this AD, within 12 months after the effective date of this AD, perform the actions in either paragraph (a)(1) or (a)(2) of this AD.

(1) Replace the existing switch modules with new switch modules (including changing the part number of the reworked module assemblies and control stand assembly) in accordance with Method I of the Accomplishment Instructions of Boeing Alert Service Bulletin 777–31A0019, Revision 4, dated April 27, 2000.

(2) Replace the existing switch modules with new switch modules, and replace the existing module assemblies with new module assemblies or reworked module assemblies (including changing the part number of the control stand assembly), in accordance with Method II of the Accomplishment Instructions of Boeing Alert Service Bulletin 777–31A0019, Revision 4, dated April 27, 2000.

Note 2: Replacements accomplished prior to the effective date of this AD in accordance with Boeing Alert Service Bulletin 777–31A0019, Initial Release, dated October 2, 1997; Revision 1, dated March 12, 1998; Revision 2, dated March 25, 1999; or Revision 3, dated January 27, 2000; are acceptable for compliance with the requirements of paragraphs (a)(1) and (a)(2) of this AD.

(b) For Group 2 airplanes identified in Boeing Alert Service Bulletin 777–31A0019, Revision 4, dated April 27, 2000, on which a guarded toggle passenger oxygen switch has been installed: Accomplishment of the actions specified in paragraphs (a)(1) and (a)(2) of this AD is not required for the passenger oxygen switch or window heat/emergency light module assembly.

Spares

(c) As of the effective date of this AD, no person shall install on any airplane, any part listed in the ''Existing Part Number'' column of the table listed in paragraph II.D., ''Existing Parts Accountability,'' of Boeing Alert Service Bulletin 777–31A0019, Revision 4, dated April 27, 2000.

Alternative Methods of Compliance

(d)(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.

(2) Alternative methods of compliance approved previously in accordance with AD 96–20–01, amendment 39–9767, are not considered to be approved as alternative methods of compliance with this AD.

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

Special Flight Permits

(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 May 23, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–13450 Filed 5–26–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

RIN 0720–AA58

TRICARE; Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Payments for Professional Services in Low-Access Locations

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: This proposed rule implements section 716 of the National Defense Authorization Act for Fiscal Year 2000 which allows the Secretary of Defense to authorize higher provider reimbursement than normally allowable, with certain limitations, when necessary to ensure an adequate TRICARE Prime network of qualified providers. This proposed rule also describes additional actions which may be taken under section 731 of the National Defense Authorization Act for Fiscal Year 1996 when TRICARE beneficiaries face very severe limitations on access to needed health care services. In such instances, the Assistant Secretary of Defense (Health Affairs) may authorize higher TRICARE payments than would normally be allowable for professional services in a designated location.

DATES: Public comments must be received by July 31, 2000.

ADDRESSES: TRICARE Management Activity (TMA), Program Development Branch, Aurora, CO 80045–6900.

FOR FURTHER INFORMATION CONTACT: Steve Lillie, Office of the Assistant Secretary of Defense (Health Affairs)/ TRICARE Management Activity, telephone (703) 681–3628.

SUPPLEMENTARY INFORMATION: Questions regarding payment of specific claims under the CHAMPUS allowable charge method should be addressed to the appropriate TRICARE/CHAMPUS contractor.

1. Background on TRICARE and CHAMPUS Payments to Providers

The relationship of DoD payment levels to Medicare's for institutional and professional health care services is central to the ongoing success of TRICARE. Payment levels have significant effects on our ability to implement managed care programs, to assure beneficiary access to the full spectrum of health services, and to do these things cost-effectively. This section reviews the background of the linkage of TRICARE and CHAMPUS rates to Medicare.

It is appropriate that Medicare serve as the model for establishment of payment rates for TRICARE and CHAMPUS. Medicare is by far the largest payer for health services in the country, and as such its payment methodologies are carefully developed by the Executive Branch and the Congress, and subject to intense scrutiny by the public and by providers of health services. When payment rate policy was established by the Congress and the Executive Branch in the 1980s and early 1990s, CHAMPUS, being structurally similar to Medicare, and a considerably smaller program, neither attracted nor warranted the same degree of attention in development of reimbursement methods. Thus, Congress followed the prudent course of directing DoD to adopt or adopt Medicare payment approaches when appropriate.

Legislative initiatives to link DoD and Medicare payment rates for health care began in the early 1980s, with the initial focus on institutional services. DoD was directed to pay hospitals ''* * * to the extent practicable in accordance with the same reimbursement rules as apply to providers of services of the same type under Title XVIII of the Social Security Act'' (Department of Defense Authorization Act, 1984 (Pub. L. 98–94, amending 10 U.S.C. 1079(j)(A)). In 1986, a statutory provision was enacted requiring hospitals participating in Medicare to also participate in CHAMPUS. On the basis of these authorities, a Diagnosis Related Group-Based Payment System was implemented for CHAMPUS in 1987, modeled largely on the Medicare Prospective Payment System that had been implemented in 1983.

Similar initiatives have linked DoD's payment levels for professional services to Medicare. Based on General Accounting Office recommendations, Congress in 1988 directed that growth in CHAMPUS prevailing charges be limited through application of the Medicare Economic Index, which had been used since 1972 as a limit on growth in Medicare physician payments. Beginning in 1991, Congress directed that CHAMPUS payments be analyzed to identify overpriced procedures, and gradually to bring payment levels for those procedures into line with payments under Medicare. TRICARE payment limits are called CMACs (CHAMPUS Maximum Allowable Charges).

In 1992, Medicare implemented the Medicare Fee Schedule, and began basing payment limits on the relative resource requirements of procedures, rather than on historical charges submitted by providers. In keeping with statutory direction, Medicare Fee Schedule amounts have become the target payment amounts for TRICARE. The National Defense Authorization Act for Fiscal Year 1996 codified the linkage to Medicare payment amounts. Regulatory provisions governing this and other TRICARE payments are at 32 CFR 199.14.

In adapting Medicare's payment approaches to TRICARE, it has been vital to recognize the differences in the programs and the populations they serve, and to accommodate those differences in the technical details of the payment methodologies. To illustrate, the services of children's hospitals as well as care for neonates were excluded from the initial implementation of the CHAMPUS DRG-Based Payment System. This was done out of concern that the DRG classification system and payment levels did not adequately distinguish the more complex and resource-intensive children's conditions. In consultation with children's hospital representatives, DoD developed a special additional factor (the ''children's hospital differential'') to uses in the payment methodology so that children's hospital services were appropriately reimbursed. For neonatal services, DoD adopted an industry-developed approach to classify neonates by birthweight to more accurately reimburse their care. Thus, our approach was modeled on Medicare's but modified to reflect the special characteristics of the TRICARE population. Maintaining the special treatment of children's hospitals has required occasional policy changes. For example, recent changes to Medicare's payment of outlier cases have been adopted by TRICARE for most hospitals, but these changes have had an adverse impact on payments to children's hospitals for outlier cases. DoD is working with children's hospital representatives to fix the problem.

For some providers, such as residential treatment centers for children and adolescents, there is no Medicare coverage, and in these cases DoD has developed its own reimbursement approaches, working through the legislative and regulatory processes to find reasonable, cost-effective approaches to payment.

A key principle of DoD's activity in reimbursement design has been the protection of access to services. The statutory linkage of hospital participation in CHAMPUS to Medicare participation provided ample protection

for our beneficiaries, and enabled aggressive implementation of the CHAMPUS DRG-Based Payment System, which saved taxpayers (and beneficiaries) hundreds of millions of dollars per year. Lacking similar protections for physician services, DoD had to proceed more cautiously: Payment levels have been gradually brought into harmony with Medicare's rates over several years, and special provisions are built into the process to stop reducing payments if access was threatened. In a 1996 Report to Congress, we reviewed acceptance of our payment rates, and found that 86 percent of the time, doctors accepted the CMAC as payment in full; 14 percent of services were subject to balance billing. More recently, this has increased to over 94 percent acceptance, with less than 6 percent of services subject to balance billing. For the small proportion of claims that are subject to balance billing, providers are prohibited from collecting more than 115 percent of the CMAC rate, just as in Medicare.

As of February 1999, over 90 percent of CMAC rates are at the same level as Medicare, and fewer than 10 percent are higher than Medicare, because their gradual transition to the Medicare level is not yet complete. Historically, owing to the strict wording of the Appropriations Act provision on physician payment reform, DoD did not have broad discretion to raise payments for services reimbursed at rates below the Medicare level. Although these services (about 60 out of the 7,000 service types reimbursed) represent less than 0.2 percent of DoD spending for health services (roughly $14 million out of $10 billion), it was important that the issue be addressed. The Department issued a final regulation in September 1998 to provide that in these few cases in which the CMAC rate was less than the Medicare rate, the CMAC rate would be increased to the Medicare level. Implementation was in the February 1, 1999 update of payment rates.

In February 1998 the General Accounting Office issued a report, ''Defense Health Care: Reimbursement Rates Appropriately Set; Other Problems Concern Physicians'' (GAO/HEHS–98–80). In conducting the study from March 1997 to January 1998, GAO:

- Reviewed the establishment of CMACs and contracted with actuaries to evaluate the methodology's compliance with statutory requirements;
- Compared Medicare and CMAC rates, and interviewed physicians and beneficiary advocacy groups in four locations; and
- Interviewed TRICARE administrators and staff from TRICARE contractors.

GAO found that the CMAC methodology was sound, and that DoD saves about $770 million annually as a result of CMACs. Rates were found to be generally consistent with Medicare's rates. Physician concerns focused on network discounts off to CMACs, rather than on the acceptability of CMACs themselves. Local market factors were found to be the principal determinants of whether physicians would accept discounts off CMACs. Physicians also expressed concerns about administrative hassles and slow claims payments. GAO suggested that DoD do a better job of informing physicians about payment rates, and informing beneficiaries about balance billing limitations. (Payment rates are now available on the Internet, and the Explanation of Benefits for each claim describes the applicable balance billing limit. Revisions to claims payment timeliness requirements have addressed many concerns about slow payments.)

The amounts paid for health care services in TRICARE are governed by either the payment rules described above or on the basis of discounts from those rates. each regional at-risk TRICARE contractor is required to establish a network of providers where the TRICARE Prime (HMO-type) option is offered, and the contractor attempts to negotiate reduced payment amounts with providers who join the network. Beneficiaries who enroll in TRICARE Prime use the network for most civilian health care services; beneficiaries who do not enroll retain their freedom to use any civilian provider under TRICARE Standard, but can take advantage of the discounted network under TRICARE Extra. DoD thus achieves efficiencies for itself and its beneficiaries while preserving freedom of choice of provider for those who do not wish to use the managed care options of TRICARE.

The evolution of DoD reimbursement reforms over the past 15 years has complemented DoD's managed care initiatives; one could not have proceeded without the other. Continued attention to beneficiary access and satisfaction issues will enable us to continue to assure high quality services for our military families and retirees.

II. Statutory Direction and Regulations

Title 10 U.S.C. section 1079(h) provides statutory authority for TRICARE payments to professional providers. Section 1079(h)(1) mandates that payments shall, to the extent practicable, equal Medicare payment amounts. Section 1079(h)(2) permits exceptions, as determined to be necessary to assure that covered beneficiaries retain adequate access to health care services. Title 10 U.S.C. section 1097b(a) provides statutory authority for higher reimbursement for professional providers than normally allowable when determined necessary to ensure an adequate TRICARE Prime network of qualified providers. Regulations providing for exceptions to normally allowed payment amounts are promulgated by the Secretary if Defense in consultation with the other administering Secretaries.

Regulations governing TRICARE payments to providers are in 32 CFR 199.14, with 32 CFR 199.14(h) addressing individual health care professional and other non-institutional health care providers.

III. Access to Care Issues.

As measured by acceptability of payment rates, access to professional services in TRICARE is at its highest level in history. Over 94 percent of the time, providers accept the TRICARE payment amount as full payment, and do not balance bill the beneficiary. This high rate of acceptance has been achieved despite ongoing reductions in payment amounts over the past several years.

We are concerned that the very high acceptance rate for TRICARE payments to professional providers may mask local access problems. When the CMAC payment approach was implemented in 1992, national payment levels were adjusted to reflect local economic conditions in over two hundred ''localities'' following the Medicare program's technique for recognizing local variations. (This replaced the historical approach taken for CHAMPUS, which based payments on statewide patterns.) Since that time, the number of localities has been reduced to fewer than one hundred, with the introduction of more and more statewide payment localities for Medicare, and hence for TRICARE.

In late 1999, DoD undertook a redemption of one statewide locality—for Alaska—in recognition of significant differences in acceptability of TRICARE payment rates in Anchorage compared to the rest of the state. Overall, CMACs are accepted as full payment over 90 percent of the time in Alaska, but the vast majority of services are provided in Anchorage, so that severe access problems elsewhere are hidden. In an effort to increase acceptability of payment rates outside of Anchorage, DoD created a new locality, including all of Alaska except Anchorage, and, for

the new locality, waived reductions in payment amounts taken since inception of the CMAC payment approach in 1992. This was carried out under authority of 32 CFR 199.14(h)(1)(iv), which describes procedures for calculating CMAC levels for localities, including waiving reductions where access is threatened. The resulting payment levels are about 28 percent higher than they would be otherwise.

There is concern that even these dramatic steps, which use the full extent of DoD's current regulatory authority, may be insufficient in some locations. Accordingly, we are publishing this notice of proposed rulemaking, seeking public comment on possible additional actions to increase access to health care providers in locations where evidence shows that TRICARE beneficiaries lack access to needed health services.

IV. TRICARE Prime Preferred Provider Network Adequacy Issues

TRICARE Managed Care Support (MCS) contractors are responsible for providing an adequate network of qualified providers in all areas of TRICARE regions as designed under the terms of their contracts with the government. The network shall include a complement of civilian professional providers adequate to ensure access to care for TRICARE Prime and Extra beneficiaries. In determining if a network is adequate, it is necessary for the network to include an appropriate mix of primary care and specialists to satisfy demand and to meet the standards established for appointment/waiting time and travel distance for patient access to primary, specialty or emergency care.

Today, the number of providers in the TRICARE network varies across the country—for example, the number of specialists per 1,000 enrollees ranges from as low as 16 to as high as 84. This variation may arise from the availability of military providers, which reduces the need for an extensive civilian network. It may also reflect real problems in network sufficiency, and regional averages may mask further problems at local levels.

While TRICARE Prime Preferred Provider networks are generally considered adequate, there are isolated geographical areas outside major metropolitan areas and within states with limited population bases in which network development is hindered due to allowable TRICARE payments being lower than rates used by competitive commercial health care insurance or other governmental programs. Because CMACs are based on Medicare-prescribed payment localities, and generally are consistent with Medicare reimbursement rates, Congress has authorized the Secretary of Defense to allow higher payments, with certain limitations, when determined necessary to ensure adequacy of TRICARE networks.

V. Overview of the Rule

The proposed rule would add a new § 199.14(h)(1)(iv)(D), authorizing the establishing of higher payment rates for services than would otherwise be allowable, if it is determined that access to health care services is severely impaired. Payment rates could be established through addition of a percentage factor to an otherwise applicable payment amount, or by calculating a prevailing charge, or by using another governmental payment rate. Higher payment rates could be applied to all similar services performed in a locality, or a new locality could be defined for application of the higher payment rates.

The proposed rule would also add a new § 199.14(h)(1)(iv)(E), allowing the reimbursement of higher payment rates for services than would otherwise be allowable, if it is determined necessary to ensure adequate Preferred Provider networks. The amount of reimbursement for a health care service would be limited to the lesser of: (1) An amount equal to the local fee for service charge in the area where the service is provided; or (2) 115 per cent of the otherwise allowable TRICARE rate for the service. The higher rate will be authorized only if all reasonable efforts have been exhausted in attempting to create an adequate network and that it is cost-effective and appropriate to pay the higher rate to ensure an appropriate mix of primary care and specialists in the network.

VI. Issues of particular Interest Regarding the Special Locality-Based Exception to Applicable CMACs To Assure Adequate Beneficiary Access to Care

In addition to seeking public comments on the proposed approach, we particularly invite comment on the following issues:

1. *Nature of the relief from current payment levels.*—The proposed rule would authorize three approaches to increasing payment rates: (1) Addition of a percentage factor to the CMAC amount where access problems are so severe that other measures are insufficient; (2) reverting to the historical method of calculating the prevailing charge for a procedure, but using current billed charges to drive the calculation; or (3) using another government payment rate (such as a state Medicaid program rate). Other approaches are possible, including simply paying of billed charges in a location, as is done currently in many overseas locations. Declaration of a location as ''overseas'' for purpose of an exemption from payment rules would require a statutory change, but we invite comment on the issue.

2. *Extent of availability of relief from payment levels.*—The proposed rule would make payment relief available for specific CPT codes in a location generally described by zip code(s). We invite comment on whether there are locations where access concerns are so pervasive that an authority to increase payment amounts for all services would be appropriate.

3. *Evidence needed to qualify a location for relief.*—The proposed rule would base determinations of severe access problems on the number of providers in the locality who provide the affected services, the number of such providers who are CHAMPUS Participating Providers, the number of CHAMPUS beneficiaries in the locality, availability (including reassignment) of military providers in the location or nearby, and other relevant factors. We invite comment on what factors should be considered to constitute reasonable evidence of severe access problems.

VII. Regulatory Procedures

Executive Order (EO) 12866 requires that a comprehensive regulatory impact analysis be performed on any economically significant regulatory action, defined as one which would result in an annual effect of $100 million or more on the national economy or which would have other substantial impact.

The Regulatory Flexibility Act (RFA) requires that each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities.

This is not a significant regulatory action under the provisions of Executive Order 12866, and it would not have a significant impact on a substantial number of small entities.

The proposed rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 55).

A discussion of the major issues received by public comments will be included with the issuance of the final rule, anticipated approximately 60 days after the end of the comment period.

List of Subjects in 32 CFR Part 199

Claims, Fraud, Healthcare, Health insurance, Individuals with disabilities, Military personnel.

Accordingly, 32 CFR Part 199 is proposed to be amended as follows:

PART 199—[AMENDED]

1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. chapter 55.

2. Section 199.14 is proposed to be amended by adding new paragraphs (h)(1)(iv)(D) and (E) to read as follows:

§ 199.14 Provider reimbursement methods.

* * * * *

(h) * * *

(1) * * *

(iv) * * *

(D) *Special locality-based exception to applicable CMACs to assure adequate beneficiary access to care.* The Director, OCHAMPUS, or designee, may authorize establishment of higher payment rates for services than would otherwise be allowable under paragraph (h)(1) of this section, if the Director, or designee, determines that available evidence shows that access to health care services is severely impaired. For this purpose, such evidence may include consideration of the number of providers in the locality who provide the affected services, the number of such providers who are CHAMPUS Participating Providers, the number of CHAMPUS beneficiaries in the locality, availability (including reassignment) of military providers in the location or nearby, and other relevant factors. Providers or beneficiaries in a locality may submit to the Director, OCHAMPUS, or designee, a petition, together with appropriate documentation regarding relevant factors, for a determination that adequate access to health care services is severely impaired. The Director, OCHAMPUS, or designee, will consider and respond to all petitions. A decision to authorize a higher payment amount is subject to review and termination or modification by the Director at any time if circumstances change so that adequate access to health care services would no longer be severely impaired. A decision by the Director, or designee, to authorize, not authorize or terminate/modify authorization of higher payment amounts is not subject to the appeal anbd hearing procedures of § 199.10.

(*1*) *Establishing the higher payment rate(s).* When the Director, OCHAMPUS, or designee, determines that beneficiary access to health care services in a locality is severely impaired, the Director or designee may establish the higher payment rate(s) as he or she deems appropriate and cost-effective through one of the following methodologies to assure adequate access:

(*i*) A percentage factor may be added to the otherwise applicable payment amount allowable under paragraph (h)(1) of this section;

(*ii*) A prevailing charge may be calculated, by applying the prevailing charge methodology of paragraph (h)(1)(ii) of this section to a specific locality; or

(*iii*) Another governmental payment rate may be adopted, for example, an applicable state Medicaid rate.

(*2*) *Application of higher payment rates.* Higher payment rates defined under paragraph (h)(1)(iv)(D) of this section may be applied to all similar services performed in a locality, or, if circumstances warrant, a new locality may be defined for application of the higher payment rates. Establishment of a new locality may be undertaken where access impairment is localized and not pervasive across the existing locality. Generally, establishment of a new locality will occur when the area is remote so that geographical characteristics and other factors (such as frequent and predominant climatic conditions, etc.) significantly impair egress/ingress, through normal means of civilian transportation, to health care services routinely available within the existing locality.

(*E*) *Special Locality-Based Exception to Applicable CMACs to Ensure an Adequate TRICARE Prime Preferred Provider Network of Qualified Professional Providers.* The Director, OCHAMPUS, or designee, may authorize any TRICARE managed care support contractor to reimburse health care providers participating in TRICARE Prime Preferred Provider Network a rate or rate(s) higher than would otherwise be allowable under paragraph (h)(1) of this section, if the Director, or designee, determines that available evidence shows that application of the higher rate(s) is necessary to ensure the availability of an adequate number and mix of qualified health care providers in a network in a specific locality. This authority may only be used to ensure adequate networks in those localities designated by the Director, or designee, as requiring TRICARE Preferred Provider networks not in localities in which the managed care support contractor has voluntarily proposed to create TRICARE Preferred Provider networks. Appropriate evidence for this purpose, may include consideration of the number of available primary care and specialist providers in the network locality, availability (including reassignment) of military providers in the location or nearby, the appropriate mix of primary care and specialists needed to satisfy demand and meet appropriate patient access standards (appointment/waiting time, travel distance, etc.), what reasonable efforts have been made to create an adequate network, other cost-effective alternatives, and other relevant factors. The Director, OCHAMPUS, or designee, may establish procedures by which exceptions to applicable CMACs are requested and approved or denied under paragraph (h)(1)(iv)(E) of this section. A decision by the Director, or designee, to authorize or deny an exception is not subject to the appeal and hearing procedures of § 199.10. When the Director, OCHAMPUS, or designee, determines that it is necessary and cost-effective to approve a higher rate or rates in order to ensure the availability of an adequate number of qualified health care providers in a network in a specific locality, the higher rate may not exceed the lesser of the following:

(*1*) The amount equal to the local fee for service charge for the service in the service area in which the service is provided as determined by the Director, OCHAMPUS, or designee, based on one or more of the following payment rates:

(*i*) Usual, customary, and reasonable;

(*ii*) The Health Care finance administration's Resource Based Relative Value Scale;

(*iii*) Negotiated fee schedules;

(*iv*) Global fees; or

(*v*) Sliding scale individual fee allowances.

(2) The amount equal to 115 percent of the otherwise allowable charge under paragraph (h)(1) of the section for the service.

* * * * *

Dated: May 23, 2000.

L.M. Bynum,

Alternate Federal Register Notice Liaison Officer, Department of Defense.

[FR Doc. 00–13406 Filed 5–26–00; 8:45 am]

BILLING CODE 5001–10–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH135–1b; FRL–6600–9]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve an October 6, 1999, request from Ohio for a revision to the Ohio State Implementation Plan (SIP) which governs transportation conformity. In the Final Rules section of this **Federal Register**, EPA is approving as described herein, the State's SIP revision, as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If we receive no adverse comments in response to that direct final rule we plan to take no further activity in relation to this proposed rule. If EPA receives significant adverse comments, in writing, which have not been addressed, we will withdraw the direct final rule and address all public comments received in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document.

DATES: Written comments must be received on or before June 29, 2000.

ADDRESSES: Send written comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

You may inspect copies of the documents relevant to this action during normal business hours at the following location: Regulation Development Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

Please contact Patricia Morris at (312) 353–8656 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Patricia Morris, Environmental Scientist, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8656.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' are used we mean EPA.

This **SUPPLEMENTARY INFORMATION** section is organized as follows:

What action is EPA taking today?

Where can I find more information about this proposal and the corresponding direct final rule?

What Action Is EPA Taking Today?

In this action, we are proposing to approve a revision to the Ohio State Implementation Plan for transportation conformity. The transportation conformity SIP revisions enable the State of Ohio to implement and enforce the Federal transportation conformity requirements at the State or local level. The amendments to Ohio Administrative Code reflect the third set of EPA revisions to the federal transportation conformity rules. These rule changes will assure conformity of transportation improvement programs, transportation plans and transportation projects to the State Implementation Plan (SIP). EPA is only approving certain sections of the rules submitted by Ohio for transportation conformity.

Where Can I Find More Information About This Proposal and the Corresponding Direct Final Rule?

For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: April 14, 2000.

Elissa Speizman,

Acting Regional Administrator, Region 5.

[FR Doc. 00–13335 Filed 5–26–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[CO–001–0037b; FRL–6706–6]

Approval and Promulgation of Air Quality Implementation Plans; Colorado; Designation of Areas for Air Quality Planning Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Governor of the State of Colorado on September 22, 1997, for the purpose of establishing a redesignation for the Canon City area from nonattainment to attainment for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 microns (PM_{10}) under the 1987 standards. The Colorado Air Pollution Control Division's (Colorado) submittal, among other things, documents that the Canon City area has attained the PM_{10} national ambient air quality standards (NAAQS), requests redesignation to attainment, and includes a maintenance plan for the area demonstrating maintenance of the PM_{10} NAAQS for ten years. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is approving the State's submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and redesignation and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

DATES: Comments must be received in writing on or before June 29, 2000.

ADDRESSES: Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, Environmental Protection Agency (EPA), Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202. Copies of the State documents relevant to this action are available for public inspection at the Colorado Department of Public Health and Environment, Air Pollution Control Division, 4300 Cherry Creek Drive South, Denver, Colorado 80222–1530.

FOR FURTHER INFORMATION CONTACT: Cindy Rosenberg, EPA, Region VIII, (303) 312–6436.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations section of this **Federal Register**.

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

Dated: May 18, 2000.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

[FR Doc. 00–13331 Filed 5–26–00; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 80

[OST Docket No. 2000–7401]

RIN 2105–AC84

Credit Assistance for Surface Transportation Projects

AGENCY: Office of the Secretary, Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: The DOT proposes to revise certain provisions of the regulations concerning the Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA) as follows: Assign specific weights to each of the eight statutory selection criteria; specify that loan servicing fees are to be paid by the borrower; modify the time period for audited financial statements from 120 days to 180 days; provide that, consistent with the statutory intent of the TIFIA program, administrative offsets will be employed only in cases of fraud, misrepresentation, or criminal acts, but will not be employed as a result of revenue shortfalls; clarify that funds will be disbursed based on the project's financing needs; clarify that the borrower must satisfy the statute's investment grade rating requirement prior to both the execution of a credit agreement and the funding of each secured loan disbursement; and clarify that the borrower must obtain ongoing credit surveillance for the life of the TIFIA credit instrument. These proposed revisions are made at the DOT's initiative to clarify certain aspects of the regulations based on experience from the first year of program implementation.

DATES: Comments must be submitted on or before June 29, 2000.

ADDRESSES: Your signed, written comments must refer to the docket number appearing at the top of this document and must be submitted to the Docket Clerk, US DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Bryan Grote, Office of the Assistant Secretary for Budget and Programs, (202) 366–9656; Ms. Stephanie Kaufman, Office of Budget and Programs Performance, (202) 366–9649; or Mr. Terence Carlson, Office of the General Counsel, (202) 366–9161. Department of Transportation, 400 Seventh Street, SW., Washington, DC, 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays. Hearing-and speech-impaired persons may access this number via TTY by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may access all comments received by the US DOT Dockets, by using the universal resource locator (URL) http://dms.dot.gov. It is available 24 hours each day, 365 days each year. Please follow the instructions on-line for more information and help. An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's home page at http://www.nara.gov/fedreg and the Government Printing Office's web page at http://www.access.gpo.gov/nara.

Additional general information on the TIFIA program and credit assistance for surface transportation projects is available on the TIFIA web site at http://tifia.fhwa.dot.gov.

Background

The Transportation Equity Act for the 21st Century (TEA–21), Public Law 105–178, 112 Stat. 107, created the Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA). The TIFIA, as amended by section 9007, Public Law 105–206, 112 Stat. 685, 849 and codified at 23 U.S.C. 181–189, authorizes the Department of Transportation (DOT) to provide credit assistance in the form of secured direct loans, lines of credit, and loan guarantees to public and private sponsors of eligible surface transportation projects. The TIFIA regulations (49 CFR part 80) provide specific guidance on the program requirements. In addition, the TIFIA Program Guide is available for more general information. Both funding (budget authority) and credit assistance authority for this program are limited, and projects seeking assistance are evaluated and selected by the DOT on a competitive basis. Following selections, term sheets are issued and credit agreements are developed through negotiations between the project sponsors and the DOT.

The TIFIA authorizes annual levels for both credit assistance (as measured by the principal amounts of the secured loans, guaranteed loans, or lines of credit) and subsidy amounts (*i.e.,* the amounts of budget authority available to cover the estimated present value of the Government's expected losses associated with the provision of credit instruments, net of any fee income). Funding for the subsidy amounts is provided in the form of budget authority appropriated from the Highway Trust Fund, other than the Mass Transit Account.

Total Federal credit assistance amounts authorized for the TIFIA program are $1.8 billion in FY 2000; $2.2 billion in FY 2001; $2.4 billion in FY 2002; and $2.6 billion in FY 2003. These amounts lapse if they are not awarded by the end of the fiscal year for which they are provided.

To support these credit assistance amounts, the TIFIA provides budget authority to fund the required subsidy amounts of $90 million in FY 2000; $110 million in FY 2001; $120 million in FY 2002; and $130 million in FY 2003. Of these amounts, the Secretary may use up to $2 million for each of the fiscal years for administrative expenses. Any budget authority that is not obligated in the fiscal year for which it is authorized remains available for obligation in subsequent years.

The TIFIA budget authority is subject to an annual obligation limitation that may be established in appropriations law. Like the funding for certain other administrative or allocated programs (not apportioned to the States) that are subject to the annual Federal-aid highway obligation limitation, the amount of TIFIA budget authority that is available to fund credit instruments in a given year may be less than the amount originally authorized for that year. The extent of any budget authority reduction will depend on the ratio of the obligation limitation, which is determined annually in the appropriations process, to the contract authority for the Federal-aid highway program, which was established in TEA–21. For FY 2000, this reduction is 12.9 percent, or $11.6 million. The credit assistance amounts authorized in the TIFIA are not subject to this annual reduction.

The DOT expects that approximately $81 million in net budget authority will be available in FY 2000 to fund the TIFIA credit assistance program. This approximation takes into account unused FY 1999 budget authority, the

reduction in FY 2000 budget authority due to the annual obligation limitation, and administrative expenses authorized by the TIFIA statute. The amount of net budget authority available for new TIFIA commitments in FY 2000 may also be affected by credit subsidy adjustments to obligations for prior TIFIA commitments.

The total amount of Federal credit assistance available for new TIFIA commitments in FY 2000 is about $1.673 billion, which is less than the $1.8 billion authorization level as a result of TIFIA contingent commitments made in FY 1999. The size of the annual TIFIA program may be limited by either budget authority or credit assistance authorization, depending on the risk assessments made for individual projects selected for that fiscal year's program.

Credit Instruments

Three types of credit instruments are permitted under the TIFIA: secured direct loans, loan guarantees, and lines of credit, as provided for generally at 23 U.S.C. 183 and 184. More specific terms for individual projects will be determined during negotiations between the DOT and successful applicants.

Eligible Projects

Highway, rail, transit, and intermodal projects may receive credit assistance under the TIFIA. See the definition of ''project'' in 23 U.S.C. 181(9) and 49 CFR 80.3 for a description of eligible projects.

Threshold Criteria

Certain threshold criteria must be met by projects seeking TIFIA assistance. These eligibility criteria are detailed in 23 U.S.C. 182(a) and 49 CFR 80.13.

Limitations on Assistance

The amount of credit assistance that the DOT may provide to a project under the TIFIA is limited to not more than 33 percent of eligible project costs.

Rating Opinions

A project sponsor must submit a preliminary rating opinion letter from one or more of the nationally recognized credit rating agencies with its application, as detailed in 23 U.S.C. 182(b)(2)(B) and 49 CFR 80.11. The preliminary rating opinion letter will confirm the potential for the project's senior debt obligations to achieve an investment grade rating and provide an assessment of the default risk on the requested TIFIA credit instrument. Projects selected for TIFIA credit assistance must obtain an investment grade rating on the senior debt obligations and a revised opinion of the default risk on the TIFIA credit instrument before the DOT will execute a credit agreement and disburse funds.

Application Process

Detailed application information is contained in the TIFIA Program Guide and the TIFIA Application for Credit Assistance, which are posted on the TIFA web site at http://tifia.fhwa.dot.gov or which may be obtained through one of the DOT program contacts listed in this notice. From time to time, the TIFIA Program Guide and Application may be revised to reflect program clarifications. Applicants are encouraged to refer to the TIFIA web site or to TIFIA program contacts for information regarding recent program clarifications.

Fees

The DOT requires payment of a non-refundable fee with each credit assistance application under the TIFIA. For FY 2000, the DOT will assess an application fee of $5,000 for each project applying for credit assistance; however, there will be no additional credit processing fee for FY 2000. For fiscal years 2001 and beyond, the DOT may adjust the amount of the application fee and will determine the appropriate amount of any potential credit processing fee or any other fee based on program implementation experience. The DOT will publish these amounts in each **Federal Register** solicitation for applications.

Proposed Clarifications

The Timing of Loan Disbursements

The DOT clarifies that for each TIFIA credit instrument, the DOT will execute a credit agreement (*i.e.,* loan agreement, guarantee agreement, or line of credit agreement) with the project sponsor. The credit agreement will specify the total amount of credit assistance to be made available, the timing of the loan disbursements, and the terms and conditions, including security provisions, pursuant to which the funding is provided. Secured loan funds will be advanced according to a project schedule included in the credit agreement based on the project's financing needs.

Loan Servicing Fees

The TIFIA statute allows the Secretary to ''establish fees at a level sufficient to cover all or a portion of the costs to the Federal Government'' of providing credit instruments. Under this clarification, the DOT will require each borrower to pay servicing fees for each credit instrument approved for funding. Separate fees will apply for each type of credit instrument (*e.g.,* a loan guarantee, a secured loan with a single disbursement, a secured loan with multiple disbursements, or a line of credit), depending on the costs of the credit instrument, as determined by the Secretary.

Administrative Offset

Some State and local government representatives as well as private project sponsors have informally indicated to the DOT that they would be reluctant to enter into a TIFIA credit agreement because they believe that the DOT would administratively offset amounts owed to the DOT should a project go into default. This proposed rulemaking clarifies that, consistent with the statutory intent of the TIFIA program, administrative offsets will be employed only in cases of fraud, misrepresentation, false claims, or similar criminal acts or acts of malfeasance or wrongdoing, and will not be employed as a result of revenue shortfalls.

While an administrative offset of Federal funds for moneys otherwise due a State or local government or private entity is available to the DOT under Federal common law, the DOT believes that use of an administrative offset to insure against project-related credit losses would substantially interfere with or defeat the purposes of the TIFIA program.

Investment Grade Ratings

The DOT clarifies that the requirement that the project's senior debt obligations have an investment grade rating from a major credit rating agency is a condition both for the DOT's execution of the credit agreement and for its funding of each loan disbursement under a secured loan agreement. The DOT also wishes to clarify that the borrower must provide for ongoing credit surveillance from a major credit rating agency throughout the life of the TIFIA credit instrument. Borrowers will provide any credit surveillance reports to the DOT as soon as they become available.

Proposed Changes

Selection Criteria

The current TIFIA rule specifies, in § 80.15(c), that ''the Secretary shall evaluate each project's distinct public benefits and contribution to program goals according to each of the selection criteria specified in this section.'' With this rulemaking, the DOT assigns specific weights to the eight selection criteria established in 23 U.S.C.

182(b)(2). The DOT proposes to give the highest weight, 20 percent, to each criterion it believes is most closely aligned with the objectives of the program: Demonstration of national or regional significance; extent of private participation; and environmental impacts. The next two criteria, each of which is assigned a weight of 12.5 percent, are also critical to achieving the objectives of the program: Project creditworthiness and project acceleration. Given that this program already has a threshold requirement for creditworthiness, the DOT considers 12.5 percent to be an adequate weight. (For a project to be selected to receive TIFIA assistance, it must first obtain a preliminary rating opinion letter from a nationally recognized rating agency indicating that the project has the potential of achieving an investment grade rating. Once selected, a project must obtain and maintain an investment grade credit rating on its senior debt obligations prior to the release of TIFIA funds.) Finally, the DOT proposes to assign a weight of 5 percent to each of the remaining criteria: Use of new technologies; consumption of budget authority; and reduction of Federal grant assistance.

Reporting Requirements

The DOT proposes to increase the number of days for submitting an annual project performance report and audited financial statements from 120 days to 180 days following the recipient's fiscal year-end for each year during which the recipient's obligation to the Federal Government remains in effect. The 180-day reporting requirement is consistent with industry practice for financial reporting.

Rulemaking Analysis and Notices

The 30-day comment period is necessary to help ensure that these rule modifications can be implemented in time for the application cycle anticipated to begin before the end of the current fiscal year. Given the need for the DOT to solicit and evaluate applications, make selections, negotiate term sheets and obligate funds, the usual 60-day comment period is both impracticable and contrary to public interest and Congressional intent.

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination using the docket number appearing at the top of this document in the docket room at the above address. The DOT will file comments received after the comment closing date in the docket and will consider late comments to the extent practicable. The DOT may, however, issue a Final Rule at any time after the close of the comment period. In addition to late comments, the DOT will also continue to file in the docket relevant information becoming available after the comment closing date. Interested persons should continue to examine the docket for new material.

Executive Order 12866 (Regulatory Planning And Review) and DOT Regulatory Policies and Procedures

The DOT has determined that issuance of a rule is necessary to implement the TIFIA, and has concluded that this action does not represent a ''significant regulatory action'' within the meaning of DOT's Regulatory Policies and Procedures (44 FR 11034, February 26, 1979) and Executive Order 12866.

This section summarizes the estimated economic impact of the proposed rule. This regulation would affect only those entities that voluntarily elect to apply for TIFIA assistance and are selected to receive assistance through a Federal credit instrument. It would not impose any direct involuntary costs on non-participants. These proposed changes would have a minimal economic impact. The DOT requests comments, information, and data from the public and potential users concerning the economic impact of the proposed changes to this rule and the TIFIA program.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (Public Law 96–354, 5 U.S.C. 601–612) requires an assessment of the extent to which proposed rules will have an impact on small business or other small entities. Consistent with the Regulatory Flexibility Act, the DOT has evaluated the effects of this rule on small business or other small entities. The NPRM proposes to clarify certain provisions of the Federal credit assistance program for surface transportation projects. As noted above, the proposed revisions would have minimal economic impact. The DOT hereby certifies that this action would not have significant economic impact on a substantial number of small entities. The DOT invites public comment on this determination.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Public Law 104–4) requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually. This proposed rule would not impose a Federal mandate resulting in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. This rule clarifies certain provisions of a Federal credit assistance program.

Executive Order 12372 (Intergovernmental Review)

Given that projects receiving assistance under the TIFIA may fall under the programmatic jurisdiction of the Federal Highway Administration, the Federal Railroad Administration, or the Federal Transit Administration, the relevant Catalog of Federal Domestic Assistance Program Numbers are: 20.205 highway planning and construction; 20.310 rail rehabilitation and improvement; and 20.500 transit capital improvement grants. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

This document does not contain information collection requirements for the purposes of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

National Environmental Policy Act

As specified under section 1503 of the TIFIA, and codified under section 182(c)(2) of title 23, U.S.C., each project obtaining assistance under this program is required to adhere to the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*). This rulemaking simply proposes to clarify the procedures to apply for credit assistance and therefore, by itself, will not have any effect on the quality of the environment.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 dated August 4, 1999, and it has been determined this action does not have substantial direct effect or sufficient federalism implications on States that would limit the policy-making discretion of the States. Nothing in this document directly preempts any State law or regulation.

Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in section 3(a) and 3(b)(2) of

Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

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

Executive Order 12630 (Taking of Private Property)

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

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document may be used to cross-reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 80

Credit programs-transportation, Highways and roads, Mass transit, Railroads, Investments, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Office of the Secretary of Transportation proposes to amend 49 CFR part 80 as set forth below:

PART 80—[AMENDED]

1. The authority citation for part 80 continues to read as follows:

Authority: Secs. 1501 *et seq.*, Pub.L. 105–178, 112 Stat. 107, 241, as amended; 23 U.S.C. 181–189 and 315; 49 CFR 1.48, 1.49, and 1.51.

2. Amend § 80.3 by adding the definition *administrative offset* and by placing it in alphabetical order to read as follows:

§ 80.3 Definitions.

* * * * *

Administrative offset means the right of the government to apply moneys held by the government and otherwise owed to a debtor for the extinguishment of claims due the government from the debtor.

* * * * *

3. Add § 80.5(g) to read as follows:

§ 80.5 Limitations on assistance.

* * * * *

(g) The Secretary shall fund a secured loan based on the project's financing needs. The timing of such loan disbursements shall be established in the credit agreement.

4. Revise § 80.11 to read as follows:

§ 80.11 Investment-grade ratings.

(a) At the time a project sponsor submits an application, the DOT shall require a preliminary rating opinion letter. This letter is a conditional credit assessment from a rating agency that provides a preliminary indication of the project's overall creditworthiness and that specifically addresses the potential of the project's senior debt obligations (those obligations having a lien senior to that of the TIFIA credit instrument on the pledged security) to achieve an investment-grade rating.

(b) The DOT shall disburse funds under a secured loan or line of credit or extend a loan guarantee only after the project's senior obligations have obtained an investment grade rating and a credit agreement has been executed. In cases where the TIFIA credit instrument has a senior lien on the pledged security, an investment grade rating must be assigned to the TIFIA obligations. For a secured loan, the execution of a credit agreement and the funding of each loan disbursement thereunder shall be conditioned on the receipt of an investment grade rating on the project's senior debt obligations by a nationally recognized credit rating agency.

(c) * * *

(d) The project sponsor must provide, at its own expense, ongoing credit surveillance of its project and debt obligations from a nationally recognized credit rating agency throughout the life of its TIFIA credit instrument. The project sponsor will share any credit surveillance reports with the DOT as soon as they are available.

5. Amend § 80.15 by revising paragraph (a), by removing paragraphs (c) and (d); and by redesignating paragraph (e) as paragraph (c) to read as follows:

§ 80.15 Selection criteria.

(a) The Secretary shall assign weights as indicated to the following eight selection criteria in evaluating and selecting among eligible projects to receive credit assistance:

(1) The extent to which the project is nationally or regionally significant, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system (20 percent);

(2) The creditworthiness of the project, including a determination by the Secretary that any financing for the project has appropriate security features, such as a rate covenant, to ensure repayment (12.5 percent);

(3) The extent to which such assistance would foster innovative public-private partnerships and attract private debt or equity investment (20 percent);

(4) The likelihood that such assistance would enable the project to proceed at an earlier date than the project would otherwise be able to proceed (12.5 percent);

(5) The extent to which the project uses new technologies, including Intelligent Transportation Systems (ITS), that enhance the efficiency of the project (5 percent);

(6) The amount of budget authority required to fund the Federal credit instrument made available (5 percent);

(7) The extent to which the project helps maintain or protect the environment (20 percent); and

(8) The extent to which such assistance would reduce the contribution of Federal grant assistance to the project (5 percent).

* * * * *

6. Revise § 80.17 to read as follows:

§ 80.17 Fees.

(a) The DOT will require a non-refundable application fee for each project applying for credit assistance under the TIFIA. The DOT may also require an additional credit processing fee for projects selected to receive TIFIA assistance. Any required application initiation or credit processing fee must be paid by the project sponsor applying for TIFIA assistance and cannot be paid by another party on behalf of the project sponsor. The proceeds of any such fees will equal a portion of the costs to the Federal Government of soliciting and evaluating applications, selecting projects to receive assistance, and negotiating credit agreements. For FY 2000, the DOT will require payment of a fee of $5,000 for each project applying for credit assistance under the TIFIA, to be submitted concurrently with the formal application. The DOT will not impose any credit processing fees for FY 2000. For each application and approval cycle in FY 2001 and beyond, the DOT may adjust the amount of the application fee and will determine the appropriate amount of the credit processing fee based on program implementation experience. The DOT

will publish these amounts in each **Federal Register** solicitation for applications.

(b) Applicants shall not include application initiation or credit processing fees or any other expenses associated with the application process (such as fees associated with obtaining the required preliminary rating opinion letter) among eligible project costs for the purpose of calculating the maximum 33 percent credit amount referenced in § 80.5(a).

(c) If, in any given year, there is insufficient budget authority to fund the credit instrument for a qualified project that has been selected to receive assistance under TIFIA, the DOT and the approved applicant may agree upon a supplemental fee to be paid by or on behalf of the approved applicant at the time of execution of the term sheet to reduce the subsidy cost of that project. No such fee may be included among eligible project costs for the purpose of calculating the maximum 33 percent credit amount referenced in § 80.5(a).

(d) The DOT will require borrowers to pay servicing fees for each credit instrument approved for funding. Separate fees may apply for each type of credit instrument (*e.g.,* a loan guarantee, a secured loan with a single disbursement, a secured loan with multiple disbursements, or a line of credit), depending on the costs of servicing the credit instrument as determined by the Secretary. Such fees will be set at a level to enable the DOT to recover all or a portion of the costs to the Federal Government of TIFIA credit instruments.

7. Revise § 80.19 to read as follows:

§ 80.19 Reporting requirements.

At a minimum, any recipient of Federal credit assistance under this part shall submit an annual project performance report and audited financial statements to the DOT within 180 days following the recipient's fiscal year-end for each year during which the recipient's obligation to the Federal Government remains in effect. The DOT may conduct periodic financial and compliance audits of the recipient of credit assistance, as determined necessary by the DOT. The specific credit agreement between the recipient of credit assistance and the DOT may contain additional reporting requirements.

8. Add § 80.21 to read as follows:

§ 80.21 Use of administrative offset.

The DOT will not apply an administrative offset to recover any losses to the Federal Government resulting from project risk the DOT has assumed under a TIFIA credit instrument. The DOT may, however, use an administrative offset in cases of fraud, misrepresentation, false claims, or similar criminal acts or acts of malfeasance or wrongdoing.

Issued on: May 15, 2000.

Rodney E. Slater,

Secretary of Transportation.

[FR Doc. 00–13271 Filed 5–26–00; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[I.D. 051900D]

Western Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting/public hearings.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold its 104th meeting June 13 through June 16, 2000, in Makena, HI. Public hearings will be held on criteria to allow new entry into the Mau Zone limited entry bottomfish fishery in the Northwest Hawaiian Islands (NWHI) and on amendments to the Bottomfish and Seamount Groundfish, Crustaceans, and Precious Corals Fishery Management Plans (FMPs).

DATES: The Council's Standing Committees will meet on June 13, 2000. The full Council meeting will be held on June 14–16, 2000, from 8:30 a.m. to 5 p.m. The public hearings will be held on June 16, 2000. See **SUPPLEMENTARY INFORMATION** for specific dates and times for these meetings and the hearings.

ADDRESSES: The Council meeting will be held at the Prince Ballroom at the Maui Prince Hotel, 5415 Makena Alanui, Makena, HI 96753; telephone 808–874–1111. Copies of documents that provide information on options to be discussed at the public hearings are available from the Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI, 96813.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone 808–522–8220.

SUPPLEMENTARY INFORMATION:

Dates and Times

Committee Meetings

The following Standing Committees of the Council will meet on June 13, 2000. Enforcement/Vessel Monitoring System (including meeting with industry) from 7:30 a.m. to 9:30 a.m.; International Fisheries/Pelagics from 9:30 a.m. to 11:30 a.m.; Executive/Budget and Program from 11:30 a.m. to 1:30 p.m.; Precious Corals from 1:30 p.m. to 3 p.m.; Crustaceans from 1:30 p.m. to 3 p.m.; Bottomfish from 3 p.m. to 4:30 p.m; Ecosystem and Habitat from 3 p.m. to 4:30 p.m.; Fishery Rights of Indigenous People from 4:30 p.m. to 5:30 p.m.; and Joint Bottomfish, Crustacean, Ecosystem and Habitat, Precious Corals, and Fishery Rights of Indigenous People from 5:30 p.m. to 6:30 p.m.

Public Hearings

The public hearing on new entry crtieria for the Mau Zone bottomfish fishery will be held on Friday, June 16, 2000, at 9:30 a.m. The public hearing on amendments to the Bottomfish and Seamount Groundfish, Crustaceans, and Precious Corals FMPs will be held on June 16, 2000, at 2 p.m.

The agenda during the full Council meeting will include the items listed. In addition, the Council will hear recommendations from its advisory panels, plan teams, scientific and statistical committee, and other ad hoc groups. The order in which agenda items are addressed may change. The Council will meet as late as necessary to complete scheduled business.

Agenda

1. Introductions

2. Approval of Agenda

3. Approval of 103rd Meeting Minutes

4. Island Reports

A. American Samoa
B. Guam
C. Hawaii
D. Commonwealth of the Northern Mariana Islands (CNMI)

5. Fishery Agency and Organization Reports

A. Department of Commerce
(1) NMFS
(a) Southwest Region, Pacific Island Area Office
(b) Southwest Fisheries Science Center, La Jolla and Honolulu Laboratories
(2) NOAA General Counsel, Southwest Region
B. Department of the Interior
(1) U.S. Fish and Wildlife Service (FWS)

6. Enforcement

A. U.S. Coast Guard activities
B. NMFS activities
C. Commonwealth, Territories, and State Activities
D. Cooperative agreements for Guam/CNMI
E. Status of violations

7. Vessel Monitoring System (VMS)

A. Regional VMS report
B. National VMS efforts
C. Report on Forum Fisheries Agency's VMS program

8. Ecosystems and Habitat

A. Federal and state initiatives
(1) U.S. Coral Reef Task Force National Action Plan
(2) Congressional coral reef bills
(3) Federal agencies (NMFS, FWS)
(4) Local agencies (American Samoa, Guam, Hawaii, CNMI)
B. Habitat issues
(1) Tern Island (French Frigate Shoals)
(2) Midway
(3) Research (including the *DeepWorker* subs)
C. Advisory body comments on the Coral Reef Ecosystem FMP preferred alternatives
(1) Coral Reef Ecosystem Plan Team
(2) Ecosystem and Habitat Advisory Panel
(3) Bottomfish Plan Team/Advisory Panel
(4) Crustaceans Plan Team/Advisory Panel
(5) Precious Corals Plan Team/Advisory Panel
(6) Native and Indigenous Rights Advisory Panel
D. Organization of coral reef FMP
E. Other issues

9. Fishery Rights of Indigenous People

A. Status of Marine Conservation Plans
B. Status of Community Development Program/Demonstration Projects, including eligibility criteria
C. Pelagic and crustacean limited entry permits for Community Development Program
D. Access to Military Shore Installations

10. Pelagic Fisheries

A. 1st quarter 2000 Hawaii and American Samoa longline fishery report
B. Island Issues
(1) Status of American Samoa framework measure
(2) Domestic fishery development—S-K preliminary results
C. Shark management (1) Shark catch and disposition in 1st Quarter of 2000 in the Hawaii Longline fishery
(2) Blue shark stock assessment
(3) Cultural study of sharks and shark fishing in the Western Pacific (WP) Region
(4) Pelagic FMP amendment for shark management
(5) State of Hawaii legislation for shark finning
(6) State of Hawaii management of shark fishing
(7) Shark management in rest of WP Region
(8) Federal shark fin legislation
(9) Blue Shark Utilization
(10) Research priorities
D. Seabird management
(1) Status of FMP amendment to mitigate seabird take
(2) Status of the Biological Opnion on Short-tailed Albatross take
E. Sea turtle management
(1) Status of litigation
(2) Environmental Assessment
(3) Federal import embargoes related to incidental sea turtle catches
(4) Turtle research/Azores project update
(5) Observer program
F. International
(1) Outcome of Multilatteral High Level Conference 6
(2) Tongan Highly Migratory Species Fishery Management
Plans
G. Purse seining in the Central Western Pacific and untethered Fish Aggregation Device fishing

11. Bottomfish Fisheries

A. 1999 Annual Report/Status of the fishery
B. New entry criteria for Mau Zone
C. Status of Litigation
D. Research Plan
E. Public hearing on new entry criteria for the Mau Zone bottomfish fishery.

The Council intends to develop a framework amendment to the FMP for Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region. The amendment will establish criteria for new entry into the limited access Mau Zone bottomfish fishery in the Northwest Hawaiian Islands. In developing the framework document, the Council will consider a range of alternatives and impacts on Northwest Hawaiian Island bottomfish fishery. Currently, there are no Federal regulations that specify how new permits are to be issued in the Mau Zone once the number of vessels in the Zone falls below the target number, which is now established at 10 permits. The Council seeks to solicit public comment and input on eligibility criteria including but not limited to the following: weighted point system based on past participation in the main and NWHI, free and limited transferability of permits, and a lottery system.

12. Crustacean Fisheries

A. Draft 1999 Annual Report
B. 2000 NWHI lobster fishery/harvest guidelines/population assessment
C. Consideration of amendment to replace lobster assessment model
D. Research plans
E. Possible additions to Crustaceans management unit species (e.g., deepwater shrimp, crabs)
F. Status of litigation
(1) Experimental Fishing Permit

13. Precious Corals

A. Status of framework amendment
B. Stock monitoring
C. Research plans (NWHI *DeepWorker* sub surveys)
D. American Deepwater Engineering requests
(1) Revise quotas for selective gear harvest
(2) Expand beds based on new data

14. Program Planning

A. Sustainable Fishery Act amendment revisions
(1) Bycatch (bottomfish, pelagics)
(2) Overfishing (bottomfish, crustaceans, pelagics)
(3) Fishing communities
(4) Plan Team recommendations
B. Draft amendments to include CNMI and Pacific Remote Island Areas (PRIA) in the bottomfish, precious corals and crustaceans FMPs
C. Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) Changes
D. Marine debris conference/update
E. Palmyra Atoll
F. Report on program planning initiatives G. Advisory Panel modifications
H. Western Pacific Fisheries Information Network/Fisheries Data Coordinating Committee
I. Recreational Fisheries Data Task Force
J. Public hearing on amendments to include CNMI and PRIA in the bottomfish, precious corals and crustaceans FMPs

The Council intends to develop amendments to the Bottomfish and Seamount Groundfish, Crustaceans, and Precious Corals FMPs. In developing these amendments, the Council will consider a range of alternatives and impacts for management of bottomfish, crustaceans and precious corals fisheries of PRIA and CNMI. The PRIA is defined as Kingman Reef, Johnston Atoll, Palmyra Atoll, and Howland, Baker, Jarvis, Wake, and Midway

islands. The Council is evaluating the need to amend the bottomfish, crustaceans and precious corals FMPs to better achieve the management objectives of these FMPs. Currently, no Federal regulations are in place to manage the bottomfish, crustacean and precious coral fishery resources in the Exclusive Economic Zone (EEZ) waters surrounding the CNMI. There are also no Federal regulations in place for the bottomfish and crustacean fisheries in EEZ waters surrounding PRIA. The amendments will be developed by considering a wide range of management alternatives to address data short falls and possible impacts from the bottomfish, crustacean, and precious coral fisheries in PRIA and CNMI. The Council seeks public comment and input on a wide range of management alternatives, including but not limited to the following: Prohibit the use of destructive fishing techniques including the use of explosives, poisons, bottom-set gillnets, bottom trawls, and tangle nets; additions to the managed species list; Federal permit and data reporting requirements; limited access; observer programs; gear restrictions; size limits; catch quotas; and the designation of essential fish habitat.

15. Administrative Matters

A. Administrative reports

B. Advisory body membership changes

C. Meetings and workshops D. 105th Council Meeting in Midway

16. Other Business

Although non-emergency issues not contained in this agenda may come before the Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this document and any issue arising after publication of this document that requires emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808–522–8220 (voice) or 808–522–8226 (fax), at least 5 days prior to meeting date.

Authority: 1801 *et seq.*

Dated: May 24, 2000.

Richard W. Surdi,

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

[FR Doc. 00–13459 Filed 5–26–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 051500D]

RIN 0648-AM72

Fisheries of the Exclusive Economic Zone Off Alaska; Western Alaska Community Development Quota Program

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

ACTION: Notice of availability; request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) has submitted Amendment 66 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) to remove the allocation of squid to the Western Alaska Community Development Quota (CDQ) Program. The Council has recommended this amendment to prevent the incidental catch of squid in the pollock CDQ fisheries from preventing the CDQ groups from fully harvesting the pollock CDQ allocation required under the American Fisheries Act (AFA).

DATES: Comments on Amendment 66 must be submitted by July 31, 2000.

ADDRESSES: Comments may be mailed to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel. Hand delivery or courier delivery of comments may be sent to the Federal Building, 709 West 9th Street, Juneau, AK. Comments will not be accepted if submitted via e-mail or the Internet.

Copies of Amendment 66 to the FMP and of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis prepared for this action are available from the Council, 605 West 4th Ave., Suite 306, Anchorage, AK 99501–2252, telephone 907–271–2809; from NMFS at the above address; or by calling the Alaska Region, NMFS, at 907–586–7228.

FOR FURTHER INFORMATION CONTACT: Sally Bibb, 907–586–7389, sally.bibb@noaa.gov.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that each Regional Fishery Management Council submit any FMP or FMP amendment it prepares to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP or amendment, immediately publish a notification in the **Federal Register** that the FMP or amendment is available for public review and comment. Therefore, NMFS solicits comments on the approval, disapproval, or partial approval of this amendment.

The Council adopted Amendment 66 at its June 1999 meeting. If approved by NMFS, this amendment would remove the allocation of 7.5 percent of the squid total allowable catch (TAC) to the CDQ Program. Currently, each CDQ group must manage its CDQ fisheries to ensure that its squid CDQ allocation is not exceeded. The pollock fishery takes squid as incidental catch. The potential exists that if a CDQ group were to catch its full squid allocation, it would be precluded from continuing to fish for pollock. This potential constraint on the pollock CDQ fisheries existed when the pollock CDQ allocation was 7.5 percent of the pollock TAC. The potential is more likely now that the pollock CDQ allocation has been increased to 10 percent of the TAC under the AFA. In passing the AFA, Congress manifested its intent that CDQ groups be able to harvest their full pollock allocations. Therefore, the Council is recommending removal of squid as a CDQ species.

NMFS solicits public comments on the amendment through July 31, 2000. A proposed rule that would implement the amendment may be published in the **Federal Register** for public comment following NMFS's evaluation under the Magnuson-Stevens Act procedures. Public comments on the proposed rule must be received by the end of the comment period on the amendment to be considered in the approval/disapproval decision on the amendment. All comments received by the end of the comment period on the amendment, whether specifically directed to the amendment or to the proposed rule, will be considered in the approval/disapproval decision; comments received after that date will not be considered in the approval/disapproval decision on the amendment. To be considered,

comments must be received by close of business on the last day of the comment period specified in this notice of availability; that does not mean postmarked or otherwise transmitted by that date.

Dated: May 22, 2000.

Richard W. Surdi,

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

[FR Doc. 00–13370 Filed 5–26–00; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register

Vol. 65, No. 104

Tuesday, May 30, 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

Forest Service

Ray's Valley Road Realignment, Uinta National Forest, Utah County, UT

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Uinta National Forest will prepare an environmental impact statement on a proposal to realign the existing Ray's Valley Road (Forest Development Road #051). Ray's Valley Road is an arterial road on the Spanish Fork Ranger District, Uinta National Forest.

DATES: Comments should be received in writing by May 14, 2000.

ADDRESSES: Comments should be mailed to Ken Gould, Ray's Valley EIS Team Leader, Uinta National Forest, 88W 100N, PO Box 1428, Provo, Utah 84601 or sent by e-mail to kgould@fs.fed.us

SUPPLEMENTARY INFORMATION: The Ray's Valley Road is a heavily used travel route that connects with the Diamond Fork Road (Forest Development Road #029), and the Right Fork Hobble Creek Road (Forest Development Road #058) at Springville Crossing. These arterial travel routes provide access for the Wasatch Front to Spanish Fork Canyon, and Utah State Highway 6 via the Diamond Fork and Ray's Valley Roads. They also provide access to and from Utah State Highway 6 and the Strawberry Reservoir Recreation Complex via the Ray's Valley Road.

The surface of the Diamond Fork Road and most of the Ray's Valley Road are asphalt pavement or gravel. However, a portion of the Ray's Valley Road is narrow, winding, and native-surfaced. During inclement weather conditions, the road surface becomes extremely hazardous to travel, and/or impassable.

Some of the existing road lies directly adjacent to tributaries of Diamond Fork Creek. Approximately 1.8 miles of this route are located on soils subject to severe slumping and/or erosion. Due to the proximity of the road to the streams, eroding soil is easily transported into Diamond Fork and Sixth Water Creeks. Diamond Fork Creek provides habitat for Bonneville Cutthroat Trout, a sensitive species. Operation and maintenance costs on this section of road are high. Existing road conditions do not meet Road Management Objectives for an arterial system road. The Forest Service has long planned to realign this road to address these concerns; however, funding has never been available.

The proposed action is to construct the Ray's Valley Road on a new alignment and to obliterate the road on its existing alignment. The purpose and need of the proposed action is to reduce or eliminate these adverse watershed and fisheries impacts, and to provide safer driving conditions, while maintaining a key arterial component of the Forest's travel system.

Preliminary Issues

Issues identified at this time include: Health and safety; travel management; soils; fisheries; threatened, endangered, and sensitive plant and animal species; and roadless areas.

Possible Alternatives

Three possible alternatives have been identified: (1) No Action—Leave the road in its current condition; (2) Reconstruct Using the Existing Alignment—Reconstruct on the existing alignment and surface the road with crushed aggregate; and (3) Construct on a New Alignment (Proposed Action)—Reconstruct, realign, and obliterate portions of the Ray's Valley Road.

The No Action Alternative would leave the road in current condition. Maintenance would be limited to actions required for passage of high clearance vehicles. The road would remain unsafe during periods of precipitation. Arterial system road standards for capacity and safety would not be addressed by this alternative. Road induced sediment in nearby streams would remain at current levels, or increase as erosion of the roadway continues.

The Reconstruct Existing Alignment Alternative would reconstruct the road on its existing alignment and add a crushed aggregate surface. Reconstruction would provide better control of drainage from roadway runoff, provide safer and more comfortable vehicle travel during precipitation, and support a greater range of vehicle types. Road induced sediment in nearby streams would slightly decrease due to better drainage and aggregate surfacing. Road Management Objectives for an arterial system road will not be fully accomplished by this alternative due to the location.

The Proposed Action is the Construct New Alignment Alternative. Under this alternative a small portion of the existing Ray's Valley Road would be reconstructed on its existing alignment. Other portions of the Rays Valley Road would be constructed on a new alignment on more stable soils, and away from streams and riparian areas. This proposal would result in approximately 3.6 miles of a double lane road with a crushed aggregate surface. The existing road would be abandoned, closed, and rehabilitated. Access to Forest Development Road 715 from the new alignment would be maintained by reconstructing a portion of Forest Development Road 387. This would ensure continued access to the west portal of the Strawberry Tunnel.

Proposed Scoping Process

This Notice of Intent initiates the scoping process. As part of the scoping period, the Forest Service solicits public comment on the nature and scope of the environmental, social, and economic issues related to the proposed action that should be analyzed in depth in the Draft Environmental Impact Statement. Comments on this proposal should be sent to the address shown earlier in this notice.

Public participation will be solicited by notifying affected interests through personal contacts and by mail. This project has been listed in the Uinta National Forest's ''Schedule of Proposed Actions'' (*i.e.* NEPA Quarterly). News releases will also be utilized to give the public general notice. Comments concerning the Proposed Action and EIS should address environmental issues to be considered, feasible alternatives to examine, possible mitigation, and information relevant to or bearing on the Proposed Action.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the Federal Register.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage, but are not raised until after completion of the final environmental impact statement, may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2D 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in the proposed action participate by the close of the 45–day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can be meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Tentative Project Schedule:

Begin Comment Period—April, 2000; Comment Period Ends—May 26, 2000; Draft EIS—September 30, 2000; Final EIS—January, 2001; Record of Decision—March 2001.

Responsible Official: Jack A. Blackwell, USDA Forest Service Intermountain Regional Supervisor, 324 25th Street, Ogden, Utah 84401.

For Further Information Contact: Ken Gould, (801) 342–5100 or at the address listed previously.

Dated: April 6, 2000.

Peter W. Karp,

Forest Supervisor.

[FR Doc. 00–13394 Filed 5–26–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Willamette Provincial Advisory Committee (PAC); Meeting

AGENCY: Forest Service, USDA.

ACTION: Action of meeting.

SUMMARY: The Willamette Province Advisory Committee (PAC) will meet on Thursday, June 15, 2000. The meeting is scheduled to begin at 9 a.m., and will conclude at approximately 2 p.m. The meeting will be held at the Salem Office of the Bureau of Land Management, 1717 Fabry Road SE, Salem, Oregon, (503) 375–5646. The tentative agenda includes: (1) Information sharing by PAC members, (2) Threatened and Endangered Species update—spotted owl, Canada lynx, (3) Public forum, (4) Presentation and discussion on FS Roadless area conservation DEIS, (5) PAC discussion and advice on rechartering membership.

The Public Forum is tentatively scheduled to begin at 10:30 a.m. Time allotted for individual presentations will be limited to 3–4 minutes and the total time allotted for the Public Forum will be 40 minutes. Written comments may be submitted prior to the June 15 meeting by sending them to Designated Federal Official Neal Forrester at the address given below.

FOR FURTHER INFORMATION CONTACT: For more information regarding this meeting, contact Designated Federal Official Neal Forrester; Willamette National Forest; 211 East Seventh Avenue; Eugene, Oregon 97401; (541) 465–6924.

Dated: May 23, 2000.

Darrell L. Kenops,

Forest Supervisor.

[FR Doc. 00–13387 Filed 5–26–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Economic Development Administration

Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: To give firms an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 04/15/2000–05/26/2000

Firm name	Address	Date petition accepted	Product
Bulk-Tainers Corp	20 Erie Street, Belmont, NY 14813	18–Apr–2000	Large storage tanks made of carbon and stainless steel.
North Star Ice Equipment Corp	8151 Occidental Avenue S., Seattle, WA 98108.	19–Apr–2000	Ice making machines and equipment.
Nafta Textile Mills, L.L.C	315 Old River Road, Manville, RI 02838	25–Apr–2000	Woven fabrics of natural and synthetic materials.
Lapco Manufacturing, Inc	98 Glenwood Street, Morgan City, LA 70380.	25–Apr–2000	Cotton work shirts.
Nomad USA	3209 Washington Ave., Newport News, VA 23607.	25–Apr–2000	Baseball caps.
Jorgensen Forge	8531 E. Marginal Way S., Seattle, WA 98108.	26–Apr–2000	Pipe collars and billets and other forgings for the aerospace, oil, aircraft, automotive and shipbuilding industries.
Hillcrest Knitting Mills, Inc.,	908 S. Evans Street, Uvalde, Texas 78801.	26–Apr–2000	Cotton sweaters.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 04/15/2000–05/26/2000—Continued

Firm name	Address	Date petition accepted	Product
Bollman Hat Company	110 East Main Street, Adamstown, PA 19501.	03–May–2000	Wood hats.
B. I. Industries, Inc	13920 South Western Ave., Blue Island, IL 60406.	01–May–2000	Industrial incinerators and ovens.
Gallery Graphics, Inc	2400 Highway 59 South, Noel, MO 64854.	01–May–2000	Wooden picture frames.
Thermafiber, L.L.C	3711 West Mill Street, Wabash, IN 46992.	01–May–2000	Mineral wood insulation.
Walk Easy Manufacturing, Inc	L & D Drive, Owensville, MO 65066	04–May–2000	Shoe components.
Bender Ship Building & Repair Co., Inc	265 S. Water Street, Mobile, AL 36603	26–May–2000	Shipbuilding and repair.

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by Trade Adjustment Assistance, Room 7315, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: May 16, 2000.

Anthony J. Meyer,

Coordinator, Trade Adjustment and Technical Assistance.

[FR Doc. 00–13386 Filed 5–26–00; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Defense Priorities and Allocations System

ACTION: Proposed collection; comments 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 July 31, 2000.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Office of the Chief Information Officer, Department of Commerce, Room 6066, 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 Dawnielle Battle, BXA ICB Liaison, Office of Planning, Evaluation and Management, Department of Commerce, Room 6881, 14th and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

The record keeping requirement is necessary for administration and enforcement of delegated authority under the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061, *et seq.*) and the Selective Service Act of 1948 (50 U.S.C. App. 468). Any person who receives a priority rated order under the implementing Defense Priorities and Allocations System regulation (15 CFR 700) must retain records for at least 3 years.

II. Method of Collection

Records retention.

III. Data

OMB Number: 0694–0053.

Form Number: None.

Type of Review: Regular submission.

*Affected Public:*Businesses and other for-profit institutions, small businesses or organizations.

Estimated Number of Respondents: 700,000.

Estimated Time Per Response: 1 to 31.5 minutes.

Estimated Total Annual Burden Hours: 14,477 hours.

Estimated Total Record Keeping Costs: $10,150.

Estimated Total Annual Cost: No start-up costs or capital expenditures.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the function 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: May 23, 2000.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 00–13382 Filed 5–26–00; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

License Exception TMP: Special Requirements

ACTION: Proposed collection; comments 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 July 31, 2000.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Office of the Chief Information Officer, Department of Commerce, Room 6066, 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 Dawnielle Battle, BXA ICB Liaison, Office of Planning, Evaluation and Management, Department of Commerce, Room 6881, 14th and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

License Exception TMP permits the export of controlled commodities and software for temporary use abroad for a 12-month period under the guidelines listed in Section 740.9 of the EAR. If commodities shipped under License Exception TMP are for news-gathering purposes, the exporter must send BXA a copy of the packing list. Also, a TMP exporter must send BXA an explanatory letter if commodities shipped must be detained abroad beyond the 12-month limit. The information is used to determine whether or not an extension should be granted.

II. Method of Collection

The information will be collected in written form.

III. Data

OMB Number: 0694–0029.
Form Number: None.
*Type of Review:*Regular submission for extension of a currently approved collection.
Affected Public: Individuals, businesses and other for-profit institutions.
Estimated Number of Respondents: 3.
Estimated Time Per Response: 20 to 30 minutes per response.
Estimated Total Annual Burden Hours: 1 hour.
Estimated Total Annual Cost: No capital expenditures are required.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the function 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: May 23, 2000.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 00–13383 Filed 5–26–00; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–812]

Dynamic Random Access Memory Semiconductors (''DRAMs'') of One Megabit and Above From the Republic of Korea; Preliminary Results of Full Sunset Review

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

ACTION: Notice of preliminary results of full sunset review: Dynamic Random Access Memory Semiconductors (''DRAMs'') of One Megabit and Above from the Republic of Korea.

SUMMARY: On November 2, 1999, the Department of Commerce (''the Department'') initiated a sunset review of the antidumping duty order on dynamic random access memory semiconductors (''DRAMs'') of one megabit and above from the Republic of Korea (''Korea'') (64 FR 59160) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of a notice of intent to participate filed on behalf of domestic interested parties and adequate substantive responses filed on behalf of the domestic and respondent interested parties, the Department determined to conduct a full sunset review. As a result of this review, the Department preliminarily finds that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping at the levels indicated in the Preliminary Results of Review section of this notice.

EFFECTIVE DATE: May 30, 2000.

FOR FURTHER INFORMATION CONTACT: Eun W. Cho or Carole Showers, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1698 or (202) 482–3217, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to 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 (''URAA''). In addition, unless otherwise indicated, all citations to the Department regulations are to 19 CFR Part 351 (1999). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department Policy Bulletin 98:3—Policies Regarding the Conduct of Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) (Sunset Policy Bulletin).

Background

On November 2, 1999, the Department initiated a sunset review of the antidumping duty order on DRAMs of one megabit and above from Korea (64 FR 59160). We invited parties to comment. On the basis of a notice of intent to participate filed on behalf of domestic interested parties and adequate substantive responses filed on behalf of domestic and respondent interested parties, the Department determined to conduct a full sunset review. The Department is conducting this sunset review in accordance with sections 751 and 752 of the Act.

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.,* an order in effect on January 1, 1995). This review concerns a transition order within the meaning of section 751(c)(6)(C)(ii) of the Act. On February

25, 2000, the Department determined that the sunset review of the antidumping duty order on DRAMs from Korea is extraordinarily complicated and extended the time limit for completion of the preliminary results of this review until not later than May 22, 2000, in accordance with section 751(c)(5)(B) of the Act.[1]

Scope of Review

The products covered by this order include DRAMs of one megabit and above from Korea. Assembled DRAMs include all package types. Unassembled DRAMs include processed wafers, uncut die, and cut die. Processed wafers produced in Korea, but packaged or assembled into memory modules in a third country, are included in the scope; wafers produced in a third country and assembled or packaged in Korea are not included in the scope. The scope of this review includes memory modules. A memory module is a collection of DRAMs, the sole function of which is memory. Modules include single in-line processing modules (''SIPs''), single in-line memory modules (''SIMMs''), or other collections of DRAMs, whether unmounted or mounted on a circuit board. Modules that contain other parts that are needed to support the function of memory are covered. Only those modules which contain additional items which alter the function of the module to something other than memory, such as video graphics adapter (''VGA'') boards and cards, are not included in the scope. The scope of this review also includes video random access memory semiconductors (''VRAMS''), as well as any future packaging and assembling of DRAMs, and removable memory modules placed on motherboards, with or without a central processing unit (''CPU''), unless the importer of motherboards certifies with the Customs Service that neither it nor a party related to it or under contract to it will remove the modules from the motherboards after importation. The scope of this review does not include DRAMs or memory modules that are re-imported for repair or replacement. The DRAMs and modules subject to this review are currently classifiable under subheadings 8471.50.0085, 8471.91.8085, 8542.11.0024, 8542.11.8026, 8542.13.8034, 8471.50.4000, 8473.30.1000, 8542.11.0026, 8542.11.8034, 8471.50.8095, 8473.30.4000, 8542.11.0034, 8542.13.8005, 8471.91.0090, 8473.30.8000, 8542.11.8001, 8542.13.8024, 8471.91.4000, 8542.11.0001, 8542.11.8024 and 8542.13.8026 of the Harmonized Tariff Schedule of the United States (''HTSUS'').

Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the scope of this order remains dispositive.

Analysis of Comments Received

All issues raised in substantive responses and rebuttals by parties to this sunset review are addressed in the Issues and Decision Memorandum (''Decision Memo'') from Jeffrey A. May, Director, Office of Policy, Import Administration, to Troy H. Cribb, Acting Assistant Secretary for Import Administration, dated May 22, 2000, which is hereby adopted by this notice. The issues discussed in the attached Decision Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the margin likely to prevail were the order revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in B–099, the Central Records Unit, of the main Commerce Building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at www.ita.doc.gov/import_admin/records/frn. The paper copy and electronic version of the Decision Memorandum are identical in content.

Preliminary Results of Review

We preliminarily determine that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the following percentage weighted-average margins:

Manufacturer/exporter	Margin (percent)
Hyundai	20.88
All Others	4.55

Any interested party may request a hearing within 30 days of publication of this notice in accordance with 19 CFR 351.310(c). Any hearing, if requested, will be held on July 19, 2000. Interested parties may submit case briefs no later than July 11, 2000, in accordance with 19 CFR 351.309(c)(1)(i). Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than July 17, 2000. The Department will issue a notice of final results of this sunset review, which will include the results of its analysis of issues raised in any such comments, no later than September 29, 2000.

We are issuing and publishing this determination and notice in accordance with sections section 751(c), 752, and 777(i) of the Act.

Dated May 22, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–13462 Filed 5–26–00; 8:45 am]

BILLING CODE 3510–DS–P

[1] See Extension of Time Limit for Preliminary Results of Full Five-Year Reviews, 65 FR 10048 (February 25, 2000).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–823–805]

Preliminary Results of Full Sunset Review: Silicomanganese From Ukraine

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

ACTION: Notice of preliminary results of full sunset review: silicomanganese from Ukraine.

SUMMARY: On November 2, 1999, the Department of Commerce (''the Department'') initiated a sunset review of the suspended antidumping investigation on silicomanganese from Ukraine pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of a notice of intent to participate filed on behalf of the domestic parties and adequate substantive comments filed on behalf of both domestic and respondent interested parties, the Department is conducting a full sunset review. As a result of this review, the Department preliminarily finds that termination of the suspended antidumping investigation would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Preliminary Results of Review section of this notice.

EFFECTIVE DATE: May 30, 2000.

FOR FURTHER INFORMATION CONTACT: Martha Douthit, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th St. & Constitution Ave., NW, Washington, D.C. 20230; telephone (202) 482–5050.

SUPPLEMENTARY INFORMATION:

Statute and Regulations

Unless otherwise indicated, all citations to 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 (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce's (''the Department's'') regulations are to 19 CFR Part 351 (1999). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) (''Sunset Policy Bulletin'').

Background

On November 2, 1999, the Department initiated a sunset review of the suspended antidumping investigation on silicomanganese from Ukraine (64 FR 59160), pursuant to section 751(c) of the Act. On November 17, 1999 we received a Notice of Intent to Participate on behalf of Eramet Marietta Inc. (''Eramet''), within the deadline specified in 19 CFR 351.218(d)(1)(i). Eramet claimed interested party status under section 771(9)(C) of the Act, as a domestic producer of silicomanganese.[1]

We received a complete substantive response to the notice of initiation on December 2, 1999, on behalf of Eramet, within the 30-day deadline specified in the Sunset Regulations under 19 CFR 351.218(d)(3)(i). In its substantive response, Eramet indicated that Elkem, now Eramet, was the petitioner in the original investigation and actively participated in the suspended antidumping investigation. We received a substantive response to the notice of initiation on December 13, 1999, on behalf of Ronly Holdings LTD. (''Ronly''), Nikopol Ferroalloys Plant (''Nikopol''), Zaporozhye Ferroalloys Plant (''Zaporozhye''), and the Ministry of Industrial Policy of the Government of Ukraine (''GOU'') (collectively the ''respondent interested parties'').[2] Ronly, Zaporozhye, and Nikopol claimed interested party statues within the meaning of 771(9)(A) of the Act as foreign manufacturers and/or exporters of silicomanganese from Ukraine. Zaporozhye and Nikopol assert that they participated in the original antidumping investigation that led to the suspension agreement. On December 20, 1999, we received rebuttal comments from Eramet.[3]

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.,* an order in effect on January 1, 1995). The review at issue concerns a transition order within the meaning of section 751(c)(6)(C)(ii) of the Act. Therefore, the Department determined that the sunset review of the suspension agreement on silicomanganese from Ukraine is extraordinarily complicated and extended the time limit for completion of the preliminary results of this review until not later than May 22, 2000, in accordance with section 751(c)(5)(B) of the Act.

Scope

The merchandise covered by this sunset review is silicomanganese. Silicomanganese, which is sometimes called ferrosilicon manganese, is a ferroalloy composed principally of manganese, silicon, and iron, and normally containing much smaller proportions of minor elements, such as carbon, phosphorous, and sulfur. Silicomanganese generally contains by weight not less than four percent iron, more than 30 percent manganese, more than eight percent silicon, and not more than three percent phosphorous. All compositions, forms, and sizes of silicomanganese are included within the scope of this review, including silicomanganese slag, fines, and briquettes. Silicomanganese is used primarily in steel production as a source of both silicon and manganese. This sunset review covers all silicomanganese, regardless of its tariff classification. Most silicomanganese is currently classifiable under subheading 7202.30.0000 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Some silicomanganese may also currently be classifiable under HTSUS subheading 7202.99.5040. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the subject merchandise remains dispositive.

Analysis of Comments Received

All issues raised in this case by parties to this sunset review are addressed in the ''Issues and Decision Memorandum'' (''Decision Memo'') from Jeffrey A. May, Director, Office of Policy, Import Administration, to Troy H. Cribb, Acting Assistant Secretary for Import Administration, dated May 22, 2000, which is hereby adopted by this notice. The issues discussed in the Decision Memo include adequacy, the likelihood of continuation or recurrence of dumping, and the magnitude of the margin likely to prevail were the suspension agreement terminated. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in room B–099 of the Commerce Building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at www.ita.doc.gov/import_admin/records/frn/. The paper copy and electronic version of the Decision Memo are identical in content.

Preliminary Results of Review

The Department preliminarily determines that if the suspended antidumping investigation is terminated, it is likely that dumping will continue or recur at the levels indicated below:

Manufacturer/exporter	Margin (percent)
All Manufacturers/Producers/ Exporters	163.00

An interested party may request a hearing within 30 days of publication of this notice in accordance with 19 CFR 351.310(c). Any hearing, if requested, will be held on July 17, 2000. Interested parties may submit case briefs no later than July 10, 2000, in accordance with 19 CFR 351.309(c)(1)(i). Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than July 14, 2000. The Department will issue a notice of final results of this sunset review, which will include the results of its analysis of issues raised in any such comments, no later than September 27, 2000.

We are issuing and publishing these results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: May 22, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–13463 Filed 5–26–00; 8:45 am]

BILLING CODE 3510–DS–P

[1] Eramet asserts that on June 30, 1999, Elkem Metals Company (''Elkem''), the original petitioner, sold its silicomanganese operations to Eramet SA. As a result, Eramet, a subsidiary of Eramet SA, now owns these operations.

[2] On December 2, 1999, the Department received a request for an extension of the deadline for filing a substantive response from the respondent interested parties. On December 7, 1999, the Department granted the respondent interested parties an extension, and required them to file both their substantive response and rebuttal comments by December 13, 1999. See December 7, 1999, letter from Jeffrey A. May, Director of Office of Policy, to Kieran Sharpe, of Aitken, Irvin, Lewin, Berlin, Vrooman, & Cohn, LLP.

[3] Because the respondent interested parties filed a joint substantive response and rebuttal comments on December 13, 1999, *supra,* the Department granted Eramet an extended deadline for filing rebuttal comments until December 20, 1999.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D.051800F]

Availability of a Draft Environmental Assessment/Finding of No Significant Impact and Receipt of an Application for an Incidental Take Permit (1255).

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

ACTION: Notice of availability.

SUMMARY: NMFS has received an application for an incidental take permit (Permit) from the Oregon Department of Fish and Wildlife (ODFW) and the Washington Department of Fish and Wildlife (WDFW) pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (ESA). As required by section 10 (a)(2)(B) of the ESA, ODFW and WDFW have also prepared a conservation plan (Plan) designed to minimize and mitigate any such take of endangered or threatened species. The Permit application is for the incidental take of ESA-listed adult and juvenile salmonids associated with otherwise lawful sport and commercial fisheries on non-listed species in the lower and middle Columbia River and its tributaries in the Pacific Northwest. The duration of the proposed Permit and Plan is one year. The Permit application includes the proposed Plan submitted by ODFW and WDFW. NMFS also announces the availability of a draft Environmental Assessment (EA) for the Permit application. NMFS is furnishing this notice in order to allow other agencies and the public an opportunity to review and comment on these documents. All comments received will become part of the public record and will be available for review pursuant to section 10(c) of the ESA.

DATES: Written comments from interested parties on the Permit application, Plan, and draft EA must be received at the appropriate address or fax number no later than 5:00pm Pacific standard time on June 29, 2000.

ADDRESSES: Written comments on the application, Plan, or draft EA should be sent to Enrique Patino, Sustainable Fisheries Division, F/NWR2, 7600 Sand point Way NE, Seattle, WA, 98115–0070. Comments may also be sent via fax to 206–526–6736. Comments will not be accepted if submitted via e-mail or the internet. Requests for copies of the Permit application, Plan, and draft EA should be directed to the Sustainable Fisheries Division (SFD), F/NWR2, 7600 Sand point Way NE, Seattle, WA, 98115–0070. Comments received will also be available for public inspection, by appointment, during normal business hours by calling 206–526–4655.

FOR FURTHER INFORMATION CONTACT: Enrique Patino, Seattle, WA (ph: 206–526–4655, fax: 206–526–6736, e-mail: Enrique.Patino@noaa.gov).

SUPPLEMENTARY INFORMATION: Section 9 of the ESA and Federal regulations prohibit the ''taking'' of a species listed as endangered or threatened. The term ''take'' is defined under the ESA to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. NMFS may issue permits, under limited circumstances, to take listed species incidental to, and not the purpose of, otherwise lawful activities. NMFS regulations governing permits for threatened and endangered species are promulgated at 50 CFR 222.307.

Species Covered in This Notice

The following species and evolutionarily significant units (ESU's) are included in the Plan and Permit application:

Fish

Chinook salmon (*Oncorhynchus tshawytscha*): threatened Snake River (SnR) fall, threatened lower Columbia River (LCR).

Steelhead (*O. mykiss*): threatened SnR, endangered naturally produced and artificially propagated UCR, threatened middle Columbia River (MCR), threatened LCR, threatened Upper Willamette River (UWR).

Chum Salmon (*Oncorhynchus keta*): threatened Columbia River (CR).

To date, protective regulations for threatened LCR chinook salmon, threatened SnR, MCR, LCR, and UWR steelhead, and threatened CR chum salmon under section 4(d) of the ESA have not been promulgated by NMFS. This notice of receipt of an application requesting takes of these species is issued as a precaution in the event that NMFS issues protective regulations that prohibit takes of threatened LCR chinook salmon, and/or threatened SnR, MCR, LCR and/or UWR steelhead. The initiation of a 30-day public comment period on the application, including its proposed takes of threatened LCR chinook salmon, and threatened SnR, MCR, and LCR steelhead does not presuppose the contents of the eventual protective regulations.

Background

Fall season fisheries in the Columbia River have been managed since 1996 under provisions of the 1996–1998 Management Agreement for Upper Columbia River Spring Chinook, Summer Chinook and Sockeye. The Management Agreement modified provisions of the CRFMP to include additional provisions for listed species. The CRFMP and thus the associated Management Agreement expired by their own terms on December 31, 1998, but were extended by agreement of the parties and court order through July 31, 1999. Since NMFS was a signatory party to the CRFMP, and approval of the CRFMP was a federal action subject to section 7 consultation, incidental take associated with the ODFW and WDFW fisheries was authorized in biological opinions issued on the CRFMP. NMFS has advised the states that, with the expiration of the CRFMP, and absent any subsequent agreement among the parties to *U.S. v. Oregon*, there is no longer a federal action that provides a nexus for section 7 consultation. Because the immediate prospects for reaching an agreement remain uncertain, ODFW and WDFW have applied for a one-year ESA section 10(a)(1)(B) permit for incidental takes of ESA-listed adult and juvenile salmonids associated with sport and commercial fisheries during the fall season 2000 on non-listed species in the lower and middle Columbia River and its tributaries in the Pacific Northwest.

Conservation Plan

The Conservation Plan prepared by ODFW and WDFW describes measures designed to monitor, minimize, and mitigate the incidental takes of ESA-listed anadromous salmonids associated with some or all of the following fisheries which are expected to occur during the fall season 2000 with approximate dates as specified:

Mainstem Commercial Salmon/Sturgeon Fisheries: mid-August through mid-September.

Fall Commercial Fishery—Select Areas: August through October.

Smelt Commercial Fishery/Test Fishery: December 1 through March 31.

Commercial anchovy and herring bait fishery: open year round.

Mainstem Salmon/Steelhead Recreational Fishery: August 1 through December 31.

Warmwater Recreational Fishery: open year round.

Columbia River Tributary Recreational Salmon and Steelhead Fisheries: August through December.

Select Area Recreational fisheries: open under permanent regulations for the entire year.

Sturgeon Recreational Fishery: open year-round

Steelhead Recreational Fishery—Ringold: August 1 through December 31.

Sturgeon tagging stock assessment: May through July.

Fall Selective Gear Test Fishery: September through October.

Wanapum Tribe Subsistence Fishery : September.

ESA-listed fish incidental mortalities associated with the ODFW and WDFW fishery programs are requested at levels specified in the Permit application. ODFW/WDFW are proposing to limit state in-river fisheries such that the incidental impacts on ESA-listed salmonids will be minimized. Eight alternatives for the ODFW and WDFW fisheries were provided in the Plan, including: (1) Historic baseline; (2) 1988 Columbia River Fish Management Plan; (3) 1996–1998 Management Agreement; (4) 1999 Management Agreement; (5) 1996–1999 actual impact rates; (6) equitable non-Indian and treaty Indian chinook allocation; (7) reasonable non-Indian fishery opportunity (selected alternative); and (8) No action.

Environmental Assessment/Finding of No Significant Impact

The EA package includes a draft EA and a draft Finding of No Significant Impact (FONSI) which concludes that issuing the incidental take permit is not a major Federal action significantly affecting the quality of the human environment, within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended. Three Federal action alternatives have been analyzed in the EA, including: (1) the no action alternative; (2) issue a permit without conditions; and (3) issue a permit with conditions.

This notice is provided pursuant to section 10(c) of the ESA and the NEPA regulations (40 CFR 1506.6). NMFS will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of the NEPA regulations and section 10(a) of the ESA. If it is determined that the requirements are met, a permit will be issued for incidental takes of ESA-listed anadromous salmonids under the jurisdiction of NMFS. The final NEPA and permit determinations will not be completed until after the end of the 30-day comment period and will fully consider all public comments received during the comment period. NMFS will publish a record of its final action in the **Federal Register**.

Dated: May 24, 2000.

Wanda L. Cain,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–13431 Filed 5–26–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 000204026–0136–02; I.D. 121799A]

RIN 0648–AN48

Tautog; Interstate Fishery Management Plans; Cancellation of Moratorium

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

ACTION: Notice of determination of compliance; cancellation of moratorium.

SUMMARY: The Secretary of Commerce (Secretary) announces the cancellation of the Federal moratorium on fishing for tautog in the coastal waters of the State of Rhode Island that would have been implemented on June 15, 2000. The Secretary has canceled the moratorium as required by the Atlantic Coastal Fisheries Cooperative Management Act (Act), based on his determination that the State of Rhode Island is now in compliance with the Atlantic States Marine Fisheries Commission's (Commission) Interstate Fishery Management Plan (ISFMP) for tautog, after the Commission had notified the Secretary that it was withdrawing its determination of noncompliance.

DATES: Effective May 30, 2000.

FOR FURTHER INFORMATION CONTACT: Richard H. Schaefer, Chief, Staff Office for Intergovernmental and Recreational Fisheries, NMFS, 301–427–2014.

SUPPLEMENTARY INFORMATION:

Background

On February 15, 2000, NMFS published a document in the **Federal Register** (FR) (65 FR 7508) announcing the Secretary's determination that the State of Rhode Island was not in compliance with the Commission's ISFMP for tautog for not implementing and enforcing the recreational bag limit contained in the ISFMP for tautog. In the document a moratorium was declared on fishing for tautog in Rhode Island state waters that would be made effective on June 15, 2000, if Rhode Island was not in compliance by June 1, 2000. Details were provided in the February 15, 2000, FR document and are not repeated here.

The Act specifies that, if, after a moratorium is declared with respect to a State, the Secretary is notified by the Commission that it is withdrawing the determination of noncompliance, the Secretary shall immediately determine whether the State is in compliance with the applicable plan. If the State is determined to be in compliance, the moratorium shall be terminated.

Activities Pursuant to the Act

On April 28, 2000, the Secretary received a letter from the Commission prepared pursuant to the Act. The Commission's letter stated that the State of Rhode Island had taken corrective action to comply with the Commission's ISFMP for tautog, and, therefore, the Commission was withdrawing its determination of noncompliance.

Cancellation of the Moratorium

Based on the Commission's April 28, 2000, letter, information received from the State of Rhode Island, and the Secretary's review of Rhode Island's revised regulations, which adopted a recreational bag limit of 3 tautog from May 1—October 14 annually, and 10 tautog from October 15—December 31 annually with a size limit of 16 inches total length, the Secretary concurs with the Commission's determination that Rhode Island is now in compliance with the Commission's ISFMP for tautog. This combination of measures is listed in Table 14 of the ISFMP for tautog as an acceptable means of achieving the required recreational harvest reduction. This combination achieves a 57–percent reduction whereas the ISFMP requires a 55–percent reduction. Therefore, the moratorium on fishing for these species in Rhode Island waters is canceled.

Dated: May 22, 2000.

Penelope D. Dalton,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 00–13373 Filed 5–26–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052200A]

International Whaling Commission; Meetings

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

ACTION: Notice of public meetings.

SUMMARY: NOAA makes use of a public Interagency Committee to assist in preparing for meetings of the International Whaling Commission (IWC). This notice defines guidelines for participating on the Committee and provides a tentative schedule of meetings and of important dates.

DATES: The June 5, 2000, Interagency Meeting will be held at 2 p.m. See **SUPPLEMENTARY INFORMATION** for tentative 2000 meeting schedules.

ADDRESSES: The June 5, 2000, meeting will be held in room B841–A, Herbert C. Hoover Building, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Cathy Campbell, (202) 482–2652.

SUPPLEMENTARY INFORMATION: The purpose of the June 5, 2000, Interagency Committee meeting is to review recent events relating to the IWC and to review U.S. positions for the 2000 IWC annual meeting.

The Secretary of Commerce is charged with the responsibility of discharging the obligations of the United States under the International Convention for the Regulation of Whaling, 1946. This authority has been delegated to the Under Secretary for Oceans and Atmosphere. The U.S. Commissioner to the IWC has primary responsibility for the preparation and negotiation of U.S. positions on international issues concerning whaling and for all matters involving the IWC. He is staffed by the Department of Commerce and assisted by the Department of State, the Department of the Interior, the Marine Mammal Commission, and by other interested agencies.

Each year, NOAA conducts meetings and other activities to prepare for the annual meeting of the IWC. The major purpose of the preparatory meetings is to provide input in the development of policy by individuals and non-governmental organizations interested in whale conservation. NOAA believes that this participation is important for the effective development and implementation of U.S. policy concerning whaling. Any person with an identifiable interest in U.S. whale conservation policy may participate in the meetings, but NOAA reserves the authority to inquire about the interest of any person who appears at a meeting and to determine the appropriateness of that person's participation. Foreign nationals and persons who represent foreign governments may not attend. These stringent measures are necessary to promote the candid exchange of information and to establish the necessary basis for the relatively open process of preparing for IWC meetings that characterizes current practices.

Tentative Meeting Schedule

The tentative schedule of additional meetings and deadlines, including those of the IWC, during 2000 follows.

June 5, 2000 (Rm B841–A, Herbert C. Hoover Building, Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C.): Interagency Committee meeting to review recent events relating to the IWC and to review U.S. positions for the 2000 IWC annual meeting.

June 12–13, 2000 (Adelaide, Australia): IWC Scientific Committee Working Groups and Sub-committees.

June 14–26, 2000 (Adelaide, Australia): IWC Scientific Committee.

June 28—July 1, 2000 (Adelaide, Australia): IWC Commission Committees, Sub-committees and Working Groups.

July 3–6, 2000 (Adelaide, Australia): IWC 52nd Annual Meeting.

Special Accommodations

Department of Commerce meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Cathy Campbell (see **FOR FURTHER INFORMATION CONTACT**) at least 5 days prior to the meeting date.

Dated: May 23, 2000.

Art Jeffers,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–13432 Filed 5–26–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051900C]

Mid-Atlantic Fishery Management Council; Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's Summer Flounder Working Group will hold a public meeting.

DATES: The meeting will be held on Tuesday, June 13, 2000, from 10 a.m. until 5 p.m.

ADDRESSES: This meeting will be held at the Sheraton BWI Airport, 7032 Elm Road, Baltimore, MD; telephone: 410–691–9827.

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

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

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to consider future management measures and possible actions for the summer flounder fishery.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

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

Dated: May 22, 2000.

Richard W. Surdi,

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

[FR Doc. 00–13372 Filed 5–26–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051800A]

Endangered Species; Permits

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

ACTION: Issuance of permit 1235.

SUMMARY: Notice is hereby given that NMFS has issued a permit to the City of Seattle (City) that authorizes incidental take of Endangered Species Act-listed anadromous fish, subject to certain conditions set forth therein.

ADDRESSES: The applications and related documents are available for

review in the following office, by appointment:

Washington State Habitat Branch, 510 Desmond Drive SE, Suite 103, Lacey, WA 98503

FOR FURTHER INFORMATION CONTACT: Steve Landino (360–753–9530)

SUPPLEMENTARY INFORMATION: The permit and permit amendment were issued under the authority of section 10(a)(1)(B) of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531-1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 222–227).

The City's covered activities include watershed management and related operations as described in the Cedar River Watershed Habitat Conservation Plan (HCP) and associated Draft Environmental Assessment (EA), Final EA and Finding of No Significant Impact (FONSI). The FONSI was signed on April 19, 2000.

Notice was published on December 11, 1998, and January 5, 1999 (63 FR 68469, and 64 FR 480) that an application had been filed by the City for an incidental take permit. Permit 1235 was issued to the City on April 21, 2000. Permit 1235 authorizes the City incidental take of threatened Puget Sound (PS) chinook (*Oncorhynchus tshawytscha*). As well, other anadromous fish that are not now ESA-listed are covered species and would be included on the permit at time of listing. Permit 1235 expires on December 31, 2050.

Issuance of the permit was based on a finding that the City had met the permit issuance criteria of 50 CFR 222.22(c). The permit will take effect for listed covered species on the effective date of a rule under Section 4(d) of the ESA prohibiting take of the species. For unlisted covered species, the permit will take effect upon the listing of a species as endangered, and for a species listed as threatened, on the effective date of a rule under Section 4(d) of the ESA prohibiting take of the species.

Dated: May 24, 2000.

Wanda L. Cain,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–13430 Filed 5–26–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D.051800E]

Endangered Species; Permits

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

ACTION: Receipt of applications for scientific research permit (1253).

SUMMARY: Notice is hereby given of the following actions regarding permits for takes of endangered and threatened species for the purposes of scientific research:

NMFS has received a scientific research permit application from Mr. Carlos E. Diez, of Puerto Rico Department of Natural and Environmental Resources (PRDNR) (1253).

DATES: Comments or requests for a public hearing on any of the new applications or modification requests must be received at the appropriate address or fax number no later than 5:00 pm eastern daylight time on June 29, 2000.

ADDRESSES: Written comments on any of the new applications or modification requests should be sent to the appropriate office as indicated below. Comments may also be sent via fax to the number indicated for the application or modification request. Comments will not be accepted if submitted via e-mail or the internet. The applications and related documents are available for review in the indicated office, by appointment:

For application 1253, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD, 20910 (ph: 301–713–1401, fax: 301–713–0376).

FOR FURTHER INFORMATION CONTACT: For permit 1253: Terri Jordan, Silver Spring, MD (ph: 301–713–1401, fax: 301–713–0376, e-mail: Terri.Jordan@noaa.gov).

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits/modifications: (1) Are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222–226).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in this Notice

The following species are covered in this notice: endangered Green turtle (*Chelonia mydas*), endangered Hawksbill turtle (*Eretmochelys imbricata*).

New Applications Received

Application 1253: The purpose of the research is to prodive information on the ecology and population dynamics of the hawksbill and green turtles that inhabit the waters surrounding Puerto Rico and its adjacent islands (Mona, Monito, Desecheo, Caja-de-Muertos, Viques and Culebra). This research will improve the effectiveness of management efforts by addressing priorities set forth in the recovery plans for both species: (1) identification of important marine habitats; (2) determination of adult and juvenile distribution and abundance; (3) determination of sex ratios in the juvenile population; (4) evaluation of the extent of ingestion of persistent marine debris; (5) determination of growth rates and age at sexual maturity, and (6) quantification of threats to adults and juveniles on foraging grounds.

Dated: May 23, 2000.

Wanda L. Cain,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–13433 Filed 5–26–00; 8:45 am]

BILLING CODE 3510–22–F

CONSUMER PRODUCT SAFETY COMMISSION

Notice of Meeting of Chronic Hazard Advisory Panel on Diisononyl Phthalate (DINP) and Opportunity for Public Comment

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of meeting.

SUMMARY: The Commission announces the second meeting of the Chronic Hazard Advisory Panel (CHAP) on diisononyl phthalate (DINP). The Commission appointed this CHAP to advise the Commission on any chronic hazards of cancer, birth defects, and gene mutations associated with children's products containing DINP. The public may submit written or oral comments on the issues to be considered by the CHAP.

DATES: The opportunity for the presentation of oral comments will be on June 20 from 10 a.m. to 5 p.m. The remainder of the meeting will be held from 8:30 a.m. to 5 p.m. on June 21 and from 8:30 a.m. to 4 p.m. on June 22, 2000.

Requests to present oral comments, and a written copy of the text of the oral comments, must be filed with the Office of the Secretary no later than June 13, 2000.

Written comments must be received no later than June 13, 2000.

ADDRESSES: The meeting will be held in the fourth floor hearing room in the Commission's offices at 4330 East-West Highway, Bethesda, Maryland.

Written comments, or requests to present oral comments and the written text of such comments, should be mailed, preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207–0001, or delivered to the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East-West Highway, Bethesda, Maryland; telephone (301) 504–0800. These items also may be filed by telefacsimile to (301)504–0127 or by email to cpsc-os@cpsc.gov. These items should be captioned ''CHAP on DINP.''

FOR FURTHER INFORMATION CONTACT: Concerning requests and procedures for oral presentations of comments: Rockelle Hammond, Docket Control and Communications Specialist, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 504–0800 ext. 1232; email cpsc-os@cpsc.gov. For all other matters: Marilyn Wind, Directorate for Health Sciences, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504–0477, ext. 1205; email mwind@cpsc.gov.

SUPPLEMENTARY INFORMATION: The Commission has been concerned with potential risks posed to children under 3 years of age by the plasticizer diisononyl phthalate (DINP), which is used to soften some children's teethers, rattles, and toys made from polyvinyl chloride (PVC). DINP can leach from such products when they are mouthed or held by children, causing some DINP to be absorbed through skin and mucous membranes. DINP has been shown to cause liver and other organ toxicity in laboratory animals. Also, the Commission has received a petition (No. HP 99–1) from the National Environmental Trust and eleven other organizations asking that the Commission ban PVC in children's products.

The Commission appointed a seven-member CHAP to evaluate the existing scientific information regarding the mechanism by which DINP may cause cancer and the implications of this on the potential cancer risk to children. The CHAP members were selected from scientists recommended by the National Academy of Sciences. *See* 15 U.S.C. 2077, 2030(b). The first meeting of the CHAP was on May 10–11, 2000. The second meeting of the CHAP will be on June 20–22, 2000, in the fourth floor hearing room at the Commission's offices in Bethesda, MD (see address above).

The CHAP is seeking public comment on issues relating to the hazard, exposure, and risk posed by DINP in children's products. It is interested in comments and data pertaining to: (a) What the appropriate Acceptable Daily Intake (ADI) of DINP would be; (b) which critical endpoint to use to determine the ADI; (c) the mechanism by which DINP causes cancer in rodents and the relevance of these induced neoplasms to human risk; (d) the appropriate risk assessment model or models to determine human risk; (e) the differential sensitivity/susceptibility of young children to the effects of DINP, if any, and how to incorporate that into an assessment of risk; and (f) age-dependent pharmacokinetic differences. In addition, it is particularly interested in the following:

1. Are Diisononyl Phthalate (DINP) rodent cancer bioassay data inapplicable to human hazard identification?
2. Is there convincing evidence that a linear extrapolation approach for risk assessment is not appropriate for DINP?
3. What is the most appropriate measure of the biologically effective dose for DINP-induced liver cancer?
4. Any data available on the percutaneous absorption of DINP. (Provide any data available on absorption of DINP from the oral mucosa.)
5. Any available data on the pharmacokinetics of DINP including salivary metabolism.
6. Any available data on DINP metabolites.
7. Any available information on spongiosis hepatis.
8. Total exposure to phthalates in adults and children.
9. Toxicological interactions between phthalate esters.

The CPSC would appreciate it if any suitable data are submitted in the form of an Excel Spread Sheet, a space delimited ASCII file, or a SAS (SD2 or SSD) dataset.

There will be an opportunity for oral comments on June 20, from 10 am to 5 pm. As explained at the beginning of this notice, persons wishing to present oral comments must file a request, and a written copy of the text of their comments, with the Commission's Office of the Secretary no later than June 13, 2000.

Commenters should limit their presentations to approximately 15 minutes, exclusive of any periods of questioning by the members of the CHAP or the CPSC staff. The CHAP reserves the right to further limit the time for any presentation and to impose restrictions to avoid excessive duplication of presentations.

Interested persons may also file written comments with the CHAP. Written comments must be filed with the Office of the Secretary no later than June 13, 2000.

The remainder of the CHAP meeting will be from 8:30 a.m. to 5 p.m. on June 21 and from 8:30 a.m. to 4 p.m. on June 22, 2000. During this part of the meeting, the CHAP will discuss issues and the report it will write.

Dated: May 24, 2000.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 00–13466 Filed 5–26–00; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of the Board of Visitors for the Department of Defense Regional Security Centers

ACTION: Notice.

SUMMARY: The Board of Visitors for the Department of Defense Regional Security Centers was renewed, effective May 1, 2000, in consonance with the public interest, and in accordance with the provisions of Pub. L. 92–463, the ''Federal Advisory Committee Act.''

The Board of Visitors, comprised of a balanced membership of leading experts in the field of national security, is essential in providing advice and counsel to the Secretary of Defense, other senior Pentagon officials, and sound management of the DoD Regional Security Centers. The Board members are chosen for their experience and knowledge of national security affairs, academics, and regional political-military issues. They advise senior DoD officials on matters relating to mission, policy, course content, faculty, and administration of the Centers.

FOR FURTHER INFORMATION CONTACT: John Berry, Director, Regional Affairs (703) 695–6386.

Dated: May 23, 2000.

Linda M. Bynum,

Alternate OSD Federal Liaison Officer, Department of Defense.

[FR Doc. 00–13407 Filed 5–26–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Revised Non-Foreign Overseas per Diem Rates

AGENCY: DoD, Per Diem, Travel and Transportation Allowance Committee.

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 217. 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 217 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: June 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 216. 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 217 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

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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	126	72	198	06/01/2000
09/01 - 04/30	95	63	158	06/01/2000
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	90	60	150	06/01/2000
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	90	60	150	06/01/2000
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

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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	112	65	177	06/01/2000
EASTPAC NAVAL COMP TELE AREA	112	65	177	06/01/2000
FT. DERUSSEY	112	65	177	06/01/2000
FT. SHAFTER	112	65	177	06/01/2000
HICKAM AFB	112	65	177	06/01/2000
HONOLULU (INCL NAV & MC RES CTR)	112	65	177	06/01/2000
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	143	69	212	06/01/2000
12/01 - 04/30	176	73	249	06/01/2000
ISLE OF KURE	65	41	106	05/01/1999
ISLE OF MAUI	143	72	215	05/01/2000
ISLE OF OAHU	112	65	177	06/01/2000
KANEOHE BAY MC BASE	112	65	177	06/01/2000
KEKAHA PACIFIC MISSILE RANGE FAC				
05/01 - 11/30	143	69	212	06/01/2000
12/01 - 04/30	176	73	249	06/01/2000
KILAUEA MILITARY CAMP	84	58	142	05/01/2000
LUALUALEI NAVAL MAGAZINE	112	65	177	06/01/2000
NAS BARBERS POINT	112	65	177	06/01/2000
PEARL HARBOR [INCL ALL MILITARY]	112	65	177	06/01/2000
SCHOFIELD BARRACKS	112	65	177	06/01/2000
WHEELER ARMY AIRFIELD	112	65	177	06/01/2000
[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

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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

Dated: May 23, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–13405 Filed 5–26–00; 8:45 am]

BILLING CODE 50001–10–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 July 31, 2000.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the United States Army Recruiting Command, Program analysis & Evaluation Directorate, Building 1307 3rd Avenue, Fort Knox, Kentucky 4012–2726, ATTN: (Mary H. Baker). 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: Survey of Army Applicants Who were ''Qualified Not Enlisted'' (QNE) or Those Who entered the Delayed Entry Program (DEP) but Chose Not to complete the Enlistment Process.

Needs and Uses: A very large number of individuals make a decision to enlist in the Army and, although qualified, do not complete the enlistment process. Another group of individuals actually enlists, and become members of the Delayed Entry Program, then later changes their mind prior to actual ship date and become a loss. Understanding the reasons for these losses may place the Army Recruiting Command in a better position to provide the necessary number of recruits to maintain end strength.

Affected Public: Individuals or households.

Annual Burden Hours: 784.

Number of Respondents: 8000.

Responses per Respondent: 1.

Average Burden per Response: 21 minutes.

Frequency: Annually.

Supplementary Information: The survey effort will track the role that expectations play in an individual's decision to become a loss. The model employed in this effort was derived from literature pertaining to organizational socialization, motivation, and decision-making, and posits that Delayed Entry Program attrition is a function of personal characteristics, as well as changes in a recruit's attitudes, perceptions, and valued outcomes. This survey effort will collect expectation metrics concerning the value of Army enlistment incentives, training, and job/occupational choices.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 00–13343 Filed 5–26–00; 8:45 am]

BILLING CODE 3710–08–U

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for Tillamook Bay and Estuary Flood Damage Reduction and Ecosystem Restoration, Tillamook County, Oregon

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The purpose of this action is to determine the feasibility of implementing flood control measures and ecosystem restoration actions within the Tillamook Bay watershed. A reconnaissance study for the Tillamook Bay & Estuary watershed was initiated in March 1998 to determine if there was a Federal interest in conducting a detailed feasibility study for flood damage reduction, ecosystem restoration and other related purposes. The reconnaissance report, approved by Corps of Engineers headquarters on 21 December 1998, found that various measures could be implemented to benefit the environment. These include improving habitat for coastal coho salmon, a species listed as threatened under the Endangered Species Act. These measures could also improve water quality and reduce sedimentation entering the bay. In addition, flood damage reduction would most likely be provided by these and other measures. An extensive analysis of the estuary and watershed was conducted under the Tillamook Bay National Estuary Project that resulted in identification of four primary goals that are consistent with the Corps' study authority. These goals include restoration of critical habitat for salmon species, reduction of sedimentation of spawning and rearing habitat, reduction of bacterial contamination of shellfish, and reduction of magnitude, frequency and impact of flood events.

FOR FURTHER INFORMATION CONTACT: Questions about the DEIS can be directed to U.S. Army Corps of Engineers, Portland District, Environmental Resources Branch, P.O. Box 2946, Portland, Oregon 97208–2946, Attention: Steven J. Stevens, phone: (503) 808–4768.

SUPPLEMENTARY INFORMATION: Tillamook Bay is an 8,400 acre estuary which is formed by the convergence of five rivers flowing from the crest of the Coast Range. The bay averages only 6.6 feet in depth and is the terminus of a 570 square mile watershed.

The natural resources of the watershed, which initially attracted Euro-American settlers in the mid-1800's, continue to serve as the basis for the primary industries in the county—timber harvest, fishing, and dairy production.

Although the economy depends on the prime conditions for development and use of natural resources, the natural systems have been significantly impacted by human activities and events including four large forest fires in the 1930's–1950's, timber harvest, agriculture and urban development. These events and activities have led to increased erosion and sedimentation rates and landslide potential in the forest slopes as well as reduced wetland and riparian habitat. All five rivers entering Tillamook Bay exceed temperature and/or bacteria standards established by Oregon Department of Environmental Quality.

The lower Tillamook watershed is accustomed to frequent flood events that typically interrupt street traffic, farm operations and cause minor damage to homes, businesses and farms. The flood of 1996, however caused extensive damage throughout the watershed which precipitated a number of emergency actions as well as local requests for further study of the flood problems.

The fishing industry that once thrived in the Tillamook area is now in jeopardy. The watershed has historically supported large populations of anadromous fish species including coho, chum and chinook salmon, steelhead and cutthroat trout. During the past several decades, the number of returning adults have declined. Among the list of reasons attributed to the decline is the loss or reduction of habitat.

The objective of the feasibility study is to analyze flood damage reduction and ecosystem restoration problems and opportunities and identify actions that would address them from the Federal and non-Federal perspective. A full range of alternatives will be identified and evaluated with the anticipation that several alternatives can achieve both planning objectives.

EIS Scoping will be an integral part of the process of identifying alternatives and issues relevant to the planning study. Scoping will formally commence with a scoping letter expected to be issued early this summer. Federal, state and local agencies, Indian tribes, and interested organizations and individuals will be asked to comment on the scope of issues, alternatives and their potential impacts. Public meetings will be held in conjunction with each critical stage of the planning process, including opportunity to comment on the scope of the EIS. Further opportunity for public comment will occur during Draft and Final EIS review.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 00–13344 Filed 5–26–00; 8:45 am]

BILLING CODE 3710–AR–U

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Notice of Intent To Prepare an Environmental Impact Statement (EIS) for the White River Minimum Flow Study, Arkansas and Missouri

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of intent.

SUMMARY: The purpose of the EIS is to address alternatives and impacts pertaining to reallocation of water storage at five reservoirs in the White River System (Beaver, Table Rock, Bull Shoals, Norfork, and Greers Ferry) as authorized by section 374, ''White River Basin, Arkansas and Missouri'' of P.L. 106–53 (Water Resources Development Act of 1999).

FOR FURTHER INFORMATION CONTACT: Questions or comments concerning the proposed action should be addressed to Mr. Jim Ellis, Environmental Team Leader, Planning Branch, P.O. Box 867, Little Rock, Arkansas 72203–0867, telephone 501–324–5033, e-mail: James.D.Ellis@sw102.usace.army.mil.

SUPPLEMENTARY INFORMATION: Beaver Lake, Table Rock Lake, Bull Shoals Lake, Norfork Lake, and Greers Ferry Lake were authorized for the purposes of flood control, hydroelectric power generation, water supply, recreation, and fish and wildlife. Each of these lakes has specifically authorized storage for the purposes of flood control and hydropower generation. Beaver Lake and Greers Ferry Lake also have specifically authorized storage for water supply and Table Rock Lake has specifically authorized storage for fish and wildlife.

The evaluation study and EIS for the White River Minimum Flow Project is being conducted in response to Section 374, ''White River Basin, Arkansas and Missouri'' of P.L. 106–53 (Water Resources Development Act of 1999).

The study will address implementation of the reallocation of 1.5 feet of storage from Beaver Lake, 2.0 feet of storage from Table Rock Lake, 5.0 feet of storage from Bull Shoals Lake, 3.5 feet of storage from Norfok Lake, and 3 feet of storage in Greers Ferry Lake for the purpose of providing minimum flows to sustain the downstream trout fishery. The study will evaluate impacts due to reallocation from the conservation pool and reallocation from the flood control pool. The study will also evaluate necessary structural modifications to the projects to achieve the desired minimum releases.

The EIS will evaluate the effects of alternatives on the authorized project purposes and other identified concerns. Significant issues to be addressed in the EIS include: (1) Impacts on flood control; (2) impacts on hydropower generation; (3) impacts on recreation and recreation facilities; (4) impacts on structure of the dam; (5) impacts on dish and wildlife resources within and also above and below the lake; (6) impacts on downstream flows on the White River System; and (7) other impacts identified by the Public, agencies, or Corps studies.

Scoping meetings for the project are planned to be conducted from June through September 2000. News releases informing the public and local, state, and Federal agencies of the proposed action will be published in local newspapers. Comments received as a result of this notice and the news releases will be used to assist the Little Rock District in identifying potential impacts to the quality of the human or natural environment.

Affected local, state, or Federal agencies, affected Indian tribes, and other interested private organizations and parties may participate in the Scoping process by forwarding written comments to the above noted address or attending Scoping meetings.

The draft EIS (DEIS) is expected to be available for public review and comment by December 2001 subject to receipt of Federal funding. Any comments and suggestions should be forwarded to the above noted address no later than November 1, 2000, to be considered in the DEIS.

Douglas L. Bentley, Jr.,

Major, Corps of Engineers, Acting District Engineer.

[FR Doc. 00–13345 Filed 5–26–00; 8:45 am]

BILLING CODE 3710–57–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Announcement of Army Corps of Engineers Regional Listening Sessions

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice.

SUMMARY: The Army Corps of Engineers is initiating a dialogue with its stakeholders, the general public, and with federal, state, and local agencies about future water resources challenges facing the nation. The dialogue will entail a series of fourteen regional listening sessions to be conducted during the June–September, 2000 timeframe (see schedule below). Results from all of the public listening sessions will be compiled into a report assessing the current state of water resources in the U.S. and the gap that must be closed to meet future national needs. The information contained within the report will be provided to decision-makers and the public to help frame discussions

about the need to address the nation's water resource needs for the 21st Century.

ADDRESSES: US Army Corps of Engineers, CEWRC–IWR–A, Casey Building, 7701 Telegraph Road, Alexandria, VA 22315–8435

FOR FURTHER INFORMATION CONTACT: Mr. Mark Gmitro, Program Manager, phone toll free (877) 447–6342 or if you're in Northern Virginia you can phone (703) 428–5835.

SUPPLEMENTARY INFORMATION: Each Regional Listening Session will be held as a facilitated workshop. The workshops will begin at approximately 10:00 a.m. and should end at approximately 4:00 p.m. In order to optimize the time available to all attendees, there will not be time for participants to provide prepared formal statements. However, written statements may be submitted via the web site address below, posted at a designated area during the workshop; or submitted to us before, at or after the workshop to be included in the published proceedings of the listening session.

Registration forms and additional information on the regional listening session is available on the Corps web site (*www.wrsc.usace.army.mil/iwr/waterchallenges*) or by calling our toll free number at (877) 447–6342 or if you're in Northern Virginia you can reach us at (703) 428–5835.

The following sessions are provided. For exact locations within each Division, and verification of dates and starting times, please visit the above web site.

Regional Listening Sessions

Date: June 16, 2000.
Time: 1 p.m.–5:30 p.m.
Host Division: Mississippi Valley Division.
Location: St. Louis, MO.

Date: June 20, 2000.
Time: 10 a.m.–4 p.m.
Host Division: South Pacific Division.
Location: Sacramento, CA.

Date: June 22, 2000.
Time: 10:00 a.m.–4:00 p.m.
Host Division: South Pacific Division.
Location: Phoenix, AZ.

Date: July 11, 2000.
Time: 10:00 a.m.–4:00 p.m.
Host Division: North Atlantic Division.
Location: Waltham, MA.

Date: July 18, 2000.
Time: 1:00 p.m.–5:30 p.m.
Host Division: Northwestern Division.
Location: Omaha, NE.

Date: July 20, 2000.
Time: 10:00 a.m.–4:00 p.m.
Host Division: South Atlantic Division.
Location: Atlanta, GA.

Date: July 26, 2000.
Time: 10:00 a.m.–4:00 p.m.
Host Division: Pacific Ocean Division.
Location: Honolulu, HI.

Date: August 2, 2000.
Time: 10:00–4:00 p.m.
Host Division: Great Lakes and Ohio Rivers Division.
Location: Chicago, IL.

Date: August 7, 2000.
Time: 10:00 a.m.–4:00 p.m.
Host Division: Great Lakes and Ohio Rivers Division.
Location: Louisville, KY.

Date: August 10, 2000.
Time: 10:00 a.m.–4:00 p.m.
Host Division: Southwestern Division.
Location: Dallas, TX.

Date: August 14, 2000.
Time: 10:00 a.m.–4:00 p.m.
Host Division: North Atlantic Division.
Location: Richmond, VA.

Date: August 17, 2000.
Time: 10:00 a.m.–4:00 p.m.
Host Division: North Atlantic Division.
Location: Absecon, NJ.

Date: September 15, 2000.
Time: 10:00 a.m.–4:00 p.m.
Host Division: Pacific Ocean Division.
Location: Anchorage, AK.

Date: September 19, 2000.
Time: 10:00 a.m.–4:00 p.m.
Host Division: Northwestern Division.
Location: Vancouver, WA.

The U.S. Army Corps of Engineers values your opinion. Please plan to attend! We look forward to receiving your RSVP and the opportunity to Join the Dialogue.

Robert A. Pietrowsky,
Acting Director, Institute for Water Resources.

[FR Doc. 00–13342 Filed 5–26–00; 8:45 am]

BILLING CODE 3710–92–U

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; Nanoptics, Inc.

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of a prospective license to Nanoptics Inc. to the Government-owned invention described as ''GRID-FREE, MODULAR LARGE SCREEN DISPLAY''.

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than July 31, 2000.

ADDRESSES: Written objections are to be filed with the Office of Patent Counsel, Space and Naval Warfare Systems Center, D0012, 53510 Silvergate Ave., Rm 103, San Diego, CA 92152–5765. Kindly reference N.C. 72,844 in all correspondence directed to this matter.

FOR FURTHER INFORMATION CONTACT: Mr. Harvey Fendelman, Patent Counsel, Space and Naval Warfare Systems Center, Code D0012, 53510 Silvergate Ave., Rm 103, San Diego, CA 92152–5765, telephone (619) 553–3001.

(Authority: 35 U.S.C. 207, 37 CFR Part 404)

Dated: May 18, 2000.

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

[FR Doc. 00–13392 Filed 5–26–00; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Federal Pell Grant, Federal Perkins Loan, Federal Work-Study, Federal Supplemental Educational Opportunity Grant, Federal Family Education Loan, and William D. Ford Federal Direct Loan Programs

AGENCY: Office of Student Financial Assistance, Department of Education.

ACTION: Notice of revision of the Federal need analysis methodology for the 2001–2002 award year.

SUMMARY: The Secretary of Education announces the annual updates to the tables that will be used in the statutory ''Federal Need Analysis Methodology'' to determine a student's expected family contribution (EFC) for award year 2001–2002 under part F of title IV of the Higher Education Act (HEA) of 1965, as amended (Title IV, HEA Programs). An EFC is the amount a student and his or her family may reasonably be expected to contribute toward the student's postsecondary educational costs for purposes of determining financial aid eligibility. The title IV, HEA Programs include the Federal Pell Grant, campus-based (Federal Perkins Loan, Federal Work-Study, and Federal Supplemental Educational Opportunity Grant Programs), Federal Family Education Loan, and William D. Ford Federal Direct Loan Programs.

FOR FURTHER INFORMATION CONTACT: Ms. Edith Bell, Program Specialist, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 4621, ROB–3), Washington, DC 20202–5444.

Telephone: (202) 708–5591. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternate format (*e.g.,* Braille, large print, audiotape or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: Part F of title IV of the HEA specifies the criteria, data elements, calculations, and tables used in the Federal Need Analysis Methodology EFC calculations.

Section 478 of part F of the HEA requires the Secretary to adjust four of the tables—the Income Protection Allowance, the Adjusted Net Worth of a Business or Farm, the Education Savings and Asset Protection Allowance, and the Assessment Schedules and Rates—each award year to take into account inflation. The changes are based, in general, upon increases in the Consumer Price Index.

For the award year 2001–2002 the Secretary is charged with updating the income protection allowance, adjusted net worth of a business or farm, and the assessment schedules and rates to account for inflation that took place between December 1999 and December 2000. However, since the Secretary must publish these tables before December 2000, the increases in the tables must be based upon a percentage equal to the estimated percentage increase in the Consumer Price Index for all Urban Consumers for 1999. The Secretary estimates that the increase in the Consumer Price Index for all Urban Consumers for the period December 1999 through December 2000 will be 2.3 percent. The updated tables are in sections 1, 2, and 4 of this notice.

The Secretary must also revise, for each award year, the table on asset protection allowance as provided for in section 478(d) of the HEA. The Education Savings and Asset Protection Allowance table for the award year 2001–2002 has been updated in section 3 of this notice.

Section 477(b)(5) of part F of the HEA also requires the Secretary to increase the amount specified for the Employment Expense Allowance to account for inflation based upon increases in the Bureau of Labor Statistics budget of the marginal costs for a two-earner compared to a one-earner family for meals away from home, apparel and upkeep, transportation, and housekeeping services. Therefore, the Secretary is increasing this allowance as described in section 5 of this notice.

The HEA provides for the following annual updates:

1. *Income Protection Allowance.* This allowance is the amount of reasonable living expenses that would be associated with the maintenance of an individual or family. The allowance is offset against the family's income and varies by family size. The income protection allowance for the dependent student is $2,250. The income protection allowances for parents of dependent students and independent students with dependents other than a spouse for award year 2001–2002 are:

Family size	Number in college				
	1	2	3	4	5
2	12,760	10,580			
3	15,890	13,720	11,540		
4	19,630	17,440	15,270	13,090	
5	23,160	20,970	18,800	16,620	14,450
6	27,090	24,900	22,730	20,550	18,380

For each additional family member add $3,060.
For each additional college student subtract $2,170.

The income protection allowances for independent students without dependents other than a spouse for award year 2001–2002 are:

Marital status	Number in college	
Single	1	$5,110
Married	2	5,110
Married	1	8,180

2. *Adjusted Net Worth (NW) of a Business or Farm.* A portion of the full net value of a farm or business is excluded from the calculation of an expected contribution since—(1) the income produced from these assets is already assessed in another part of the formula; and (2) the formula protects a portion of the value of the assets. The portion of these assets included in the contribution calculation is computed according to the following schedule. This schedule is used for parents of dependent students, independent students without dependents other than a spouse, and independent students with dependents other than a spouse.

If the net worth of a business or farm is—	The adjusted net worth is—				
Less than $1	0				
$1 to $90,000	0	+	40%	of NW	
$90,001 to $275,000	36,000	+	50%	of NW over	$90,000
$275,001 to $455,000	128,500	+	60%	of NW over	275,000
$455,001 or more	236,500	+	100%	of NW over	455,000

3. *Education Savings and Asset Protection Allowance.* This allowance protects a portion of net worth (assets less debts) from being considered available for postsecondary educational expenses. There are three asset protection allowance tables—one for parents of dependent students, one for independent students without dependents other than a spouse, and one for independent students with dependents other than a spouse.

DEPENDENT STUDENTS

If the age of the older parent is—	And there are—	
	Two parents	One parent
	Then the education savings and asset protection allowance is—	
25 or less	0	0
26	2,500	1,500
27	5,000	2,900
28	7,500	4,400
29	10,000	5,800
30	12,500	7,300
31	15,000	8,800
32	17,500	10,200
33	19,900	11,700
34	22,400	13,100
35	24,900	14,600
36	27,400	16,100
37	29,900	17,500
38	32,400	19,000
39	34,900	20,400
40	37,400	21,900
41	38,400	22,300
42	39,300	22,800
43	40,300	23,300
44	41,400	23,800
45	42,400	24,400
46	43,500	24,900
47	44,600	25,500
48	45,700	26,100
49	46,800	26,700
50	48,300	27,200
51	49,500	27,900
52	50,800	28,600
53	52,300	29,400
54	53,600	30,100
55	55,300	30,800
56	56,900	31,500
57	58,700	32,400
58	60,400	33,200
59	62,200	34,200
60	64,100	35,000
61	66,000	36,000
62	68,300	37,000
63	70,600	38,000
64	72,700	39,100
65 and over	75,100	40,400

INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE

If the age of the student is—	And the student is—	
	Married	Single
	Then the education savings and asset protection allowance is—	
25 or less	0	0
26	2,500	1,500
27	5,000	2,900
28	7,500	4,400
29	10,000	5,800
30	12,500	7,300
31	15,000	8,800
32	17,500	10,200
33	19,900	11,700
34	22,400	13,100
35	24,900	14,600
36	27,400	16,100
37	29,900	17,500
38	32,400	19,000
39	34,900	20,400
40	37,400	21,900
41	38,400	22,300
42	39,300	22,800
43	40,300	23,300
44	41,400	23,800
45	42,400	24,400
46	43,500	24,900
47	44,600	25,500
48	45,700	26,100
49	46,800	26,700
50	48,300	27,200
51	49,500	27,900
52	50,800	28,600
53	52,300	29,400
54	53,600	30,100
55	55,300	30,800
56	56,900	31,500
57	58,700	32,400
58	60,400	33,200
59	62,200	34,200
60	64,100	35,000
61	66,000	36,000
62	68,300	37,000
63	70,600	38,000
64	72,700	39,100
65 and over	75,100	40,400

INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE

If the age of the student is—	And the student is—	
	Married	Single
	Then the education savings and assets protection allowance is—	
25 or less	0	0
26	2,500	1,500
27	5,000	2,900
28	7,500	4,400
29	10,000	5,800

INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE—Continued

If the age of the student is—	And the student is—	
	Married	Single
30	12,500	7,300
31	15,000	8,800
32	17,500	10,200
33	19,900	11,700
34	22,400	13,100
35	24,900	14,600
36	27,400	16,100
37	29,900	17,500
38	32,400	19,000
39	34,900	20,400
40	37,400	21,900
41	38,400	22,300
42	39,300	22,800
43	40,300	23,300
44	41,400	23,800
45	42,400	24,400
46	43,500	24,900
47	44,600	25,500
48	45,700	26,100
49	46,800	26,700
50	48,300	27,200
51	49,500	27,900
52	50,800	28,600
53	52,300	29,400
54	53,600	30,100
55	55,300	30,800
56	56,900	31,500
57	58,700	32,400
58	60,400	33,200
59	62,200	34,200
60	64,100	35,000
61	66,000	36,000
62	68,300	37,000
63	70,600	38,000
64	72,700,	39,100
65 and over	75,100	40,400

4. *Assessment Schedules and Rates.* Two schedules, one for dependent students and one for independent students with dependents other than a spouse, are used to determine the expected contribution toward educational expenses from family financial resources. For dependent students, the expected parental contribution is derived from an assessment of the parents adjusted available income (AAI). For independent students with dependents other than a spouse, the expected contribution is derived from an assessment of the family's AAI. The AAI represents a measure of a family's financial strength, which considers both income and assets.

The parents' contribution for a dependent student is computed according to the following schedule:

If AAI is—	Then the contribution is—
Less than –$3,409 ($3,409)	–$750
($3,409) to $11,400	+ 22% of AAI.

$11,401 to $14,300	2,508	+	25%	of AAI over	$11,400
$14,301 to $17,200	3,233	+	29%	of AAI over	14,300
$17,201 to $20,100	4,074	+	34%	of AAI over	17,200
$20,101 to $23,000	5,060	+	40%	of AAI over	20,100
$23,001 or more	6,220	+	47%	of AAI over	23,000

The contribution for an independent student with dependents other than a spouse is computed according to the following schedule:

If AAI is—	Then the contribution is—				
Less than –$3,409 ($3,409)	–$750				
($3,409) to $11,400		.....	22%	of AAI.	
$11,401 to $14,300	2,508	+	25%	of AAI over	$11,400
$14,301 to $17,200	3,233	+	29%	of AAI over	14,300
$17,201 to $20,100	4,074	+	34%	of AAI over	17,200
$20,101 to $23,000	5,060	+	40%	of AAI over	20,100
$23,001 or more	6,220	+	47%	of AAI over	23,000

5. *Employment Expense Allowance.* This allowance for employment-related expenses, which is used for the parents of dependent students and for married independent students with dependents, recognizes additional expenses incurred by working spouses and single-parent households. The allowance is based upon the marginal differences in costs for a two wage earner family compared to a one wage earner family for meals away from home, apparel and upkeep, transportation, and housekeeping services.

The employment expense allowance for parents of dependent students, married independent students without dependents other than a spouse, and independent students with dependents other than a spouse is the lesser of $2,900 or 35 percent of earned income.

6. *Allowance for State and Other Taxes.* This allowance for State and other taxes protects a portion of the parents' and student's income from being considered available for postsecondary educational expenses. There are four tables for State and other taxes, one each for parents of dependent students, independent students with dependents other than a spouse, dependent students, and independent students without dependents other than a spouse.

PARENTS OF DEPENDENT STUDENTS

If parents' State or territory of residence is:	And parents' total income is—	
	less than $15,000	$15,000 or more
	then the percentage is—	
Wyoming, Tennessee, Nevada, Alaska, Texas	3	2
Louisiana, Florida, Washington, South Dakota	4	3
Alabama, Mississippi	5	4
North Dakota, Illinois, Connecticut, New Mexico, Missouri, West Virginia, Arizona, Indiana, Oklahoma, Arkansas	6	5
New Hampshire, Pennsylvania, Colorado, Georgia, Kansas, Kentucky, Idaho	7	6
North Carolina, Virginia, Delaware, South Carolina, Ohio, Utah, Nebraska, Montana, California, New Jersey, Iowa, Vermont, Hawaii	8	7
Massachusetts, Rhode Island, Michigan, Minnesota, Maine, Maryland	9	8
District of Columbia, Wisconsin, Oregon	10	9
New York	11	10
Other	4	3

INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE

If student's State or territory of residence is:	And student's total income is—	
	Less than $15,000	$15,000 or more
	then the percentage is—	
Wyoming, Tennessee, Nevada, Alaska, Texas	3	2
Louisiana, Florida, Washington, South Dakota	4	3
Alabama, Mississippi	5	4
North Dakota, Illinois, Connecticut, New Mexico, Missouri, West Virginia, Arizona, Indiana, Oklahoma, Arkansas	6	5
New Hampshire, Pennsylvania, Colorado, Georgia, Kansas, Kentucky, Idaho	7	6
North Carolina, Virginia, Delaware, South Carolina, Ohio, Utah, Nebraska, Montana, California, New Jersey, Iowa, Vermont, Hawaii	8	7
Massachusetts, Rhode Island, Michigan, Minnesota, Maine, Maryland	9	8
District of Columbia, Wisconsin, Oregon	10	9
New York	11	10

INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE—Continued

If student's State or territory of residence is:	And student's total income is—	
	Less than $15,000	$15,000 or more
Other	4	3

DEPENDENT STUDENTS

If student's State or territory of residence is:	The percentage is—
Alaska, Texas, South Dakota, Wyoming, Washington, Tennessee, Nevada	0
Florida, New Hampshire	1
Connecticut, Louisiana, Illinois, North Dakota	2
Mississippi, Arizona, Alabama, Pennsylvania, New Jersey, Missouri	3
Nebraska, Indiana, Colorado, New Mexico, Oklahoma, Kansas, West Virginia, Rhode Island, Virginia, Georgia, Arkansas, Vermont, Michigan	4
Montana, Idaho, Utah, Kentucky, Massachusetts, California, North Carolina, South Carolina, Ohio, Iowa, Delaware, Maine, Wisconsin	5
Oregon, Maryland, Minnesota, Hawaii	6
District of Columbia, New York	7
Other	2

INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE

If student's State or territory of residence is:	The percentage is—
Alaska, Texas, South Dakota, Wyoming, Washington, Tennessee, Nevada	0
Florida, New Hampshire	1
Connecticut, Louisiana, Illinois, North Dakota	2
Mississippi, Arizona, Alabama, Pennsylvania, New Jersey, Missouri	3
Nebraska, Indiana, Colorado, New Mexico, Oklahoma, Kansas, West Virginia, Rhode Island, Virginia, Georgia, Arkansas, Vermont, Michigan	4
Montana, Idaho, Utah, Kentucky, Massachusetts, California, North Carolina, South Carolina, Ohio, Iowa, Delaware, Maine, Wisconsin	5
Oregon, Maryland, Minnesota, Hawaii	6
District of Columbia, New York	7
Other	2

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(Catalog of Federal Domestic Assistance Numbers: 84.007 Federal Supplemental Educational Opportunity Grant; 84.032 Federal Family Education Loan Program; 84.033 Federal Work-Study Program; 84.038 Federal Perkins Loan Program; 84.063 Federal Pell Grant Program; William D. Ford Federal Direct Loan Program, 84.268)

Dated: May 23, 2000.

Jim Lynch,

Acting Chief Operating Officer, Student Financial Assistance.

[FR Doc. 00–13399 Filed 5–26–00; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

[CFDA No. 84.033]

Student Financial Assistance, Federal Work-Study Programs

AGENCY: Department of Education.

ACTION: Notice of the closing date for institutions to submit a request for a waiver of the seven percent community service expenditure requirements in the Federal Work-Study (FWS) Program.

SUMMARY: June 26, 2000 is the closing date for institutions to request a waiver of the community service expenditure requirements for the 2000–2001 award year (July 1, 2000 through June 30, 2001). An institution is required to expend at least seven percent of its total Federal allocation under the FWS program to compensate students in community service employment. Also, in meeting the seven percent community service expenditure requirement, one or more of the institution's FWS students must be employed as a reading tutor for children in a reading tutoring project or performing family literacy activities in a family literacy project. The FWS program is authorized by part C of title IV of the Higher Education Act of 1965, as amended (HEA).

DATES: *Closing Date for Submitting a Waiver Request and any Supporting*

Information or Documents. To request a waiver, an institution must mail or hand deliver its waiver request to the Department by 5:00 p.m. eastern time on June 16, 2000. If you choose you may fax or e-mail your waiver request and any supporting information or documents by 5 p.m. eastern time on June 16, 2000. You must fax the waiver request to Sandra Donelson at (202) 205–1919 or (202) 260–0522 or e-mail to the following address: Sandra_Donelson@ed.gov.

ADDRESSES: *Waiver Requests Delivered by Mail*. An institution must address a waiver request delivered by mail to Ms. Sandra Donelson, Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue, SW., Suite 600D, Portals Building, Washington, DC 20202–5453. An institution must show proof of mailing consisting of one of the following: (1) A legibly dated U.S. Postal Service postmark; (2) a legible mail receipt with the date of mailing stamped by the U.S. Postal Service; (3) a dated shipping label, invoice, or receipt from a commercial carrier; or (4) any other proof of mailing acceptable to the Secretary of Education.

If a waiver request is sent through the U.S. Postal Service, the Secretary does not accept either as proof of mailing: (1) A private metered postmark or (2) a mail receipt that is not dated by the U.S. Postal Service.

An institution should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an institution should check with its local post office.

The Secretary encourages an institution to use certified or at least first-class mail. Institutions that submit waiver requests after the closing date of June 16, 2000, will not be considered.

Waiver Request Delivered by Hand. If an institution delivers its waiver request by hand, it must deliver the waiver request to Ms. Sandra Donelson, Student Financial Assistance, U.S. Department of Education, Suite 600D, Portals Building, 1250 Maryland Avenue, SW., Washington, D.C. The Secretary accepts hand-delivered waiver requests between 8 a.m. and 5 p.m. (Eastern time) daily, except Saturdays, Sundays, and Federal holidays. The Secretary will not accept waiver requests that are delivered by hand after 5 p.m. on June 16, 2000.

SUPPLEMENTARY INFORMATION: Under section 443(b)(2)(A) of the HEA, an institution must use at least seven percent of the total amount of its FWS Federal allocation granted for an award year to compensate students employed in community service. However, we may waive this requirement if it is determined that enforcing it would cause hardship for students at the institution.

An appropriate institutional official must sign the waiver request and include, above the signature, the following statement: ''I certify that the information I provided in this waiver request is true and accurate to the best of my knowledge. I understand that the information is subject to audit and program review by the Department of Education.''

To receive a waiver, you must demonstrate that complying with the seven percent requirements would cause hardship for students at your institution. To allow flexibility to consider factors that may be valid reasons for a waiver, we do not specify the particular circumstances that would support granting a waiver. However, we do not foresee many instances in which a waiver will be granted. The fact that it may be difficult for you to comply with this provision of the HEA is not a basis for granting a waiver.

Applicable Regulations

The following regulations apply to the Federal Work-Study program:

(1) Student Assistance General Provisions, 34 CFR part 668.

(2) General Provisions for the Federal Perkins Loan Program, Federal Work-Study Program, and Federal Supplemental Educational Opportunity Grant Program, 34 CFR part 673.

(3) Federal Work-Study Programs, 34 CFR part 675.

(4) Institutional Eligibility Under the Higher Education Act of 1965, as amended, 34 CFR part 600.

(5) New Restrictions on Lobbying, 34 CFR part 82.

(6) Government Debarment and Suspension (Nonprocurement) and Government Requirements for Drug-Free Workplace (Grants), 34 CFR part 85.

(7) Drug and Alcohol Abuse Prevention, 34 CFR part 86.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra Donelson, Student Financial Assistance, U.S. Department, 400 Maryland Avenue, SW., Suite 600D Portals Building, Washington, DC. Telephone (202) 708–9751. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternate format (*e.g.*, Braille, large print, audiotape or computer diskette) by contacting the Alternate Format Center at (202) 260–9895 between 8:30 a.m. and 4:30 p.m., Eastern time, Monday through Friday.

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Program Authority: 42 U.S.C. 2753.

Dated: May 23, 2000.

Greg Woods,

Chief Operating Officer, Student Financial Assistance.

[FR Doc. 00–13398 Filed 5–26–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Science

Office of Science Financial Assistance Program Notice 00–15: Theoretical Research in Plasma and Fusion Science

AGENCY: Department of Energy (DOE).

ACTION: Notice inviting new and renewal grant applications.

SUMMARY: The Office of Fusion Energy Sciences (OFES) of the Office of Science (SC), U.S. Department of Energy (DOE) announces its interest in receiving grant applications for theoretical research in magnetic fusion energy sciences. All individuals or groups planning to submit applications for new or renewal funding in FY 2001 should submit in response to this Notice.

The specific areas of interest are: Magnetohydrodynamics and Stability; Confinement and Transport; Edge and Divertor Physics; Plasma Heating and Non-inductive Current Drive; Innovative Confinement Concepts; and Atomic and Molecular Processes in Plasmas.

More specific information on each area of interest is outlined in the general

and program specific supplementary information sections below. Due to the limited availability of funds, Principal Investigators with continuing grants may not submit a new application in the same area(s) of interest as their current grant(s). A Principal Investigator may submit only one application under each area of interest as listed above.

DATES: To permit timely consideration for awards in Fiscal Year 2001, applications submitted in response to this notice must be received no later than 4:30 p.m., July 20, 2000. Electronic submissions of formal applications will not be accepted.

Applicants are requested to submit a letter-of-intent by June 15, 2000, which includes the title of the application, the name of the Principal Investigator(s), the requested funding and a one-page abstract. These letters-of-intent will be used to organize and expedite review processes. Failure to submit a letter-of-intent will not negatively prejudice a responsive formal application submitted in a timely fashion. Electronic submissions of letters-of-intent are acceptable.

ADDRESSES: Formal applications referencing Program Notice 00–15, should be sent to: U.S. Department of Energy, Office of Science, Grants and Contracts Division, SC–64, 19901 Germantown Road, Germantown, Maryland 20874–1290, ATTN: Program Notice 00–15. The above address must also be used when submitting applications by U.S. Postal Service Express or any other commercial overnight delivery service, or when hand-carried by the applicant.

Letters-of-intent referencing Program Notice 00–15, should be forwarded to: U.S. Department of Energy, Office of Science, Office of Fusion Energy Sciences, SC–50, 19901 Germantown Road, Germantown, Maryland 20874–1290, ATTN: John Sauter. Letters-of-intent can also be submitted via E-mail at the following E-mail address: john.sauter@science.doe.gov

FOR FURTHER INFORMATION CONTACT: Office of Fusion Energy Sciences, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290. Specific contacts for each area of interest, along with telephone numbers and Internet addresses, are listed below:

Magnetohydrodynamics and Stability: Rostom Dagazian, Research Division, SC–55, Telephone: (301) 903–4926, or by Internet address, Rostom.dagazian@science.doe.gov.

Confinement and Transport: Curt Bolton, Research Division, SC–55, Telephone: (301) 903–4914, or by Internet address, curt.bolton@science.doe.gov.

Edge and Divertor Physics: Walter Sadowski, Research Division, SC–55, Telephone: (301) 903–4678, or by Internet address, walt.sadowski@science.doe.gov.

Plasma Heating and Non-inductive Current Drive: Walter Sadowski, Research Division, SC–55, Telephone: (301) 903–4678, or by Internet address, walt.sadowski@science.doe.gov.

Innovative Confinement Concepts: Steve Eckstrand, Research Division, SC–55, Telephone: (301) 903–5546, or by Internet address, steve.eckstrand@science.doe.gov.

Atomic and Molecular Processes in Plasmas: Mike Crisp, Research Division, SC–55, Telephone: (301) 903–4883, or by Internet address, michael.crisp@science.doe.gov.

SUPPLEMENTARY INFORMATION: General information about development and submission of applications, eligibility, limitations, evaluations and selection processes, and other policies and procedures may be found in the Application Guide for the Office of Science (SC) Financial Assistance Program and 10 CFR Part 605. Electronic access to SC's Financial Assistance Guide and required forms is possible via the Internet using the following Web site address: http://www.sc.doe.gov/production/grants/grants.html. DOE is under no obligation to pay for any costs associated with the preparation or submission of an application if an award is not made.

Program Funding

It is anticipated that $7,600,000 of Fiscal Year 2001 funding will be available to start new work or renewals of existing work from applications received in response to this Notice. The number of awards and range of funding will depend on the number of applications received and selected for award. Since future year funding is not anticipated to increase, applications should propose constant year effort (allowing for inflation). Future year funding will depend upon suitable progress and the availability of funds. The cost-effectiveness of the application will be considered when comparing applications with differing funding requirements. Applications requiring annual funding as low as $50,000 are welcomed and encouraged.

Collaborative research projects involving more than one institution, as well as work in support of the computational collaborative research efforts are encouraged. Applications submitted from different institutions, which are directed at a common research activity, should clearly indicate they are part of a proposed collaboration and contain a brief description of the overall research project. However, each application must have a distinct scope of work and a qualified principal investigator, who is responsible for the research effort being performed at his or her institution. Synergistic collaborations with researchers in federal laboratories and Federally Funded Research and Development Centers (FFRDCs), including the DOE National Laboratories are also encouraged, though no funds will be provided to these organizations under this Notice. Further information on preparation of collaborative applications may be accessed via the Internet at http://www.sc.doe.gov/production/grants/Colab.html.

To enable all reviewers in each category to read all applications in that category, the application must be limited to a maximum of twenty (20) pages (including text and figures) for applications from 1–2 persons and thirty (30) pages for applications from theory groups. In addition, please limit biographical and publication information for the principal investigator and senior personnel to no more than one page each. Although it is not required, it would be helpful for each applicant to submit twelve (12) copies of their application due to the anticipated number of reviewers; otherwise the standard number of copies must be received with each application as outlined in the Application Guide.

In addition to the information required by 10 CFR Part 605 each application should contain the following items: (1) A succinct statement of the goal of the research, (2) a detailed research plan, (3) the specific results expected at the end of the project period, (4) an analysis of the adequacy of the budget, and (5) a discussion of the impact of the proposed research on other fields of science.

Merit Review

Applications will be subjected to formal merit review and will be evaluated against the following criteria, which are listed in descending order of importance as set forth in 10 CFR Part 605 (www.sc.doe.gov/production/grants/605index.html):

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

4. Reasonableness and appropriateness of the proposed budget.

The Office of Fusion Energy Sciences shall consider, as part of the evaluation, other available advice or information as well as program policy factors such as ensuring an appropriate balance among the program areas, ensuring support for computational teams, ensuring support for experiments, and quality of previous performance. Selection of applications/proposals for award will be based upon the findings of the technical evaluations, the importance and relevance of the proposed research to the Office of Fusion Energy Sciences' mission, and funding availability.

Program Specific Supplementary Information

Magnetohydrodynamics and Stability

Grant applications are solicited for new research or continuation of past efforts in MHD theory in support of Fusion community work in magnetically confined plasmas. Current work includes advanced tokamak (AT), innovative confinement concepts (ICC), burning plasma physics and steady state high beta plasma issues. Both analytical and computational approaches will be considered. Additional work is particularly needed in the areas of nonlinear MHD, neoclassical tearing modes, extended MHD, including flows and various non-ideal MHD effects, and resistive wall modes. Work in support of the major computational initiative that involves the development of large-scale codes to explore non-linear MHD will also be considered.

Confinement and Transport

Applications will be considered in the area of confinement and transport in plasmas. Both analytical and computational work is of interest. The general area covers plasma turbulence, energy, particle, momentum and radiation transport in the core of the plasma. The work of interest includes work in support of tokamak as well as non-tokamak innovative concepts. Topics of interest include among others, electromagnetic effects on turbulence, shear flow generation and its impacts on transport, and understanding of the role of collisions in turbulent plasmas. Work in support of the major computational initiative that involves the development of large-scale codes to explore turbulence will also be considered.

Edge and Divertor Physics

Applications will be considered in the area of edge physics theory. Both analytical and numerical models are of interest. The general area covers plasma turbulence, energy, particle and radiation transport in the edge of the plasma and in the neighborhood of the separatrix. The work of interest includes neutrals transport in divertors and plasma edge region, atomic physics processes affecting temperature, radiation and flame front propagation in divertors. Techniques and algorithms for modeling fast particles in the edge region as well as adaptive grid methods and their application to modeling of plasma turbulence and transport in the edge region will be reviewed.

Plasma Heating and Non-Inductive Current Drive

Applications will be considered in the area of RF physics in plasmas. This includes RF propagation, heating and current drive. Of interest are both analytical and numerical treatments of interaction of plasmas with radio frequency waves. These include electron cyclotron, ion cyclotron, lower hybrid and Bernstein waves. Topics of interest include, among others, physical processes involved in conversion layers, power deposition for temperature profile control and interaction of waves of different frequencies to produce specific effects on the plasma. Applications for modeling radio frequency launchers and their coupling to the edge plasma will also be considered.

Innovative Confinement Concepts

Grant applications are desired for theoretical and computational research on innovative confinement concepts that have the possibility of leading to improved magnetic fusion systems. In 1996, the U.S. fusion program began supporting a broadening array of innovative confinement concepts (ICC). Increased theoretical and computational research is needed to make optimal use of these experiments as they come into operation and to support further development of these concepts. Additional work is needed particularly on macroscopic stability and turbulence/transport in innovative confinement concepts.

Atomic and Molecular Processes in Plasmas

Grant applications will be considered for theoretical research relevant to the description of atomic processes in plasmas. In addition to overall scientific merit, emphasis will be given to work that promises to aid the understanding of the basic atomic processes that are important for modeling of magnetically confined plasmas and high-density plasmas found in inertial confinement fusion experiments. The program has found that understanding electron-atom and electron-ion collisions and the radiation emitted by atoms and ions to be of importance for the modeling of plasma behavior in experiments. Some current areas where atomic processes are considered to be important include the effects of transport, the effects of impurities and the understanding of diagnostics.

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

Issued in Washington, DC on May 11, 2000.

John Rodney Clark,

Associate Director of Science for Resource Management.

[FR Doc. 00–13408 Filed 5–26–00; 8:45 am]

BILLING CODE 6450–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–363–004]

Equitrans, L.P.; Notice of Proposed Changes in FERC Gas Tariff

May 23, 2000.

Take notice that on May 19,2000, Equitrans, L.P. (Equitrans) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheet to become effective April 1, 2000.

Second Revised Sheet No. 308

Equitrans states that the purpose of this filing is to comply with the Commission's Order issued on May 8, 2000. The Commission found that the filing contained a duplicate numbered tariff sheet First Revised Sheet No. 308 which should have been paginated Second Revised Sheet No. 308. Also, the tariff sheet did not list GISB standards 4.3.2 and 4.3.3 for which an extension was granted. As required by the Commission, Equitrans hereby files the enclosed tariff sheet in compliance with the May 8 Order, to correct the tariff pagination and incorporate the omitted GISB standards.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make

protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–13361 Filed 5–26–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–288–000]

Kern River Gas Transmission Company; Notice of Filing Tariff Volume

May 23, 2000.

Take notice that on May 18, 2000, Kern River Gas Transmission Company (Kern River) tendered for filing and acceptance a completely repaginated version of its FERC Gas Tariff, which has been designated Second Revised Volume No. 1.

Kern River states that the purpose of this filing is to reflect an overall reformatting and repagination of its tariff that resulted from the conversion of First Revised Volume No. 1 of its FERC Gas Tariff to Microsoft Word. No substantive changes are being proposed.

Kern River states that it has served a copy of this filing upon its customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–13362 Filed 5–26–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–289–000]

Tennessee Gas Pipeline Company; Notice of Tariff Filing

May 23, 2000.

Take notice that on May 18, 2000, Tennessee Gas Pipeline Company (Tennessee) tendered for filing as part of its FERC Gas Tariff, the following tariff sheets with an effective date of June 1, 2000:

Fifth Revised Volume No. 1

Twenty Fourth Revised Sheet No. 26B
Fourth Revised Sheet No. 180
Eighth Revised Sheet No. 181
First Revised Sheet No. 220A

Original Volume No. 2

Forty First Revised Sheet No. 5
First Revised Sheet No. 2028

Tennessee states this filing is to update Rate Schedules NET, NET 284 and T–180 to reflect the conversions of various shippers from Part 157 service to Part 284 service.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–13363 Filed 5–26–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

May 23, 2000.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Original Minor License.

b. *Project No.:* 11685–001.

c. *Date filed:* September 10, 1999.

d. *Applicant:* The Stockport Mill Country Inn.

e. *Name of Project:* Stockport Mill Country Inn Water Power Project.

f. *Location:* On the Muskingum River Lock and Dam No. 6 near the town of Stockport, in Morgan County, Ohio. 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:* David Brown Kinloch, Soft Energy Associates, 414 South Wenzel Street, Louisville, KY 40204, (502) 589–0975.

i. *FERC Contact:* Tom Dean, *thomas.dean@ferc.fed.us* (202) 219–2778.

j. *Deadline for filing comments, recommendations, terms and conditions, and prescriptions:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all interveners 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 intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Status of environmental analysis:* This application has been accepted for filing and is now ready for environmental analysis.

l. *Description of the Project:* The proposed project would consist of the following facilities: (1) The existing 20-foot-high, 482-foot-long Muskingum Lock and Dam No. 6 (including the navigational lock water retaining structure); (2) an existing 476-acre

reservoir with a normal pool elevation of 640.1 feet msl; (3) an existing 20 foot by 24 foot forebay with a 19-foot-wide vertical trashrack; (4) an existing powerhouse in the basement of the mill containing two proposed generating units with a total installed capacity of 235 kW; and (5) other appurtenances. The lock and dam is owned by the Ohio Department of Natural Resources, Division of Parks and Recreation.

m. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 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 address in item h above.

Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title ''COMMENTS'', ''REPLY COMMENTS'', ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. 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, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Environmental Engineering Review, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

Linwood A. Watson, Jr.,

Acting Secretary,

[FR Doc. 00–13366 Filed 5–26–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Declaration of Intention and Soliciting Comments, Motions To Intervene, and Protests

May 23, 2000.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Declaration of Intention.

b. *Docket No.:* DI00–4–000.

c. *Date Filed:* April 3, 2000.

d. *Applicant:* Leonard Murphy.

e. *Name of Project:* Lovejoy Mill Project.

f. *Location:* On Schoodic Stream, near Medford, Maine, in Piscataquis County, Maine. The project does not utilize federal or tribal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Leonard Murphy, Energy Lane, HC 65, Box 5440, Lincoln, ME 04457–9423 (207) 746–9212.

i. *FERC Contact:* Any questions on this notice should be addressed to Henry Ecton at (202) 219–2678, or e-mail address: henry.ecton@ferc.fed.us.

j. *Deadline for filing comments and or motions:* June 30, 2000.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washignton DC 20426.

Please include the docket number (DI00–4–000) on any comments or motions filed.

k. *Description of Project:* The proposed run-of-river project will consist of a one-half-acre reservoir; an 8-foot-high, 110-foot-wide timber crib dam; a powerhouse containing a 12-kW generator; and appurtenant facilities. The facility will not be connected to an interstate grid. The power produced will be used on site, providing electricity for a sawmill/museum and a greenhouse/curator building.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. Locations of the Application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. This filing may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, by

only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–13365 Filed 5–26–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Scoping Meetings and Site Visit and Soliciting Scoping Comments

May 24, 2000.

Take notice that the Commission intends to hold scoping meetings for the following hydroelectric application which has been filed with the Commission:

a. *Type of Application:* New Major License.

b. *Project No.:* 2589–024.

c. *Date filed:* July 29, 1999.

d. *Applicant:* Marquette Board of Light and Power.

e. *Name of Project:* Marquette Hydroelectric Project.

f. *Location:* On the Dead River, near the City of Marquette, Marquette County, Michigan. The project would not utilize federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 USC 791(a)–825(r).

h. *Applicant Contact:* Mr. David E. Hickey, Marquette Board of Light and Power, 2200 Wright Street, Marquette, MI 49855, (906) 228–0322.

i. *FERC Contact:* Lee Emery, (202) 219–2779.

j. *Deadline for filing scoping comments:* July 6, 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 Project:* The Marquette Project consists of two separate developments: the No. 2 (Forestville) development and the No. 3 (Tourist Park) development. The No. 2 development, which is immediately downstream of the Dead River Project's McClure facility, consists of the following existing facilities: (1) a 202-foot-long, 62-foot-high concrete-capped Cyclopean masonry dam comprising: (a) a 197-foot-long concrete retaining wall, (b) a 75-foot-long training wall, and (c) a 33-foot-wide intake for the penstock. The masonry dam, which functions as an uncontrolled spillway during extremely high flows, has a spillway crest elevation of 771.0 feet NGVD. It is founded on, and anchored to, the bedrock; (2) one 90-inch-diameter, wood-stave penstock that is approximately 4,200 feet long and conveys water from the intake structure to a concrete surge tank; (3) two 440-foot-long, 78-inch-diameter steel penstocks that convey water from the surge tank to Powerhouse No. 2; (4) Powerhouse No. 2, a 40-foot by 96-foot reinforced concrete and brick structure that contains two turbines, with a combined capacity of 3.2 MW; (5) a 110-acre reservoir; and (6) appurtenant facilities.

The No. 3 development consists of the following existing facilities: (1) a dam that includes (looking from left to right downstream): (a) a 37-foot-long spillway left dike that has a crest elevation of 642.82 feet and a reinforced concrete core wall with a top elevation of 641.84; (b) a concrete ogee uncontrolled spillway that is 80 feet long and has a crest elevation of 638.84 feet (its maximum height is 21 feet above the streambed); (c) a spillway section that contains two 10-foot-high by 10-foot-wide Taintor gates (rollway crest beneath gates is at elevation 629.84) and electric hoists; (d) a 758-foot-long spillway right dike that has a crest elevation of 642.84 feet and a reinforced concrete wall (crest width 13.5 feet); and (e) a reinforced concrete intake structure that has a single 20-foot-wide by 17-foot-high bay, inclined trash racks, and a horizontally hinged gate with a dedicated electric hoist; (2) one 8-foot-diameter, 150-foot-long steel penstock that is supported on 9 reinforced-concrete pedestals and conveys water from the intake to the No. 3 Powerhouse; (3) Powerhouse No. 3, a 28-foot by 40-foot reinforced-concrete and brick structure containing one 700 kW vertical generating unit; (4) a 100-acre reservoir; and (5) appurtenant facilities.

m. Locations of the application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 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 address in item h above.

n. Scoping Process

The Commission staff held public scoping meetings for the Dead River Project (P–10855), located upstream of the Marquette Project, on October 29 and 30, 1996. Based on the stuff's preliminary analysis of the issues, the staff is proposing to prepare a Multiple Project Environmental Assessment (MPEA) for the Marquette Project and the Dead River Project. The staff believes that combining both the projects into one environmental document would provide the best approach for analyzing potential cumulative environmental effects associated with both projects located relatively close to one another on the Dead River.

Scoping Meetings

The Commission will hold scoping meetings, one in the daytime and one in the evening, to identify the scope of issues to be addressed in the MPEA.

The daytime scoping meeting will focus on resource agency concerns, while the evening scoping meeting is primarily for public input. All interested individuals, organizations, and agencies are invited to attend one or both of the meetings, and to assist the staff in identifying the scope of the environmental issues that should be analyzed in the MPEA. The times and locations of these meetings are as follows:

Daytime Meeting
Date: June 6, 2000
Time: 9 a.m.–12 p.m.
Place: Cadillac/Brule Room
Don H. Bottum University Center
Northern Michigan University
540 West K Avenue
Marquette, MI 24855

Evening Meeting
Date: June 6, 2000
Time: 7 p.m.–10 p.m.
Place: Brule Room
Don H. Bottom University Center
Northern Michigan University
540 West K Avenue
Marquette, MI 24855

To help focus discussions, we will distribute a Scoping Document (SDI) outlining the subject areas to be addressed in the MPEA to the parties on the Commission's distribution list. Copies of the SDI also will be available at the scoping meetings.

Site Visit

The applicant and Commission staff will conduct a project site visit on Tuesday, June 6, 2000 starting at 1:30 p.m. We will meet in the Board Room of Marquette Board of Light and Power, located at 2200 Wright Street in Marquettte, MI. Those who wish to attend the site visit should contact Lee Emery of FERC at (202) 219–2779 or Mike Headrick of Harza Engineering Company at (312) 831–3038 on or before June 1, 2000.

Objectives

At the scoping meetings, the staff will: (1) Summarize the environmental issues tentatively identified for analysis in the MPEA; (2) solicit from the meeting participants all available information, especially quantifiable data, on the resources at issue; (3) encourage statements from experts and the public on issues that should be analyzed in the MPEA, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in the MPEA; and (5) identify those issues that require a detail analysis, as well as those issues that do not require a detailed analysis.

The meetings will be recorded by a stenographer and will become part of the formal record of the Commission's proceeding on the project. Individuals presenting statements at the meetings will be asked to sign in before the meeting starts and to identify themselves clearly for the record.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meetings and to assist the staff in defining and clarifying the issues to be addressed in this MPEA.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 00–13410 Filed 5–26–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting, Notice

May 24, 2000.

The Following Notice of Meeting is published pursuant to section 3(A) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552B:

AGENCY HOLDING MEETING : Federal Energy Regulatory Commission.

DATE AND TIME : May 31, 2000, 10:00 A.M.

PLACE : Room 2C, 888 First Street, N.E., Washington, D.C. 20426 .

STATUS : Open.

MATTERS TO BE CONSIDERED: Agenda—Note—Items listed on the Agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: David P. Boergers, Secretary, Telephone (202) 208–0400 for a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Agenda—Hydro, 742nd—Meeting May 31, 2000, Regular Meeting (10:00 a.m.)

CAH–1.
Docket# P–4282, 004, Mountain Water Resources
Other's P–4312, 004, Watersong Resources
CAH–2.
Docket# P–2984, 033, S.D. Warren Company
CAH–3.
Docket# P–2389, 036, State of Maine

Consent Agenda—Electric

CAE–1.
Docket# ER00–1721, 000, Virginia Electric and Power Company
Other's ER00–1737, 000, Virginia Electric and Power Company
CAE–2.
Docket# ER00–2065, 000, Boston Edison Company
CAE–3.
Docket# ER00–2015, 000, Nevada Power Company
Other's ER00–2018, 000, Sierra Pacific Power Company
CAE–4.
Docket# ER00–1874, 000, New England Power Pool
Other's ER00–1874, 001, New England Power Pool
CAE–5.
Docket# ER00–2019, 000, California Independent System Operator Corporation
CAE–6.
Docke# ER00–2077, 000, North American Electric Reliability Council
CAE–7.
Docket# ER00–2132, 000, Entergy Services, Inc.
CAE–8.
Docket# ER00–2152, 000, Northern Indiana Public Service Company
CAE–9.
Docket# ER00–2136, 000, Consumers Energy Company
CAE–10.
Docket# ER00–2079, 000, PJM Interconnection L.L.C.
Other's ER00–2079, 001, PJM Interconnection L.L.C.
CAE–11.
Docket# ER00–2198, 000, ISO New England Inc.
CAE–12.
Docket# ER00–2158, 000, Wisconsin Public Service Corporation
CAE–13.
Docket# ER00–2203, 000, New England Power Pool
CAE–14.
Docket# ER00–2234, 000, East Central Area Reliability Council
CAE–15.
Docket# ER00–2424, 000, New England Power Pool
CAE–16.
Docket# ER00–2205, 000, California Independent System Operator Corporation
Other#S ER00–1896, 001, Southern California Edison Company; ER00–2206, 000, California Independent System Operator Corporation
CAE–17. Omitted
CAE–18.
Docket# ER00–2416, 000, Entergy Services, Inc.
CAE–19. Omitted
CAE–20. Omitted
CAE–21.
Docket# EC98–40, 003, American Electric Power Company and Central and South West Corporation
Other# EC98–40, 004, American Electric Power Company and Central and South West Corporation; ER98–2770, 003, American Electric Power Company and Central and South West Corporation; ER98–2770, 004, American Electric Power Company and Central and South

West Corporation; ER98–2786, 004, American Electric Power Company and Central and South West Corporation; ER98–2786, 005, American Electric Power Company and Central and South West Corporation

CAE–22.
Docket# ER96–3146, 002, West Penn Power Company

CAE–23.
Docket# ER99–3333, 003, TXU Energy Trading Company
Other#S EL00–69, 000, TXU Energy Trading Company; ER00–2178, 000, TXU Energy Trading Company

CAE–24.
Docket# ER99–1659, 003, Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Public Service Company of Oklahoma
Other#S ER99–1659, 004, Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Public Service Company of Oklahoma; ER99–1660, 003, Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Public Service Company of Oklahoma; ER99–1660, 004, Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Public Service Company of Oklahoma

CAE–25.
Docket# ER98–2550, 000, El Segundo Power, LLC
Other#S ER98–2550, 001, El Segundo Power, LLC

CAE–26. Omitted

CAE–27.
Docket# EC00–49, 000, Consolidated Edison, Inc. and Northeast Utilities

CAE–28.
Docket# EL98–46, 003, Laguna Irrigation District
Other#S ER99–3145, 001, Pacific Gas and Electric Company

CAE–29. Omitted

CAE–30.
Docket# EL00–62, 000, ISO New England Inc.
Other#S EL00–59, 000, Central Maine Power Company, Northeast Utilities Service Company, United Illuminating Company, Unitil Power Corporation, Fitchburg Gas and Electric Light Company and Vermont Electric Power Company v. New England Power Pool and ISO New England, Inc.; ER00–2005, 000, Central Maine Power Company, Northeast Utilities Service Company, United Illuminating Company, Unitil Power Corporation, Fitchburg Gas and Electric Light Company and Vermont Electric Power Company v. New England Power Pool and ISO New England, Inc.; ER00–2016, 000, New England Power Pool; ER00–2052, 000, ISO New England, Inc.

CAE–31.
Docket# EG00–39, 000, PPL Bruner Island, LLC
Other#S EG00–40, 000, PPL Holtwood, LLC; EG00–41, 000, PPL Martins Creek, LLC; EG00–43, 000, PPL Susquehanna, LLC; EG00–44, 000, PPL Montour, LLC

CAE–32.
Docket# EL97–54, 000, San Diego Gas & Electric Company v. Public Service Company of New Mexico
Other#S EL99–21, 000, San Diego Gas & Electric Company v. Public Service Company of New Mexico; EL00–56, 000, San Diego Gas & Electric Company v. Public Service Company of New Mexico

CAE–33.
Docket# EL00–49, 000, NRG Power Marketing, Inc. v. New York Independent System Operator, Inc.

CAE–34.
Docket# EL97–54, 004, San Diego Gas & Electric Company v. Public Service Company of New Mexico
Other#S EL99–21, 001, San Diego Gas & Electric Company v. Public Service Company of New Mexico

Consent Agenda—Gas and Oil

CAG–1.
Docket# RP00–246, 000, Wyoming Interstate Company, Ltd.

CAG–2.
Docket# RP00–260, 000, Texas Gas Transmission Corporation

CAG–3.
Docket# RP00–267, 000, ANR Pipeline Company

CAG–4.
Docket# RP00–262, 000, Florida Gas Transmission Company

CAG–5.
Docket# RP00–247, 000, Colorado Interstate Gas Company

CAG–6.
Docket# RP00–261, 000, Columbia Gulf Transmission Company

CAG–7.
Docket# RP00–255, 000, Petal Gas Storage, L.L.C.

CAG–8.
Docket# RP00–264, 000, Northern Natural Gas Company

CAG–9. Omitted

CAG–10.
Docket# RP00–83, 000, Texas Gas Transmission Corporation
Other#S RP00–83, 001, Texas Gas Transmission Corporation; RP00–83, 002, Texas Gas Transmission Corporation; RP00–83, 003, Texas Gas Transmission Corporation;

CAG–11.
Docket# RP00–265, 000, Northern Natural Gas Company

CAG–12.
Docket# RP00–266, 000, Transcolorado Gas Transmission Company

CAG–13.
Docket# TM00–1–25, 002, Mississippi River Transmission Corporation

CAG–14. Omitted

CAG–15.
Docket# RP00–257, 000, Ozark Gas Transmission, L.L.C.

CAG–16. Omitted

CAG–17. Omitted

CAG–18.
Docket# RP99–496, 000, Southern Natural Gas Company
Other#S CP90–2155, 000, Southern Natural Gas Company; RP99–496, 001, Southern Natural Gas Company; RP99–496, 004, Southern Natural Gas Company; CP00–117, 000, Southern Natural Gas Company; CP00–117, 001, Southern Natural Gas Company; CP00–170, 000, Southern Natural Gas Company

CAG–19.
Docket# RP98–40 025 Panhandle Eastern Pipe Line Company

CAG–20.
Docket# MG00–5, 001, Northern Border Pipeline Company

CAG–21.
Docket# MG00–1, 001, Clear Creek Storage Company, L.L.C.

CAG–22.
Docket# CP00–127, 000, Transcontinental Gas Pipe Line Corporation

CAG–23. Omitted

CAG–24.
Docket# CP98–143, 000, Great Lakes Gas Transmission Limited Partnership

CAG–25.
Docket# CP99–539, 001, Earle and Julie Smith V. Portland Natural Gas Transmission System

CAG–26.
Docket# IS00–208, 000, Equilon Pipeline Company, LLC

CAG–27.
Docket# CP99–576, 001, Williams Gas Pipelines Central, Inc.

Hydro Agenda

H–1.
Reserved

Electric Agenda

E–1.
Docket# ER00–1, 000, Transenergie U.S. Ltd. Order on Transmission Service.

Oil and Gas Agenda

I. Pipeline Rate Matters

PR–1.
Reserved

II. Pipeline Certificate Matters

PC–1.
Reserved

David P. Boergers,
Secretary.

[FR Doc. 00–13525 Filed 5–25–00; 1:07 pm]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6706–8]

National Drinking Water Advisory Council; Notice of Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Under section 10(a)(2) of Public Law 92–423, ''The Federal Advisory Committee Act,'' notice is hereby given that a meeting of the National Drinking Water Advisory Council established under the Safe

Drinking Water Act, as amended (42 U.S.C. S300f *et seq.*), will be held on June 14, 2000, from 12 Noon until 1 p.m. (Mountain Time Zone) at the Denver Convention Center, Room A208, 700 14th Street, Denver, Colorado 90202. Some members of the Council will be participating by conference call. The meeting is open to the public, but due to past experience, seating will be limited.

The purpose of the meeting is to provide the Council with the recommendations from the Contaminant Candidate List/Six Year Review Working Group. The Council will also provide its recommendations on the Proposed Long Term 1 Enhanced Surface Water Treatment & Filter Backwash Rule, a discussion begun at the May 10 and 11, 2000, meeting in San Francisco, California. The Council encourages the hearing of outside statements and will allocate, if time permits, ten minutes at the meeting for this purpose. Any outside parties interested in presenting an oral statement should petition the Council by telephone at (202) 260–2285, before June 7, 2000.

Any person who wishes to file a written statement can do so before or after a Council meeting. Written statements received prior to the meeting will be distributed to all members of the Council before any final discussion or vote is completed. Any statements received after the meeting will become part of the permanent meeting file and will be forwarded to the Council members for their information.

Members of the public that would like to attend the meeting, present an oral statement, or submit a written statement, should contact Ms. Charlene Shaw, Designated Federal Officer, National Drinking Water Advisory Council, U.S. EPA, Office of Ground Water and Drinking Water (4601), 1200 Pennsylvania Avenue, NW, Washington, DC 20460. The telephone number is Area Code (202) 260–2285 or E-Mail shaw.charlene@.epa.gov.

Dated: May 23, 2000.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 00–13460 Filed 5–26–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

May 22, 2000.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before July 31, 2000. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 1A–804, 445 Twelfth Street, SW., Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0246.

Title: Section 74.452 Equipment Changes.

Form Number: None.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 25.

Estimated time per response: 0.5 hours.

Frequency of Responding: Reporting, on occasion.

Total Annual Burden: 13 hours.

Total Annual Costs: $0.

Needs and Uses: Section 74.452 requires that licensees of remote pickup stations notify the Commission of any equipment changes that are deemed desirable or necessary (without departing from its station authorization) upon completion of such changes. The data is used by FCC staff to assure that the changes made comply with the rules and regulations.

OMB Control Number: 3060–0254.

Title: Section 74.433 Temporary authorizations.

Form Number: None.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 12.

Estimated time per response: 1.25 hours (0.25 hours respondent, 1 hour attorney).

Frequency of Response: Reporting, on occasion.

Total Annual Burden: 3 hours.

Total Annual Costs: $3,900.

Needs and Uses: Section 74.433 requires that a licensee of a remote pickup station make an informal written request to the FCC when requesting temporary authorization for operations of a temporary nature that cannot be conducted in accordance with Section 74.24. The data is used by FCC staff to insure that the temporary operation of a remote pickup station will not cause interference to existing stations.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–13400 Filed 5–26–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 98–171, DA 00–1152]

Comment Sought on Supplemental Joint Submission of Program Administrators Regarding Consolidated Data Collection Procedures

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On May 25, 2000, the Commission released a document

seeking comment on a proposal filed jointly by the administrators of the local number portability, number administration, telecommunications relay services, and universal service support mechanisms (collectively, ''the administrators''). The document seeks comment on the administrators' proposed procedures for handling the Telecommunications Reporting Worksheet (FCC Form 499). The intended effect of this action is to make the public aware of, and to seek public comment on, this proposal.

DATES: Comments are due on or before June 16, 2000, and reply comments are due on or before June 23, 2000.

FOR FURTHER INFORMATION CONTACT: Scott K. Bergmann, Industry Analysis Division, Common Carrier Bureau, at (202) 418–7102; or Jim Lande, Industry Analysis Division, Common Carrier Bureau at (202) 418–0948. The TTY number is (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of a Public Notice released May 25, 2000 (DA 00–1152). The full text of the Public Notice and the administrators' joint submission are available for inspection and copying during normal business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, S.W., Washington, D.C. 20554. The complete text also may be purchased from the Commission's copy contractor, International Transcription Service, Inc. (202) 857–3800, 1231 20th St., NW, Washington, D.C. 20036.

Background: On July 14, 1999, the Commission amended its rules so that telecommunications carriers and other service providers need only file one form—the Telecommunications Reporting Worksheet—for the purpose of determining their contributions to the universal service support mechanisms, the TRS Fund, and the cost recovery mechanisms for numbering administration and local number portability.[1] In that order, the Commission concluded that carriers and other filers of the new worksheet need only file one copy of the new worksheet. Accordingly, the Commission directed the administrators to file with the Bureau a summary of their proposed procedures for distributing the data obtained on the consolidated worksheet and to include a description of how related costs will be equitably apportioned.

On October 12, 1999, the program administrators filed a joint submission addressing data collection procedures and a proposed cost allocation methodology. In a subsequent Order, released on February 4, 2000, the Bureau directed the National Exchange Carriers Association (NECA) to perform the data collection functions for the April 2000 filing of the Telecommunications Reporting Worksheet and set out procedures for the administrators to submit proposed arrangements for future filings no later than May 15, 2000.[2] On May 15, 2000, the administrators submitted their supplemental joint submission regarding procedures for handling the consolidated worksheet. *See* Supplemental Joint Submission of Program Administrators Regarding Consolidated Data Collection Procedures and Cost Allocation Methodology, CC Docket No. 98–171 (filed May 15, 2000) (Supplemental Joint Submission). Through the Public Notice summarized here, the Bureau seeks comment on the proposals contained in that joint submission.

Comment Filing Procedures: Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before June 16, 2000, and reply comments on or before June 23, 2000. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24,121 (1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to<http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To receive filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, ''get form <your e-mail address>''. A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554.

Pursuant to § 1.1206 of the Commission's rules, 47 CFR 1.1206, this proceeding will be conducted as a permit-but-disclose proceeding in which ex parte communications are permitted subject to disclosure.

Additional Information: The full text of the Supplemental Joint Submission is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY–A257, Washington, DC, 20554.

This document may also be purchased from the Commission's copy contractor, International Transcription Service, Inc. (ITS), 1231 20th Street, NW, Washington, DC 20036, telephone 202–857–3800, facsimile 202–857–3805. You may also view this document on the Commission's web site at <https://haifoss.fcc.gov/cgi-bin/ws.exe/prod/ecfs/comsrch__v2.hts>.

Federal Communications Commission.

Peyton L. Wynns,

Chief, Industry Analysis Division, Common Carrier Bureau.

[FR Doc. 00–13512 Filed 5–26–00; 8:45 am]

BILLING CODE 6712–01–U

[1] 1998 Biennial Regulatory Review—Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Services, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms, Report and Order, FCC 99–175, CC Docket No. 98–171, 64 FR 41320 (rel. July 14, 1999) (Contributor Reporting Requirements Order).

[2] *See* 1998 Biennial Regulatory Review—Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications/Relay Services, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms, Order, DA 00–214, CC Docket No. 98–171 (rel. Feb. 4, 2000) (Data Collection Procedures Order).

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 following information collection systems described below.

1. *Type of Review:* Renewal of a currently approved collection.

Title: Application for Federal Deposit Insurance.

Form Number: 6200/05.

OMB Number: 3064–0001.

Annual Burden:

Estimated annual number of respondents: 300.

Estimated time per response: 250 hours.

Total annual burden hours: 75,000 hours.

Expiration Date of OMB Clearance: July 31, 2000.

Supplementary Information: The Federal Deposit Insurance Act requires a proposed bank or savings institution to apply to the FDIC in order to obtain federal deposit insurance. The form provides the information necessary for the FDIC to make a determination.

2. *Type of Review:* Renewal of a currently approved collection.

Title: Foreign Branch Report of Condition.

Form Number: FFIEC 030.

OMB Number: 3064–0011.

Annual Burden:

Estimated annual number of respondents: 36.

Estimated time per response: 3.9 hours.

Total annual burden hours: 140.40 hours.

Expiration Date of OMB Clearance: July 31, 2000.

Supplementary Information: The Foreign Branch Report of Condition, Form FFIEC 030, contains asset and liability information along with data on certain off balance sheet items for foreign branches of insured banks.

3. *Type of Review:* Renewal of a currently approved collection.

Title: Application Pursuant to Section 19 of the Federal Deposit Insurance Act.

Form Number: 6710/07.

OMB Number: 3064–0018.

Annual Burden:

Estimated annual number of respondents: 75.

Estimated time per response: 16 hours.

Total annual burden hours: 1,200 hours.

Expiration Date of OMB Clearance: July 31, 2000.

Supplementary Information: Section 19 of the Federal Deposit Insurance Act requires insured depository institutions to obtain the FDIC's consent prior to any participation in their affairs by a person convicted of crimes involving dishonesty or breach of trust. Form 6710/07 is the vehicle for requesting FDIC consent.

4. *Type of Review:* Renewal of a currently approved collection.

Title: Fair Housing Lending Monitoring System.

OMB Number: 3064–0046.

Annual Burden:

Estimated annual number of respondents: 2,000.

Estimated annual number of applications: 1,000,000.

Estimated time per response: 5 minutes.

Total annual burden hours: 83,333 hours.

Expiration of OMB Clearance: July 31, 2000.

Supplementary Information: In order to permit the FDIC to detect discrimination in residential mortgage lending, certain insured state nonmember banks are required by FDIC regulation 12 CFR 338 to maintain various data on home loan applicants.

5. *Type of Review:* Renewal of a currently approved collection.

Title: Public Disclosure by Banks.

OMB Number: 3064–0090.

Annual Burden:

Estimated annual number of respondents: 5,742.

Estimated time per response: .5 hours.

Total annual burden hours: 2,871 hours.

Expiration of OMB Clearance: July 31, 2000.

Supplementary Information: 12 CFR 350 requires a bank to notify the general public, and in some instances shareholders, that disclosure statements are available upon request. Required disclosures consist of financial reports for the current and preceding year which can be copied directly from the year-end Call Report.

6. *Type of Review:* Renewal of a currently approved collection.

Title: Foreign Banks.

OMB Number: 3064–0114.

Annual Burden:

Estimated annual number of respondents: 164.

Estimated time per response: varies from 0.25 hours to 120 hours with an average of 14.2 hours.

Total annual burden hours: 2,336 hours.

Expiration of OMB Clearance: July 31, 2000.

Supplementary Information: The collection of information consists of (a) applications to operate as a noninsured state-licensed branch of a foreign bank; (b) applications from an insured state-licensed branch of a foreign bank to conduct activities which are not permissible for a federally-licensed branch; (c) internal recordkeeping by insured branches of foreign banks; and (d) reporting requirements relating to an insured branch's pledge of assets to the FDIC.

7. *Type of Review:* Renewal of a currently approved collection.

Title: Certification of Eligibility Under the Affordable Housing Program.

OMB Number: 3064–0116.

Annual Burden:

Estimated annual number of respondents: 120.

Estimated time per response: 1 hour.

Total annual burden hours: 120 hours.

Expiration Date of OMB Clearance: July 31, 2000.

Supplementary Information: The collection of information certifies income eligibility under the affordable housing program. This certification assists the FDIC in determining an individual's eligibility for purchasing affordable housing properties from the FDIC.

8. *Type of Review:* Renewal of a currently approved collection.

Title: Mutual-to-Stock Conversions of State Savings Banks.

OMB Number: 3064–0117.

Annual Burden:

Estimated annual number of respondents: 20.

Estimated time per response: 50 hours.

Total annual burden hours: 1000 hours.

Expiration of OMB Clearance: July 31, 2000.

Supplementry Information: 12 CFR 303.15 and 333.4 require state savings banks that are not members of the Federal Reserve System to file with the FDIC a notice of intent to convert to stock form and provide copies of documents filed with state and federal banking and or securities regulators in connection with the proposed conversion.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503.

FDIC Contact: Tamara R. Manly, (202) 898–7453, Office of the Executive Secretary, Room F–4058, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429.

Comments: Comments on these collections of information are welcome and should be submitted on or before [insert date 30 days after date of publication in the **Federal Register**] to both the OMB reviewer and the FDIC contact listed above.

ADDRESSES: Information about this submission, including copies of the proposed collections of information, may be obtained by calling or writing the FDIC contact listed above.

Dated: May 23, 2000.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 00–13428 Filed 5–26–00; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 23, 2000.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521:

1. Fulton Financial Corporation, Lancaster, Pennsylvania; to acquire 100 percent of the voting shares of, and merge with Skyland Financial Corporation, Hackettstown, New Jersey, and thereby indirectly acquire voting shares of Skylands Community Bank, Hackettstown, New Jersey.

Board of Governors of the Federal Reserve System, May 23, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–13339 Filed 5–26–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Consumer Advisory Council; Solicitation of Nominations for Membership

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice.

SUMMARY: The Board is inviting the public to nominate qualified individuals for appointment to its Consumer Advisory Council, whose membership represents interests of consumers, communities, and the financial services industry. Seven new members will be selected for three-year terms that will begin in January 2001. The Board expects to announce the selection of new members by year-end 2000.

DATES: Nominations should be received by August 1, 2000.

ADDRESSES: Nominations should be submitted in writing and mailed (not sent by facsimile) to Sandra F. Braunstein, Assistant Director, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

FOR FURTHER INFORMATION CONTACT: Ann Bistay, Secretary to the Council, Division of Consumer and Community Affairs, (202) 452–6470. For Telecommunications Device for the Deaf (TDD) users only: Diane Jenkins, (202) 452–3544, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Consumer Advisory Council was established in 1976 at the direction of the Congress to advise the Federal Reserve Board on the exercise of its duties under the Consumer Credit Protection Act and on other consumer-related matters. The Council by law represents the interests both of consumers and of the financial services industry (15 USC 1691(b)). Under the Rules of Organization and Procedure of the Consumer Advisory Council (12 CFR 267.3), members serve three-year terms that are staggered to provide the Council with continuity.

New members will be selected for terms beginning January 1, 2001, to replace members whose terms expire in December 2000; the Board expects to announce its appointment of new members by year-end. Nomination letters should include information about past and present positions held by the nominee; a description of special knowledge, interests or experience related to community reinvestment, consumer protection regulations, consumer credit, or other consumer financial services; and the full name, title, organization name, organization description, current address, telephone and fax numbers for both the nominee and the nominator. Individuals may nominate themselves.

The Board is interested in candidates who have familiarity with consumer financial services, community reinvestment, consumer protection regulations, and who are willing to express their viewpoints. Candidates do not have to be experts on all levels of consumer financial services or community reinvestment, but they should possess some basic knowledge of the area. They must be able and willing to make the necessary time commitment to participate in conference calls, and prepare for and attend meetings three times a year (usually for two days, including committee meetings), held at the Board's offices in Washington, D.C. The Board pays travel expenses, lodging, and a nominal honorarium.

In making the appointments, the Board will seek to complement the background of continuing Council members in terms of affiliation and geographic representation, and to ensure the representation of women and minority groups. The Board may consider prior years' nominees and does not limit consideration to individuals nominated by the public when making its selection.

Council members whose terms end as of December 31, 2000, are:

Walter Boyer, Chairman, The Diamond Group, Dallas, Texas

Jeremy Eisler, Director of Litigation, South Mississippi Legal Services Corp., Biloxi, Mississippi

Robert Elliott, Retired Vice Chairman, Household International, Prospect Heights, Illinois

Dwight Golann, Professor of Law, Suffolk University Law School, Boston, Massachusetts

Karla Irvine, Executive Director, Housing Opportunities Made Equal of Greater Cincinnati, Inc., Cincinnati, Ohio

Gwenn Kyzer, Vice President, Experian, Inc., Allen, Texas

John Lamb, Senior Staff Counsel, Department of Consumer Affairs, Sacramento, California

Martha Miller, President, Choice Federal Credit Union, Greensboro, North Carolina

Daniel Morton, Vice President and Senior Counsel, The Huntington National Bank, Columbus, Ohio

David Ramp, Assistant Attorney General, 1400 NCL Tower, St. Paul, Minnesota

Robert Schwemm, Professor of Law, University of Kentucky, Lexington, Kentucky

David Shirk, Senior Manager, Framework, Inc., Tarrytown, New York

Council members whose terms continue through 2001 and 2002 are:

Lauren Anderson, Executive Director, Neighborhood Housing Services of New Orleans, Inc., New Orleans, Louisiana

Malcolm Bush, President, The Woodstock Institute, Chicago, Illinois

Dorothy Broadman, Senior Vice President, Cal Fed Bank, San Francisco, California

Teresa A. Bryce, General Counsel, Bank of America Mortgage, Charlotte, North Carolina

Robert Cheadle, Chief Executive Officer, Mortgage Express, Ada, Oklahoma

Mary Ellen Domeier, President, State Bank & Trust Company of New Ulm, New Ulm, Minnesota

Lester Wm. Firstenberger, Senior Vice President and General Counsel, Mortgage Lenders Network USA, Inc., Middletown, Connecticut

John Gamboa, Executive Director, The Greenlining Institute, San Francisco, California

Vincent Giblin, Chief Executive Officer, International Union of Operating Engineers, West Caldwell, New Jersey

Willie Jones, Deputy Director, The Community Builders, Inc., Boston, Masschusetts

Dean Keyes, Senior Vice President, Mercantile Bancorporation, Inc., St. Louis, Missouri

Anne Li, Executive Director, New Jersey Community Loan Fund, Trenton, New Jersey

Jeremy Nowak, Chief Executive Officer, The Reinvestment Fund, Philadelphia, Pennsylvania

Marta Ramos, Vice President & CRA Officer, Banco Popular De Puerto Rico, San Juan, Puerto Rico

Russell Schrader, Senior Vice President and Assistant General Counsel, Visa U.S.A., San Francisco, California

Gary Washington, Senior Vice President, ABN AMRO, Chicago, Illinois

Robert Wynn, II, Financial Education Officer, Department of Financial Institutions, Madison, Wisconsin

Board of Governors of the Federal Reserve System, May 24, 2000.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 00–13434 Filed 5–26–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

[Docket No. R–1072]

Privacy Act of 1974; Notice of New System of Records

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of new system of records.

SUMMARY: In accordance with the Privacy Act, the Board of Governors of the Federal Reserve System (Board) is publishing notice of one new system of records, entitled Multi-rater Feedback Records (BGFRS–25). We invite public comment on this new system of records.

DATES: Comment must be received on or before June 29, 2000.

ADDRESSES: Comments, which should refer to Docket No. R–1072, may be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551 or mailed electronically to regs.comments@federalreserve.gov. Comments addressed to Ms. Johnson also may be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m. weekdays and to the security control room outside of those hours. The mail room and the security control room are accessible from the Eccles Building courtyard entrance, located on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected in Room MP–500 between 9 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boutilier, Senior Counsel, Legal Division (202/452–2418), or Chris Fields, Manager, Human Resources Function, Management Division (202/452–3654), Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW, Washington, DC 20551. For users of the Telecommunications Device for the Deaf (TDD) only, contact Janice Simms at 202/452–4984.

SUPPLEMENTARY INFORMATION: The Board is instituting a feedback program for its managers and officers. Under this Multi-rater Feedback program, Board employees who work for or with a particular manager or officer are asked to complete a voluntary, confidential questionnaire regarding the performance of that manager/officer and send it directly to a consultant hired by the Board for this program. The consultant analyzes the completed questionnaires and compiles a report for the manager/officer that summarizes the comments from the questionnaires. This report does not identify individual comments or those who completed the questionnaires. The report is given only to the manager/officer being evaluated; no other Board employee or officer receives a copy of the report. The consultant maintains all of the data connected with this program, identified only by the name of the manager/officer being evaluated. The data is stored by name of the officer/manager being evaluated, and thus is considered to be a system of records under the Privacy Act.

In accordance with 5 U.S.C. 552a(r), a report of this new system of records is being filed with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Governmental Affairs, and the Office of Management and Budget. This new system of records will become effective on June 28, 2000, without further notice, unless the Board publishes a notice to the contrary in the **Federal Register**.

BGFRS–25

SYSTEM NAME:

Multi-rater Feedback Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

The completed multi-rater questionnaires and the resulting feedback reports are maintained by an outside consultant (''Contractor'') pursuant to a contract with the Board. Based on the information provided by the completed questionnaires, the Contractor will provide an individual feedback report to the individual being evaluated. With the exception of the feedback report that is provided to the individual being evaluated, no individually-identifiable information is maintained on the Board's premises.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Board.

CATEGORIES OF RECORDS IN THE SYSTEM:

Questionnaires completed by employees, analyses of the questionnaires, and feedback reports compiled by the Contractor based upon the analyses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 11 of the Federal Reserve Act (12 U.S.C. 248(i) and 248(l)).

PURPOSE(S):

These records are collected and maintained to assist the Board in administering its personnel functions and improving the management skills of its employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information in the records may be used:

a. By the National Archives and Records Administration in connection with records management inspections and its role as Archivist.

b. To disclose to contractors, grantees or volunteers performing or working on a contract, service, grant, cooperative agreement, or job for the Board.

c. To provide information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

d. To disclose information to another Federal agency, a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Board is a party to the judicial or administrative proceeding.

e. To disclose information to the Department of Justice or in a proceeding before a court, adjudicative body, or other administrative body before which the Board is authorized to appear, when:

(1) The Board or any employee of the Board in his or her official capacity; or

(2) Any employee of the Board in his or her individual capacity where the Department of Justice or the Board has agreed to represent the employee; or

(3) The United States (when the Board determines that the litigation is likely to affect the Board) is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or the Board is deemed by the Board to be relevant and necessary to the litigation provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected.

f. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations or other functions vested in the Commission.

g. To disclose information to the Merit Systems Protection Board or the Office of Special Counsel in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigation of alleged practices, and such other functions promulgated in 5 U.S.C. chapter 12, or as may be authorized by law.

h. To disclose information to the Federal Labor Relations Authority (including its General Counsel) when requested in connection with the investigation and resolution of allegations of unfair labor practices, in connection with the resolution of exceptions to arbitrator's awards where a question of material fact is raised, and matters before the Federal Service Impasses Panel.

i. To disclose information to an arbitrator to resolve disputes under a negotiated grievance procedure or to officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation.

j. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained in paper and electronic format in a secure location by the Contractor.

RETRIEVABILITY:

Information is retrieved by the name of the individual being evaluated.

SAFEGUARDS:

The Contractor maintains strict confidentiality of the information. Information in these files is not provided to Board employees, except the individual being evaluated.

RETENTION AND DISPOSAL:

Each feedback report and the information related to that report shall be retained by Contractor for 5 years after the date of the report, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Human Resources Function, Management Division, Board of Governors of the Federal Reserve System, 20th Street & Constitution Avenue, NW, Washington, DC 20551.

NOTIFICATION PROCEDURE:

Inquiries should be sent to the Secretary of the Board, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW, Washington, DC 20551. The request should contain the individual's name, date of birth, Social Security number, identification number (if known), approximate date of record, and type of position.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

Same as '' Notification procedure'' above.

RECORD SOURCE CATEGORIES:

The individual being evaluated.

The employees completing the questionnaires.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to the Privacy Act, 5 U.S.C. 552a(k)(5), and the Board's regulation relating thereto (12 CFR part 261a), the individual questionnaires contained in this system of records are exempted from 5 U.S.C. 552a(c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H), and (I).

By order of the Board of Governors of the Federal Reserve System, May 19, 2000.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 00–13126 Filed 5–26–00; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Contract Review Meeting

In accordance with section 10 (a) of the Federal Advisory Committee Act as amended (5 U.S.C., Appendix 2), announcement is made of an Agency for Healthcare Research and Quality (AHRQ) Technical Review Committee (TRC) meeting. This TRC's charge is to provide review of contract proposals and recommendations to the Director, AHRQ, regarding the technical merit of proposals submitted in response to a Request for Proposals (RFPs) to ''Maintain and Expand the Healthcare Cost and Utilization Project (HCUP)''. The RFP was published in the Commerce Business Daily on March 30, 2000.

The upcoming TRC meeting will be closed to the public in accordance with the Federal Advisory Committee Act (FACA), section 10(d) of 5 U.S.C., Appendix 2, implementing regulations, and procurement regulations, 41 CFR 101–6.1023 and 48 CFR section 315.604(d). The discussions at this meeting of contract proposals submitted in response to the above-referenced RFP are likely to reveal proprietary and personal information concerning

individuals associated with the proposals. Such information is exempt from disclosure under the above-cited FACA provision that protects the the free exchange of candid views, and under the procurement rules that prevent undue interference with Committee and Department operations.

Name of TRC: The Agency for Healthcare Research and Quality—''Maintain and Expand the Healthcare Cost and Utilization Project (HCUP)''.

Date: June 14, 2000 (Closed to the public).

Place: Agency for Healthcare Research and Quality, 6010 Executive Blvd, 4th Floor Conference Center, Room D, Rockville, Maryland 20852.

Contact Person: Anyone wishing to obtain information regarding this meeting should contact Jenny Schnaier, Center for Organizaton and Delivery Systems, Agency for Healthcare Research and Quality, 2102 East Jefferson Street, Suite 605, Rockville, Maryland, 20852, 301–594–6827.

Dated: May 22, 2000.

John M. Eisenberg,

Director.

[FR Doc. 00–13378 Filed 5–26–00; 8:45 am]

BILLING CODE 4160—90—M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Contract Review Meeting

In accordance with section 10(a) of the Federal Advisory Committee Act as amended (5 U.S.C., Appendix 2), announcement is made of an Agency for Healthcare Research and Quality (AHRQ) Technical Review Committee (TRC) meeting. This TRC's charge is to provide review of contract proposals and recommendations to the Administrator, AHRQ, regarding the technical merit of proposals submitted in response to a Request for Proposals (RFPs) regarding ''Internet-based Distance Learning'', issued on April 21, 2000. The contract will constitute AHRQ's participation in the Small Business Innovation Research program.

The upcoming TRC meeting will be closed to the public in accordance with the Federal Advisory Committee Act (FACA), section, 10(d) of 5 U.S.C., Appendix 2, implementing regulations, and procurement regulations, 41 CFR 101–6.1023 and 48 CFR section 315.604(d). The discussions at this meeting of contract proposals submitted in response to the above-referenced RFP are likely to reveal proprietary and personal information concerning individuals associated with the proposals. Such information is exempt from disclosure under the above-cited FACA provision that protects the free exchange of candid views, and under the procurement rules that prevent undue interference with Committee and Department operations.

Name of TRC: The Agency for Healthcare Research and Quality—''Internet-based Distance Learning''.

Date: June 16, 2000 (Closed to the public).

Place: Agency for Healthcare Research and Quality, 6010 Executive Blvd., 4th Floor Conference Center, Room B, Rockville, Maryland 20852.

Contact Person: Anyone wishing to obtain information regarding this meeting should contact Sandra Robinson, Center for Quality Measurement and Improvement, Agency for Healthcare Research and Quality, 2101 East Jefferson Street, Suite 502, Rockville, Maryland 20852, 301–594–1703.

Dated: May 22, 2000.

John M. Eisenberg,

Director.

[FR Doc. 00–13379 Filed 5–26–00; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Contract Review Meeting

In accordance with section 10(a) of the Federal Advisory Committee Act as amended (5 U.S.C., Appendix 2), announcement is made of an Agency for Healthcare Research and Quality (AHRQ) Technical Review Committee (TRC) meeting. This TRC's charge is to provide review of contract proposals and recommendations to the Administrator, AHRQ, regarding the technical merit of proposals submitted in response to a Request for Proposals (RFPs) regarding ''Lifedata.com: A Repository of Health Related Quality of Life Instruments,'' issued on April 14, 2000. The contract will constitute AHRQ's participation in the Small Business Innovation Research program.

The upcoming TRC meeting will be closed to the public in accordance with the Federal Advisory Committee Act (FACA), section 10(d) of 5 U.S.C., Appendix 2, implementing regulations, and procurement regulations, 41 CFR 101–6.1023 and 48 CFR section 315.604(d). The discussions at this meeting of contract proposals submitted in response to the above-referenced RFP are likely to reveal proprietary and personal information concerning individuals associated with the proposals. Such information is exempt from disclosure under the above-cited FACA provision that protects the free exchange of candid views, and under the procurement rules that prevent undue interference with Committee and Department operations.

Name of TRC: The Agency for Healthcare Research and Quality—''Lifedata.com: A Repository of Health Related Quality of Life Instruments.''

Date: June 16, 2000 (Closed to the public).

Place: Agency for Healthcare Research and Quality, 6010 Executive Blvd, 4th Floor Conference Center, Room B, Rockville, Maryland 20852.

Contact Person: Anyone wishing to obtain information regarding this meeting should contact Yen-Pin Chiang, Center for Outcomes and Effectiveness Research, Agency for Healthcare Research and Quality, 6010 Executive Blvd., Suite 300, Rockville, Maryland 20852, 301–594–4035.

Dated: May 22, 2000.

John M. Eisenberg,

Director.

[FR Doc. 00–13380 Filed 5–26–00; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 00070]

Implementation of the National Arthritis Action Plan: Arthritis Education and Control; Notice of Availability of FY 2000 Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2000 funds for a grant with the Edward E. Roybal Comprehensive Health Center to assist with the development and implementation of arthritis education and control activities consistent with the National Arthritis Action Plan: A Public Health Strategy (NAAP).

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 focus area of Arthritis, Osteoporosis, and Chronic Back Conditions. For the conference copy of ''Healthy People 2010,'' visit the internet site http://www.health.gov/healthypeople.

Although the NAAP lays out a vision and a framework for addressing the arthritis burden nationwide, it also details other strategic initiatives requiring a coordinated, responsible approach involving all levels of the public health structure (national, State, and local); public and private agencies involved in research activities addressing arthritis; health care systems and health care providers. The values of NAAP are to emphasize prevention at all levels (primary, secondary, and tertiary); to use and expand the science base; to seek social equity (*e.g.,* addressing issues faced by the uninsured or under-insured, the poor, the disabled, and minority populations); and to build partnerships. Little is known about arthritis self-management knowledge, attitudes and behaviors among Hispanic populations—nor knowledge, attitudes and treatment strategies among the health care providers who treat arthritis in these populations. While a variety of arthritis self-management programs are available, few have had rigorous evaluation in minority populations.

The purpose of this arthritis education program is to investigate program delivery mechanisms to identify those that adequately engage minority populations. Specific activities to be implemented should target Hispanic populations and may include the development, dissemination or evaluation of existing or modified self management programs, programs to improve early diagnosis and treatment of arthritis, assessment of the use of complementary and alternative treatments for arthritis; the assessment of knowledge, attitudes and behaviors about arthritis; the assessment of knowledge, attitudes, and treatment behaviors among primary care providers providing care in these populations; and validation of commonly used survey tools (*e.g.,* Behavioral Risk Factor Surveillance System (BRFSS) questions addressing arthritis).

B. Eligible Applicant

Assistance will be provided only to the Edward E. Roybal Comprehensive Health Center, 245 S. Fetterly Avenue, Los Angeles, CA 90022. No other applications will be solicited. This sole source solicitation is based on the Conference Report (H.R. Rep. 106–479) at 601 (1999) to the Consolidated Appropriations Act, 2000, Public Law 106–113, which earmarks funding for the Roybal Center in Los Angeles for a program in arthritis care and education.

C. Availability of Funds

Approximately $603,000 is available in FY 2000 to fund this award. It is expected that the award will begin on or about September 1, 2000, and will be made for a 12-month budget period within a project period of one year. Funding estimates may change.

D. Where To Obtain Additional Information

For this and other announcements see the CDC home page on the Internet to obtain a copy of the announcement: http://www.cdc.gov

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Glynnis D. Taylor, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 00070, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146 telephone (770) 488–2752, E-mail address: gld1@cdc.gov

For program technical assistance, contact: Teresa J. Brady, Ph.D., Arthritis Program, Division of Adult and Community Health, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, 4770 Buford Highway NE., Atlanta, GA, 30341–3717, Telephone (770) 488–5856, E-mail address: tob9@cdc.gov

Dated: May 23, 2000.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–13391 Filed 5–26–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention (CDC)

[Program Announcement 00140]

Announcement Grant to the Marin County Department of Health and Human Services, California

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2000 funds for a grant to the Marin County Department of Health and Human Services (MCDHHS)in California to evaluate the high incidence of breast cancer in Marin County.

CDC is committed to achieving the health promotion and disease prevention objectives of ''Healthy People 2010,'' a national activity to reduce mortality and morbidity and improve the quality of life. This announcement is related to the focus area of cancer. For the conference copy of ''Healthy People 2010,'' visit the Internet site: <http://www.health.gov/healthypeople>

The purpose of the program is for MCDHHS community-based investigation of the high incidence of breast cancer and possible causes of increased risks of breast cancer in this region of California.

B. Eligible Applicant

Assistance will be provided only to the Marin County Department of Health and Human Services, California. No other applications are solicited. The sole source justification is based on the Congressional language in FY 2000 CDC appropriation, which earmarked funding for Marin County Department of Health and Human Services, Marin County, California.

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 $250,000 is available in FY 2000 to fund the MCDHHS. It is expected that the award will begin on or about September 30, 2000, for a 12 month budget period with a project period of up to 18 months.

Use of Funds

The grant funds may not be expended to provide inpatient hospital or treatment services. Treatment is defined as any service recommended by a clinician, including medical and surgical intervention provided in the management of a diagnosed condition.

D. Program Requirements

In conducting activities to achieve the purpose of this project, the recipient shall be responsible for the following activities:

1. Investigate suspected environmental risk factors for breast cancer.
2. Develop, implement, and evaluate effective collaborations among public, non-profit and private partners to achieve and support breast cancer control objectives.
3. Develop and evaluate training for professionals in cancer early detection,

surveillance and data analysis. Sponsor information exchanges through workshops, and other group mechanisms as appropriate.

4. Develop a research plan for investigating environmental risk factors with a protocol for mapping environmental factors of women with and without breast cancer.

5. Develop plans for sharing and disseminating the results of the project.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. The application will be evaluated on the criteria listed in Part G. of this announcement, so it is important to consider them in laying out the project plan. The narrative should be no more than 10 double-spaced pages, printed on one side, with one inch margins, and unreduced font. The application pages should be numbered and a complete index to the application and its appendixes included. Begin each separate section on a new page. The original and each copy of the application must be submitted unstapled, unbound, and typed on a 8½″ by 11″ paper, with at least 1″ margins, headings and footers, and printed on one side only using unreduced font. The ''narrative'' portion of the application should address the following:

1. Statement of Need

Identify and describe the nature and extent of the problem for which assistance is requested.

2. Short and Long-Term Objectives

Describe objectives that must be specific, measurable, time phased, and realistic.

3. Operational Plan

Address the means for achieving each of the objectives. Provide a concise description of each component or major activity and how it will be implemented. The plan must identify and establish a time line for the completion of each component or major activity.

4. Evaluation Plan

Provide a quantitative plan for monitoring progress toward achieving each of the objectives.

5. Program Management

Describe the functions and qualification for each of the program personnel requested.

6. Budget

Provide a detailed budget and justification for the costs that are consistent with the purpose of the program and the proposed project activities.

F. Submission and Deadline

On or before July 20, 2000, submit the application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement. Submit the original and two copies of CDC Form 0.1246. Forms are in the application kit.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Need statement. The extent to which the applicant identifies specific needs related to the purpose of the program. (20 points)

2. Objectives. The degree to which short- and long-term objectives are specific, time-phased, measurable, and realistic. (20 points)

3. Operational Plans. The adequacy of the applicant's plan to carry out the proposed activities, including the extent to which they plan to work collaboratively with other organizations and individuals who may have an impact on cancer prevention and control objectives. (20 points)

4. Evaluation Plan. The extent to which the evaluation plan appears capable of monitoring progress toward meeting project objectives. (20 points)

5. Program Management. The extent to which proposed staff appear to be qualified and possess capacity to perform the project. (20 points)

6. Budget. The extent to which the budget along with narrative justification is reasonable and consistent with the purpose and objectives of the program (Not scored).

H. Other Requirements

Technical Reporting Requirements

An original and two copies of a progress report is required no later than 90 days after the end of the first twelve months. A Financial Status Report and a final performance report are required no later than 90 days after the end of the project period. All reports are submitted to the Grants Management Branch, CDC, identified in the last 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–7 Executive Order 12372 Review

AR–8 Paperwork Reduction Act Requirements

AR–10 Smoke-Free Workplace Requirements

AR–11 Healthy People 2010

AR–12 Lobbying Restrictions

AR–21 Small, Minority, And Women-owned Business

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 301(a), 317(k)(2) of the Public Health Service Act [42 U.S.C. 241(a) and 247b(k)(2)], as amended. The Catalog of Federal Domestic Assistance Number for this program is 93.283.

J. Where To Obtain Additional Information

This announcement and other CDC program announcements can be found on the CDC home page Internet address at: http://www.cdc.gov.

If you have questions after reviewing the contents of all the documents, business management assistance may be obtained from: Cynthia Collins, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 00140, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, Georgia 30341–4146 Telephone Number: 770/488–2757, E-mail address: coc9@cdc.gov.

For program technical assistance, contact: Denita Dean, Division of Cancer Prevention and Control, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Control and Prevention (CDC), Mail Stop K–55, 4770 Buford Highway, NE, Atlanta, GA 30341–3724, Telephone Number: 770/488–4227, FAX Number: 770/488–4639, E-mail address: djd5@cdc.gov.

Dated: May 23, 2000.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–13389 Filed 5–26–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 00096]

National Limb Loss Information Center; 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 grant program for a National Limb Loss Information Center (NLLIC). The purpose of the program is to support a NLLIC which will: (1) serve as a national clearinghouse to provide educational materials, referral services, and self-help guidance to persons with limb loss and their families; (2) establish collaborative relationships with peer support groups and conduct peer visitation training opportunities provided through relationships with hospitals and limb loss support groups; (3) provide information to health care providers and professionals regarding limb loss; and (4) develop school-based educational efforts to increase the knowledge and understanding of students regarding limb loss. 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 ''Disability and Secondary Conditions.'' For the conference copy of ''Healthy People 2010,'' visit the Internet site: http://www.health.gov/healthypeople

B. Eligible Applicants

Applications may be submitted by public and private non-profit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private non-profit organizations, State and local governments or their bona fide agents, and federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

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 $1,400,000 will be available in FY 2000 to fund one 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 three 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. The award made under this announcement will be made with the expectation that program activities will continue when grant funds decrease.

Use of Funds

Grant funds may be used to support personnel services, supplies, equipment, travel, subcontracts, and other services directly related to project activities consistent with the approved scope of work. Project funds may not be used to supplant other agency funds, construction, purchase of facilities or space, or for patient care. Project funds may not be used for individualized preventive or rehabilitative measures (direct patient support) such as for wheelchairs, medical appliances, or assistive technology unless specifically approved by the funding agency.

D. Program Requirements

Applicants are required to collect, organize, and disseminate limb loss educational materials and resources and provide effective management systems for all center operations. Major tasks and responsibilities include:

1. Establish, maintain, and manage a comprehensive project management information system, including data on clients, referrals, and resources;
2. Establish and maintain a resource library regarding limb loss which includes a comprehensive electronic resource database;
3. Utilize universities, research institutions and other noted authorities such as Rehabilitation Hospitals to collect and maintain a comprehensive inventory of current educational materials regarding limb loss;
4. Develop appropriate information, educational messages, and guidance to individuals with limb loss;
5. Develop and disseminate a national education publication that conveys the most current advances in treatment and care of persons with limb loss and disability;
6. Develop a peer visitation training initiative to conduct self-help training and work with support networks, including outreach to special populations such as women, racial and ethnic minorities, and the elderly;
7. Develop standardized materials to assist local organizations in the conduct of appropriate visitation programs;
8. Develop and utilize affiliations with public school systems, other educational facilities, and educational professionals to provide limb loss information to teachers and students;
9. Develop and utilize collaborative relationships with State and local medical societies and health care professionals in order to enhance health care providers' understanding of the needs of people with limb loss;
10. Develop and utilize collaborative relationships with disability organizations to better assess affected individuals and families.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Applications will be evaluated on the criteria listed; so, it is important to follow them in laying out the program plan. The narrative should be no more than 40 double-spaced pages, printed on one side, with one inch margins, and unreduced font.

The application should describe how the applicant:

1. Is recognized as an organization with established expertise in the provision of educational and support services to individuals with limb loss and their families.
2. Is experienced in limb loss rehabilitation processes and has strong collaborative relationships with a national network of local affiliates and other organizations that provide both rehabilitation and disability services.
3. Can demonstrate and document historical or proposed collaborative relationships with the submission of memorandums of agreement and/or letters of support.
4. Can demonstrate and document competencies in developing and disseminating educational and training materials regarding limb loss that can be utilized for a wide range of informational and referral needs by individuals and interested organizations.
5. Can provide substantive details and information as to how each of the Program Requirements components will be conducted and coordinated into a cohesive and efficient national program.

Recipient Financial Participation

Recipient financial participation is not required for this program in accordance with the authorizing legislation. However, the applicant should document any sources of financial support for a portion of the project cost, such as salaries for key staff

and tangible contributions by collaborating agencies.

F. Submission and Deadline

Letter of Intent (LOI)

A letter of intent is requested from prospective applicants. The letter should not exceed two pages. It must identify this Announcement number, organization, and name of the proposed project director. The letter will not be used to eliminate potential applicants, but it will enable CDC to determine the level of interest in the Announcement, and allow CDC to plan the independent review more efficiently.

On or before July 5, 2000, submit the letter of intent to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this Announcement.

Application

Submit the original and two copies of PHS 5161–1 (OMB Number 0937–0189). Forms are available at the following Internet address: http://www.cdc.gov, or in the application kit. On or before July 26, 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 obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in a. or b. above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review panel appointed by CDC.

1. Evidence of need and understanding of the problem: (15 Points)

a. The extent to which the applicant describes its understanding of the national limb loss problem as evidenced by estimates of incidence and/or prevalence, demographic indicators, and scope of the problem.

b. The extent to which the applicant describes the gaps that exists in current educational materials and the tools that would serve to better educate and facilitate more positive rehabilitation outcomes.

2. Evidence of the ability to provide educational materials needed to inform individuals with limb loss regarding rehabilitation and disability resources, and other pertinent information choices: (25 Points)

a. The extent to which the applicant describes its knowledge and use of current educational materials available in accessible formats (*e.g.,* visually impaired) with regard to limb loss rehabilitation and identification of materials needed to address specific problems associated with the rehabilitation and the disabling process.

b. The extent to which the applicant describes its capacity to acquire and disseminate resources, educational materials and other tools (with descriptions of these resources) in regard to the rehabilitation options and other uses of disability information of benefit to persons with limb loss.

3. Technical Approach: (35 Points)

a. The extent to which the applicant describes its capacity to assess and ensure that the basic components of the project will be promoted and implemented.

b. The extent to which the applicant describes its proposed plan to establish and operate the National Limb Loss Information Center, and ensure its capability to function as a national coordinating focus for collection and dissemination of limb loss information.

c. The extent to which the applicant describes its approach to developing school based limb loss education programs for students and educational professionals.

d. The extent to which the applicant describes its approach to developing health care provider limb loss education programs.

e. The extent to which the applicant describes its demonstrated competency in developing educational materials, including accessible formats, regarding individuals with limb loss.

f. The extent to which the applicant describes the functions of the established oversight entity (such as a board of directors) including its composition, impact on policy, planning, and oversight for educational activities, with an indication of how it will complement existing educational and peer visitation programs.

g. The extent to which the applicant describes the reasonableness, feasibility, and logic of the designated project objectives, including the overall work plan, timetable for accomplishment, and the strength of the proposed evaluation plan.

h. The extent to which the applicant describes the available services and how access to project services, opportunities, and facilities will be achieved for persons with disabilities.

i. The extent to which the applicant describes its demonstrated competency of collecting data and utilizing data sets to establish program priorities and assess program effectiveness.

4. Outreach Capacity: (20 Points)

a. The extent to which the applicant describes its ability to establish and conduct a peer visitation training program initiative.

b. The extent to which the applicant identifies and describes the facilities and organizations to be visited and description of any planned follow-up to evaluate the number of training sessions that are initiated and the outcomes of these activities.

c. The extent to which the applicant describes its ability to target and outreach to several special population groups including women, racial and ethnic minorities, and the elderly.

d. The extent to which the applicant describes its ability to collect data and evaluate the effect of peer visitation and training programs.

5. National Educational Publication: (5 points)

The extent to which the applicant describes its plan to develop, distribute, and update a national educational publication that will provide information regarding limb loss.

6. Budget justification: (not scored)

The proposed budget will be evaluated on the basis of its reasonableness, concise and clear justification, accuracy and consistency with the intended use of grant funds.

H. Other Requirements

Provide CDC with an original plus two copies of:

1. Semiannual progress reports;

2. Financial Status Reports, no later than 90 days after the end of each budget period; and

3. Final Financial Status Report and performance report, due 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 the ATTACHMENT in the application kit.

AR–7 Executive Order 12372 Review

AR–9 Paperwork Reduction Act Requirements

AR–10 Smoke-Free Workplace Requirements

AR–11 Healthy People 2010

AR–12 Lobbying Restrictions

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized by Section 301 (a) (42 U.S.C. 241(a)) and Section 317 (42 U.S.C. 247b) of the Public Health Service Act, as amended. The Catalog of Federal Domestic Assistance number is 93.184.

J. Where To Obtain Additional Information

This and other funding opportunities may 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, address, and telephone number and will be instructed to identify the Announcement Number of interest.

If you have any questions after reviewing the contents of all the documents, business management technical assistance may be obtained from:

William Paradies, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, Georgia 30341–4146, Telephone: (770) 488–2721, E-mail: wep2@cdc.gov

General program assistance can be obtained from: Jack Stubbs, Disability and Health Branch, National Center for Environmental Health, CDC, 4770 Buford Highway, Building 101, Mailstop F–29, Atlanta, Georgia 30341, Telephone: (770) 488–7096, E-mail: jbs2@cdc.gov

Dated: May 23, 2000.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–13390 Filed 5–26–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

HCFA–2063–N

RIN 0938–AJ72

Medicaid Program; State Allotments for Payment of Medicare Part B Premiums for Qualifying Individuals: Federal Fiscal Year 2000

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: The Social Security Act provides for the Medicaid program to pay all or part of the Medicare Part B premiums for 5 years (Federal fiscal years 1998 through 2002) for two specific eligibility groups of low-income Medicare beneficiaries, referred to as Qualifying Individuals. This notice announces the Federal fiscal year 2000 allotments that are available for State agencies to pay Medicare Part B premiums for these eligibility groups.

EFFECTIVE DATE: This notice is effective October 1, 1999 for allotments for payment of Medicare Part B premiums for individuals in calendar year 2000 from the allocation for fiscal year 2000.

FOR FURTHER INFORMATION CONTACT: Miles McDermott, (410) 786–3722.

SUPPLEMENTARY INFORMATION:

I. Background

A. Before the Balanced Budget Act of 1997

Before the enactment of the Balanced Budget Act of 1997 (BBA), section 1902(a)(10)(E) of the Social Security Act (the Act) specified that the State Medicaid plan must provide for Medicare cost-sharing for three eligibility groups of low-income Medicare beneficiaries. These three groups included Qualified Medicare Beneficiaries (QMBs), Specified Low-income Medicare Beneficiaries (SLMBs), and Qualified Disabled and Working Individuals (QDWIs).

A QMB is an individual entitled to Medicare Part A with income at or below the Federal poverty level and resources below $4,000 for an individual and $6,000 for a couple. An SLMB is an individual who meets the QMB criteria, except that his or her income is between a State-established level (at or below the Federal poverty level) and 120 percent of the Federal poverty level. A QDWI is an individual who is entitled to enroll in Medicare Part A, whose income does not exceed 200 percent of the Federal poverty level for a family of the size involved, whose resources do not exceed twice the amount allowed under the Supplementary Security Income (SSI) program, and who is not otherwise eligible for Medicaid. The definition of Medicare cost-sharing at section 1905(p)(3) of the Act includes payment for premiums for Medicare Part B.

B. After the Balanced Budget Act of 1997

Section 4732 of the BBA amended section 1902(a)(10)(E) of the Act to require States to provide for Medicaid payment of the Medicare Part B premiums, during the period beginning January 1998 and ending December 2002, for two eligibility groups of low-income Medicare beneficiaries, referred to as Qualifying Individuals (QIs).

Under section 1902(a)(10)(E)(iv)(I) of the Act, State agencies are required to pay the full amount of the Medicare Part B premium for selected QIs who would be QMBs except that their income level is at least 120 percent but less than 135 percent of the Federal poverty level for a family of the size involved. These individuals cannot otherwise be eligible for medical assistance under the approved State Medicaid plan.

The second group of QIs, under section 1902(a)(10)(E)(iv)(II) of the Act, includes Medicare beneficiaries who would be QMBs except that their income is at least 135 percent but less than 175 percent of the Federal poverty level for a family of the size involved. These QIs may not be otherwise eligible for Medicaid under the approved State plan, but are eligible for a portion of Medicare cost-sharing consisting only of a percentage of the increase in the Medicare Part B premium attributable to the shift of Medicare home health coverage from Part A to Part B (as provided in section 4611 of the BBA).

Section 4732(c) of the BBA also added section 1933 of the Act, which specifies the provisions for State coverage of the Medicare cost-sharing for additional low-income Medicare beneficiaries.

Section 1933(a) of the Act specifies that a State agency must provide, through a State plan amendment, for medical assistance to pay for the cost of Medicare cost-sharing on behalf of QIs who are selected to receive assistance.

Section 1933(b) of the Act sets forth the rules that State agencies must follow in selecting QIs and providing payment for Medicare Part B premiums. Specifically, the State agency must permit all QIs to apply for assistance and must select individuals on a first-come, first-served basis in the order in which they apply. Under section 1933(b)(2)(B) of the Act, when selecting

persons who will receive assistance in the years after 1998, State agencies must give preference to those individuals who received assistance as QIs, QMBs, SLMBs, or QDWIs in the last month of the previous year and who continue to be, or now become, QIs. Under section 1933(b)(4), persons selected to receive assistance in a calendar year are entitled to receive assistance for the remainder of the year, but not beyond, as long as they continue to qualify. The fact that an individual is selected to receive assistance at any time during the year does not entitle the individual to continued assistance for any succeeding year. Because the State's allotment is limited by law, section 1933(b)(3) of the Act provides that the State agency must limit the number of QIs so that the amount of assistance provided during the year is approximately equal to the State's allotment for that year.

Section 1933(c) of the Act limits the total amount of Federal funds available for payment of Part B premiums each fiscal year and specifies the formula to be used to determine an allotment for each State from this total amount. For State agencies that execute a State plan amendment in accordance with section 1933(a) of the Act, a total of $1.5 billion was allocated over 5 years as follows: $200 million in FY 1998; $250 million in FY 1999; $300 million in FY 2000; $350 million in FY 2001; and $400 million in FY 2002.

The Federal matching rate for Medicaid payment of Medicare Part B premiums for QIs is 100 percent for expenditures up to the amount of the State's allotment. No Federal matching funds are available for expenditures in excess of the State's allotment amount. Administrative expenses associated with the payment of Medicare Part B premiums for QIs remain at the 50 percent matching level and may not be taken from the State's allotment.

The amount available for each fiscal year is to be allocated among States according to the formula set forth in section 1933(c)(2) of the Act. The formula provides for an amount to each State agency that is to be based on each State's share of the Secretary's estimate of the ratio of—

(1) An amount equal to the sum of the following:

(a) Twice the total number of individuals who meet all but the income requirements for QMBs, whose incomes are at least 120 percent but less than 135 percent of the Federal poverty level, and who are not otherwise eligible for Medicaid; and

(b) The total number of individuals in the State who meet all but the income requirements for QMBs, whose incomes are at least 135 percent but less than 175 percent of the Federal poverty level, and who are not otherwise eligible for Medicaid; to

(2) The sum of all of these individuals under item (1) for all eligible States.

II. Provisions of This Notice

This notice announces the availability of individual State allotments for Federal fiscal year 2000 for the Medicaid payment of Medicare Part B premiums for QIs identified under sections 1902(a)(10)(E)(iv)(I) and (II) of the Act. The formula used to calculate these allotments was described in detail in the January 26, 1998 **Federal Register** (63 FR 3754) and, except for the incorporation of the latest data, has been used here without changes.

FY 2000 STATE ALLOTMENTS FOR PAYMENT OF PART B PREMIUMS UNDER SEC. 4732 OF THE BBA OF 1997

[In thousands]

State	(a) M1 [1]	(b) M2 [2]	(c) [2 × (a)] + (b)	State share of (c) (in percent)	State FY 2000 allocation (dollars in thousands)
AK	1	4	6	0.09	278
AL	37	82	156	1.41	7,231
AR	25	43	93	1.44	4.311
AZ	17	71	105	1.62	4.867
CA	102	327	531	8.20	24,614
CO	13	23	49	0.76	2,271
CT	6	52	64	0.99	2,967
DC	2	5	9	0.14	417
DE	5	10	20	0.31	927
FL	100	280	480	7.42	22,250
GA	33	92	158	2.44	7,324
HI	4	10	18	0.28	834
IA	13	54	80	1.24	3,708
ID	5	17	27	0.42	1,252
IL	56	179	291	4.50	13,489
IN	36	103	175	2.70	8,112
KS	14	57	85	1.31	3,940
KY	24	80	128	1.98	5,933
LA	29	75	133	2.06	6,165
MA	33	81	147	2.27	6,814
md	21	66	108	1.67	5,006
ME	8	18	34	0.53	1,576
MI	48	128	224	3.46	10,383
MN	26	63	115	1.78	5,331
MO	25	85	135	2.09	6,258
MS	16	40	72	1.11	3,337
MT	5	13	23	0.36	1,066
NC	48	115	211	3.26	9,781
ND	5	13	23	0.36	1,066
NE	12	31	55	0.85	2,549
NH	6	16	28	0.43	1,298
NJ	44	120	208	3.21	9,642
NM	10	20	40	0.62	1,854
NV	4	18	26	0.40	1,205

FY 2000 STATE ALLOTMENTS FOR PAYMENT OF PART B PREMIUMS UNDER SEC. 4732 OF THE BBA OF 1997—Continued

[In thousands]

State	(a) M1 [1]	(b) M2 [2]	(c) [2 × (a)] + (b)	State share of (c) (in percent)	State FY 2000 allocation (dollars in thousands)
NY	99	228	426	6.58	19,747
OH	72	183	327	5.05	15,158
OK	27	51	105	1.62	4,867
OR	13	44	70	1.08	3,245
PA	83	196	362	5.59	16,780
RI	9	24	42	0.65	1,947
SC	25	80	130	2.01	6,026
SD	5	11	21	0.32	973
TN	29	45	103	1.59	4,774
TX	79	212	370	5.72	17,151
UT	3	20	26	0.40	1,205
VA	13	86	112	1.73	5,192
VT	4	8	16	0.25	742
WA	17	44	78	1.21	3,616
WI	26	82	134	2.07	6,211
WV	18	45	81	1.25	3,755
WY	3	6	12	0.19	556
Total	1358	3756	6472	100.00	300,000

[1] Three-year average (1996–1998) of number of Medicare beneficiaries in State who are not enrolled in medicaid but whoe incomes are at least 120% but less than 135% of FPL.

[2] Three-year average (1996–1998) of number of Medicare beneficiaries in State who are not enroleld in Medicaid but whose incomes are at least 135% but less than 175% of FPL.

III. Waiver of Advance Public Comment and 30-Day Delay in Effective Date

We ordinarily publish an advance notice in the **Federal Register** for a notice containing substantive rules to provide a period for public comment. However, we may waive that procedure if we find good cause that notice and comment are impractical, unnecessary, or contrary to the public interest. In addition, we also normally provide a delay of 30 days in the effective date. However, if adherence to this procedure would be impractical, unnecessary, or contrary to the public interest, we may waive the delay in the effective date.

We find good cause to waive notice and comment procedure for this notice. The law sets out in detail the specific amounts available for each Federal fiscal year for Medicare Part B premiums for QIs and the formula that is used to determine individual State allotments. In addition, the latest data from the U. S. Census Bureau on the number of possible QIs in the States, used in the statutory formula as discussed in section V of this notice, is not available until too late in the calendar year. Therefore, it would be impracticable, unnecessary, and contrary to the public interest to submit this notice to the public for a notice and comment procedure.

Also, because States can begin making payments for Medicare Part B premiums for QIs as early as January 1, 2000, we are not making the effective date of the notice the usual 30 days after publication. For the reasons discussed previously, we find good cause to waive the usual 30-day delay.

IV. Effect of the Contract With America Advancement Act

Normally, under 5 U.S.C. section 801, as added by section 251 of Public Law 104–121, the effective date of a major rule is delayed 60 days for Congressional review. This has been determined to be a major rule under 5 U.S.C. section 804(2). However, as indicated in section III of this notice, we have found that good cause exists to dispense with prior notice and comment procedures since they are unnecessary and impracticable under the circumstances. Under 5 U.S.C. section 808(2), a rule shall take effect at such time as the Federal agency promulgating the rule determines, if it finds, for good cause, that prior notice and comment procedures are unnecessary or impracticable. Accordingly, under the exemption provided in 5 U.S.C. section 808(2), this notice is effective October 1, 1999, for allotments for payments of Medicare Part B premiums for individuals in calendar year 2000 from the allotment for Federal fiscal year 2000.

V. Regulatory Impact Statement

We have examined the impact of this notice as required by Executive Order 12866 and the Regulatory Flexibility Act (RFA) (Public Law 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). The RFA requires agencies to analyze options for regulatory relief for small businesses. For purposes of the RFA, States and individuals are not considered to be small entities.

This notice allocates, among the States, Federal funds to provide Medicaid payment for Medicare Part B premiums for QIs. The total amount of Federal funds available during a Federal fiscal year and the formula for determining individual State allotments are specified in the law. We have applied the statutory formula for the State allotments except for the use of specified data. Because the data specified in the law were not currently available, we have used comparable data from the U.S. Census Bureau on the number of possible QIs in the States, as described in detail in the January 26, 1998 **Federal Register**. These new allotments for FY 2000 incorporate the latest data from the Census Bureau covering 1996 through 1998, as specified in the footnote to the preceding table.

We believe the statutory provisions implemented in this notice will have a

positive effect on States and individuals. Federal funding at the 100 percent matching rate is available for Medicare cost-sharing for Medicare Part B premium payments for QIs, and a greater number of low-income Medicare beneficiaries will be eligible to have their Medicare Part B premiums paid under Medicaid.

Section 1102(b) of the Act requires us to prepare a regulatory impact analysis for any notice that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside a Metropolitan Statistical Area and has fewer than 50 beds.

We are not preparing analyses for either the RFA or section 1102(b) of the Act, because we have determined and certify that this notice will not have a significant economic impact on a substantial number of small entities or a significant impact on the operations of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

We have reviewed this notice under the threshold criteria of Executive Order 13132 of August 4, 1999, Federalism, published in the **Federal Register** on August 10, 1999 (64 FR 43255). The Executive Order is effective on November 2, 1999, which is 90 days after the date of the Order. We have determined that this notice does not significantly affect the rights, roles, and responsibilities of States.

Authority: Sections 1902(a)(10)(E) and 1933 of the Social Security Act (42 U.S.C. 1396a(a)(10)(E) and 1396x).

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: September 28, 1999.

Michael M. Hash,

Deputy Administrator, Health Care Financing Administration.

Dated: November 22, 1999.

Donna E. Shalala,

Secretary.

Editorial Note. This document was received at the Office of the Federal Register May 23, 2000.

[FR Doc. 00–13346 Filed 5–26–00; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–9001–N]

Medicare and Medicaid Programs; Quarterly Listing of Program Issuances—Third Quarter, 1999

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice lists HCFA manual instructions, substantive and interpretive regulations, and other **Federal Register** notices that were published during July, August, and September of 1999, relating to the Medicare and Medicaid programs. This notice also identifies certain devices with investigational device exemption numbers approved by the Food and Drug Administration that potentially may be covered under Medicare.

Section 1871(c) of the Social Security Act requires that we publish a list of Medicare issuances in the **Federal Register** at least every 3 months. Although we are not mandated to do so by statute, for the sake of completeness of the listing, we are also including all Medicaid issuances and Medicare and Medicaid substantive and interpretive regulations (proposed and final) published during this timeframe.

FOR FURTHER INFORMATION CONTACT: It is possible that an interested party may have a specific information need and not be able to determine from the listed information whether the issuance or regulation would fulfill that need. Consequently, we are providing information contact persons to answer general questions concerning these items. Copies are not available through the contact persons.

Questions concerning Medicare items in Addendum III may be addressed to Bridget Wilhite, Office of Communications and Operations Support, Division of Regulations and Issuances, Health Care Financing Administration, C5–16–03, 7500 Security Boulevard, Baltimore, MD 21244–1850, (410) 786–5248.

Questions concerning Medicaid items in Addendum III may be addressed to Betty Stanton, Center for Medicaid State Operations, Policy Coordination and Planning Group, Health Care Financing Administration, S2–26–13, 7500 Security Boulevard, Baltimore, MD 21244–1850, (410) 786–3247.

Questions concerning Food and Drug Administration-approved investigational device exemptions may be addressed to Sharon Hippler, Office of Clinical Standards and Quality, Coverage and Analysis Group, Health Care Financing Administration, C4–11–04, 7500 Security Boulevard, Baltimore, MD 21244–1850, (410) 786–4633.

Questions concerning all other information may be addressed to Trenesha Fultz, Office of Communications and Operations Support, Division of Regulations and Issuances, Health Care Financing Administration, C5–12–08, 7500 Security Boulevard, Baltimore, MD 21244–1850, (410) 786–3822.

SUPPLEMENTARY INFORMATION:

I. Program Issuances

The Health Care Financing Administration (HCFA) is responsible for administering the Medicare and Medicaid programs. These programs pay for health care and related services for 39 million Medicare beneficiaries and 35 million Medicaid recipients. Administration of these programs involves (1) furnishing information to Medicare beneficiaries and Medicaid recipients, health care providers, and the public and (2) effective communications with regional offices, State governments, State Medicaid Agencies, State Survey Agencies, various providers of health care, fiscal intermediaries and carriers that process claims and pay bills, and others. To implement the various statutes on which the programs are based, we issue regulations under the authority granted to the Secretary of the Department of Health and Human Services under sections 1102, 1871, 1902, and related provisions of the Social Security Act (the Act). We also issue various manuals, memoranda, and statements necessary to administer the programs efficiently.

Section 1871(c)(1) of the Act requires that we publish a list of all Medicare manual instructions, interpretive rules, and guidelines of general applicability not issued as regulations at least every 3 months in the **Federal Register**. We published our first notice June 9, 1988 (53 FR 21730). Although we are not mandated to do so by statute, for the sake of completeness of the listing of operational and policy statements, we are continuing our practice of including Medicare substantive and interpretive regulations (proposed and final) published during the 3-month time frame.

II. How To Use the Addenda

This notice is organized so that a reader may review the subjects of all manual issuances, memoranda, substantive and interpretive regulations, or Food and Drug Administration-

approved investigational device exemptions published during the timeframe to determine whether any are of particular interest. We expect it to be used in concert with previously published notices. Those unfamiliar with a description of our Medicare manuals may wish to review Table I of our first three notices (53 FR 21730, 53 FR 36891, and 53 FR 50577) published in 1988, and the notice published March 31, 1993 (58 FR 16837). Those desiring information on the Medicare Coverage Issues Manual may wish to review the August 21, 1989 publication (54 FR 34555).

To aid the reader, we have organized and divided this current listing into five addenda:

• Addendum I lists the publication dates of the most recent quarterly listings of program issuances.

• Addendum II identifies previous **Federal Register** documents that contain a description of all previously published HCFA Medicare and Medicaid manuals and memoranda.

• Addendum III lists a unique HCFA transmittal number for each instruction in our manuals or Program Memoranda and its subject matter. A transmittal may consist of a single instruction or many. Often, it is necessary to use information in a transmittal in conjunction with information currently in the manuals.

• Addendum IV lists all substantive and interpretive Medicare and Medicaid regulations and general notices published in the **Federal Register** during the quarter covered by this notice. For each item we list the—

+ Date published;

+ **Federal Register** citation;

+ Parts of the Code of Federal Regulations (CFR) that have changed (if applicable);

+ Agency file code number;

+ Title of the regulation;

+ Ending date of the comment period (if applicable); and

+ Effective date (if applicable).

• Addendum V includes listings of the Food and Drug Administration-approved investigational device exemption numbers that have been approved or revised during the quarter covered by this notice. On September 19, 1995, we published a final rule (60 FR 48417) establishing in regulations at 42 CFR 405.201 *et seq.* that certain devices with an investigational device exemption approved by the Food and Drug Administration and certain services related to those devices may be covered under Medicare. It is our practice to announce all investigational device exemption categorizations, using the investigational device exemption numbers the Food and Drug Administration assigns. The listings are organized according to the categories to which the device numbers are assigned (that is, Category A or Category B, and identified by the investigational device exemption number).

III. How To Obtain Listed Material

A. Manuals

Those wishing to subscribe to program manuals should contact either the Government Printing Office (GPO) or the National Technical Information Service (NTIS) at the following addresses: Superintendent of Documents, Government Printing Office, ATTN: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954, Telephone (202) 512–1800, Fax number (202) 512–2250 (for credit card orders); or

National Technical Information Service, Department of Commerce, 5825 Port Royal Road, Springfield, VA 22161, Telephone (703) 487–4630.

In addition, individual manual transmittals and Program Memoranda listed in this notice can be purchased from NTIS. Interested parties should identify the transmittal(s) they want. GPO or NTIS can give complete details on how to obtain the publications they sell. Additionally, all manuals are available at the following Internet address: http://www.hcfa.gov/pubforms/progman.htm.

B. Regulations and Notices

Regulations and notices are published in the daily **Federal Register**. Interested individuals may purchase individual copies or subscribe to the **Federal Register** by contacting the GPO at the address given above. When ordering individual copies, it is necessary to cite either the date of publication or the volume number and page number.

The **Federal Register** is also available on 24x microfiche and as an online database through GPO Access. The online database is updated by 6 a.m. each day the **Federal Register** is published. The database includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward. Free public access is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is http://www.access.gpo.gov/nara/index.html, by using local WAIS client software, or by telnet to swais.access.gpo.gov, then log in as guest (no password required). Dial-in users should use communications software and modem to call (202) 512–1661; type swais, then log in as guest (no password required).

C. Rulings

We publish rulings on an infrequent basis. Interested individuals can obtain copies from the nearest HCFA Regional Office or review them at the nearest regional depository library. We have, on occasion, published rulings in the **Federal Register**. Rulings, beginning with those released in 1995, are available online, through the HCFA Home Page. The Internet address is http://www.hcfa.gov/regs/rulings.htm.

D. HCFA's Compact Disk-Read Only Memory (CD–ROM)

Our laws, regulations, and manuals are also available on CD–ROM and may be purchased from GPO or NTIS on a subscription or single copy basis. The Superintendent of Documents list ID is HCLRM, and the stock number is 717–139–00000–3. The following material is on the CD–ROM disk:

• Titles XI, XVIII, and XIX of the Act.

• HCFA-related regulations.

• HCFA manuals and monthly revisions.

• HCFA program memoranda.

The titles of the Compilation of the Social Security Laws are current as of January 1, 1995. (Updated titles of the Social Security Laws are available on the Internet at http://www.ssa.gov/OP__Home/ssact/comp-toc.htm.) The remaining portions of CD–ROM are updated on a monthly basis.

Because of complaints about the unreadability of the Appendices (Interpretive Guidelines) in the State Operations Manual (SOM), as of March 1995, we deleted these appendices from CD–ROM. We intend to re-visit this issue in the near future and, with the aid of newer technology, we may again be able to include the appendices on CD–ROM.

Any cost report forms incorporated in the manuals are included on the CD–ROM disk as LOTUS files. LOTUS software is needed to view the reports once the files have been copied to a personal computer disk.

IV. How To Review Listed Material

Transmittals or Program Memoranda can be reviewed at a local Federal Depository Library (FDL). Under the FDL program, government publications are sent to approximately 1,400 designated libraries throughout the United States. Some FDLs may have arrangements to transfer material to a local library not designated as an FDL. Contact any library to locate the nearest FDL.

In addition, individuals may contact regional depository libraries that receive and retain at least one copy of most Federal government publications, either in printed or microfilm form, for use by the general public. These libraries provide reference services and interlibrary loans; however, they are not sales outlets. Individuals may obtain information about the location of the nearest regional depository library from any library.

Superintendent of Documents numbers for each HCFA publication are shown in Addendum III, along with the HCFA publication and transmittal numbers. To help FDLs locate the materials, use the Superintendent of Documents number, plus the HCFA transmittal number. For example, to find the Intermediary Manual, Part 3-Claims Process, (HCFA Pub. 13–3) transmittal entitled ''Outpatient Therapeutic Services,'' use the Superintendent of Documents No. HE 22.8/6 and the HCFA transmittal number 1778.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance, Program No. 93.774, Medicare—Supplementary Medical Insurance Program, and Program No. 93.714, Medical Assistance Program)

Dated: May 22, 2000.

Elizabeth Cusick,

Director, Office of Communications and Operations Support.

Addendum I

This addendum lists the publication dates of the most recent quarterly listings of program issuances.

June 4, 1998 (63 FR 30499)
August 11, 1998 (63 FR 42857)
September 16, 1998 (63 FR 49598)
December 9, 1998 (63 FR 67899)
May 11, 1999 (64 FR 25351)
November 2, 1999 (64 FR 59185)
December 7, 1999 (64 FR 68357)
January 10, 2000 (65 FR 1400)

Addendum II—Description of Manuals, Memoranda, and HCFA Rulings

An extensive descriptive listing of Medicare manuals and memoranda was published on June 9, 1988, at 53 FR 21730 and supplemented on September 22, 1988, at 53 FR 36891 and December 16, 1988, at 53 FR 50577. Also, a complete description of the Medicare Coverage Issues Manual was published on August 21, 1989, at 54 FR 34555. A brief description of the various Medicaid manuals and memoranda that we maintain was published on October 16, 1992 (57 FR 47468).

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS

[July 1999 through September 1999]

Trans. No.		Manual/Subject/Publication No.
		Intermediary Manual Part 3—Claims Process (HCFA Pub.13–3) (Superintendent of Documents No. HE 22.8/6)
1778	•	Outpatient Therapeutic Services
		Oral Anti-Nausea Drugs as Full Therapeutic Replacements for Intravenous Dosage Forms as Part of Cancer Chemotherapeutic Regimen
1779	•	Requirements-General
		Election Procedures
		Election, Revocation, and Change of Hospice
		Covered Services
		Special Coverage Requirements
1780	•	Electronic Media Claims
		Requirements for Submission of Electronic Media Claims Data
		File Specifications, Records Specifications, and Data Element Definitions for Electronic Media Claims Bills
		Medicare Intermediary Standard Paper Remittance
		Electronic UB–92 Change Request Procedures
		Medicare Standard Electronic Remittance
		Support of Non-Millennium Electronic Formats
		National Standard Electronic Remittance Advice
1781	•	Prospective Payment System PRICER Program
		Provider—Specific Payment Data
		Provider Specific Data Record Layout and Description
		Intermediary Responsibilities
		Carriers Manual Part 3—Claims Process (HCFA Pub. 14–3) (Superintendent of Documents No. HE 22.8/7)
1642	•	Self-Administered Drugs and Biologicals
		Payment for Oral Anti-emetic Drugs When Used as Full Replacement for Intravenous Anti-emetic Drugs as Part of a Cancer Chemotherapeutic Regimen
1643	•	Claims Involving Beneficiaries Who Have Elected Hospice Coverage
1644	•	Reimbursement for Physician's Visits to Nursing Home Patients
		Physicians' Services Paid Under Fee Schedule
		Entities/Suppliers Whose Physicians' Services Are Paid for Under Fee Schedule
		Payment at Medically Directed Payment Rate
		Specific Hematology, Cytopathology, and Blood Banking Services
		Payment Conditions for Radiology Services
		Payment for Physicians Services Furnished to Dialysis Inpatients
		Payment for Initial Hospital Care Services
		Consultations
		Reporting of Visit When Patient is Seen in Emergency Department and Emergency Department Physician Requests Another Physician to See the Patient in Emergency Department or Office/Outpatient Setting
		Home Services
1645	•	Reassignment

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[July 1999 through September 1999]

Trans. No.		Manual/Subject/Publication No.
		Payment to Employer of Physician
		Payment to Facility in Which Services Are Performed
		Payment to Health Care Delivery System
		Payment to Physician for Purchased Diagnostic Tests
		Payment to Supplier of Diagnostic Tests for Purchased Interpretations
		Payment Under Locum Tenens Arrangements
1646	•	Requirements for Electronic Data Interchange
		Telecommunications Systems and Methods
		Electronic Data Interchange System
		Electronic Data Interchange Testing and Verification
		Technical Requirements
		Technical Assistance for Electronic Data Interchange Trading Partners
		Prohibition of Exclusive Use of Proprietary Software
		Hardware
		Medicare Standard Personal Computer-Print B Software
		Support of Non-Millennium Electronic Formats
		National Standard Format Maintenance Procedures
1647	•	Correct Coding Initiative
1648	•	Colorectal Cancer Screening
		Bone Mass Measurements.
1649	•	Pancreas Transplants
		Program Memorandum Intermediaries (HCFA Pub. 60A) (Superintendent of Documents No. HE 22.8/6–5)
A–99–31	•	Clarifications to Program Memorandum A–99–6, Dated February 1999, 15 Minute Increment Reporting for Home Health Services
A–99–32	•	Medical Review Activities Following the Removal of Home Health Sequential Billing Edits—Regional Home Health Intermediaries Only
A–99–33	•	Change in Hospice Payment Rates, Update to the Hospice Cap, Revised Hospice Wage Index and Hospice PRICER.
A–99–34	•	Implementation of Federal Register Notice to be Published on or About July 30, 1999 of Revised Per-Beneficiary and Per Visit Limitations on Home Health Agency Costs for Cost Reporting Periods Beginning on or After October 1, 1999 and Portions of Cost Reporting Periods Beginning Before October 1, 2000
A–99–35	•	Change to Reporting of Outpatient Rehabilitation Services and All Comprehensive Outpatient Rehabilitation Agency Services Using HCFA Common Procedure Coding System
A–99–36	•	Year 2000 Procedures: Develop Modified System for Beneficiary Requests for Immediate Peer Review Organization Review of Hospital Issued Notices of Noncoverage
A–99–37	•	Home Health Advance Beneficiary Notices Must Be Given to Beneficiaries by Home Health Agencies and Demand Bills Must Be Submitted Promptly
A–99–38	•	Home Health Advance Beneficiary Notices Must Be Given to Beneficiaries by Home Health Agencies and Demand Bills Must Be Submitted Promptly
A–99–39	•	Payment Safeguard Review Instructions for Psychiatric Partial Hospitalization Claims
A–99–40	•	Deactivation of Inactive Community Mental Health Center Medicare Numbers
A–99–41	•	Clarification of Modifier Usage in Reporting Outpatient Hospital Services
A–99–42	•	The Supplemental Security Income Medicare Beneficiary Data for Fiscal Year 1998 for Prospective Payment System Hospitals
		Program Memorandum Carriers (HCFA Pub. 60B) (Superintendent of Documents No. HE 22.8/6–5)
B–99–29	•	Returns From Year 2000 Mailing
B–99–30	•	Changes to the 1999 Medicare Physician Fee Schedule Database
B–99–31	•	Change to Health Insurance Claim Form HCFA–1500 Instructions for Processing Physician Claims in Global Payment Systems
B–99–32	•	Durable Medical Equipment Regional Carrier Instructions to Implement Balanced Budget Act of 1997 Provisions § 4105 to Provide Expanded Coverage of Blood Glucose Monitors and Test Strips for all Diabetics. Implement July 1, 1998
B–99–33	•	Change to Health Insurance Claim Form HCFA–1500 Instructions for Processing Physician Claims in Global Payment Systems
B–99–34	•	Site Visits and Enrollment of Independent Diagnostic Testing Facilities

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[July 1999 through September 1999]

Trans. No.		Manual/Subject/Publication No.
		Program Memorandum Intermediaries/Carriers (HCFA Pub. 60A/B) (Superintendent of Documents No. HE 22.8/6–5)
AB–99–50	•	Further Delay of Change Request 796 (Coverage Issues Manual § 35–10 Hyperbaric Oxygen Therapy)
AB–99–51	•	Limited Medicare Coverage and Billing Instructions for Enhanced External Counterpulsation
AB–99–52	•	Suspension of National Coverage Policy on Electrostimulation for Wound Healing
AB–99–53	•	Final Rule Revising and Updating Medicare Policies Concerning Ambulance Services
AB–99–54	•	Clarification of Program Memorandum AB–99–27—Implementation of Calendar Year 2000 Fee Schedules and Pricing Updates
AB–99–55	•	Transmittal Number AB–99–55 has been rescinded and will not be released
AB–99–56	•	Biomedical Equipment Year 2000 Compliance
AB–99–57	•	October 1, 1999 Payment and Coding Updates
AB–99–58	•	Modified Procedures for Sharing HCFA Data with the Department of Justice
AB–99–59	•	Medicare Coverage of Epoetin Alfa (Procrit) for Preoperative Use
AB–99–60	•	Notice of New Interest Rate for Medicare Overpayments and Underpayments
AB–99–61	•	Mandatory Submission of Social Security Account Numbers and Employer Identification Numbers
AB–99–62	•	Quarterly Update for 1999 Durable Medical Equipment, Prosthetics, Orthotics, and Supplies Fee Schedule
AB–99–63	•	Implementation of the New Payment Limit for Drugs and Biologicals.
AB–99–64	•	Education of Medicare Providers on the Adoption of Standard Electronic Health Care Transaction Formats in the United States
AB–99–65	•	Implementing Coordination of Benefits Contractor Numbers
AB–99–66	•	Provider Education Article: Submitting, Processing, and Paying Year 2000 Medicare Claims
AB–99–67	•	Update of Rates and Wage Index for Ambulatory Surgical Center Payments Effective October 1, 1999
AB–99–68	•	Provider Education Article: National Provider Education and Training Program
AB–99–69	•	Instruction Implementation Reporting
AB–99–70	•	Provider Education Article: Submitting, Processing, and Paying Year 2000 Medicare Claims
AB–99–71	•	Year 2000 HCFA Common Procedure Coding System Update
		Program Memorandum State Survey Agencies (HCFA Pub. 65) (Superintendent of Documents No. HE 22.8/6–5)
99–1	•	Policy Clarification: Home Health Agency Parent, Branch and Subunit Criteria
		State Operations Manual Provider Certification (HCFA Pub. 7) (Superintendent of Documents No. HE 22.8/12)
10	•	Roster/Sample Matrix
		Roster/Sample Matrix Provider Instructions
		Roster/Sample Matrix Surveyor Instructions
		Facility Characteristics
		Facility Quality Indicator Profile
		Resident Level Summary
		Quality Indicator Matrix
		Survey Procedures for Long Term Care Facilities
		Guidance to Surveyors
		Peer Review Organization Manual (HCFA Pub 19) (Superintendent of Documents No HE 22 8/8–15)
74	•	Purpose of Peer Review Organization Review
		Peer Review Organization Responsibilities
		Health Care Financing Administration's Role
		Health Care Quality Improvement Program
		Payment Error Prevention Program
75	•	Objectives of the Internal Quality Control Program
		Internal Quality Control Program Requirements
		Internal Quality Control Process
		Analysis and Reporting Requirements
		Peer Review Organization Review Documentation
		Reporting Requirements
		Peer Review Organization Intermediary Data Exchange Reports
76	•	Authority
		Scope of Review
		Complaints That Do Not Meet Statutory Requirements
		Referrals
	.....	Review Process
	.....	Notice of Disclosure

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[July 1999 through September 1999]

Trans. No.		Manual/Subject/Publication No.
	.....	Disclosure of Quality Review Information to Complaints
		Hospice Manual (HCFA Pub. 21) (Superintendent of Documents No. HE 22.8/18)
55	•	Eligibility and Coverage Eligibility Requirements Use of Election Periods Election, Revocation and Change of Hospice Covered Services Core Services Special Coverage Requirements Notice of Election Hospice Payment Rates Local Adjustment of Payment Rates Cap on Overall Reimbursement Adjustments to Cap Amount
		Coverage Issues Manual (HCFA Pub. 6) (Superintendent of Documents No. HE 22.8/14)
118	•	Enhanced External Counterpulsation for Severe Angina
119	•	Pancreas Transplants
		Provider Reimbursement Manual—Part 1 (HCFA Pub. 15–1) (Superintendent of Documents No. HE 22.8/4)
409	•	Travel Expense
		Provider Reimbursement Manual—Part 2 Provider Cost Reporting Forms and Instructions Chapter 18—Form HCFA–2088–92 (HCFA Pub. 15–2–18) (Superintendent of Documents No. HE 22.8/4)
3	•	Outpatient Rehabilitation Provider Cost Reporting Form
		Provider Reimbursement Manual—Part 2 Provider Cost Reporting Forms and Instructions Chapter 32—Form HCFA–1728–94 (HCFA Pub. 15–2–32) (Superintendent of Documents No. HE 22.8/4)
7	•	Home Health Agency Cost Reporting Form Electronic Reporting Specifications
		Provider Reimbursement Manual—Part 2 Provider Cost Reporting Forms and Instructions Chapter 35—Form HCFA–2540–96 (HCFA Pub. 15–2–35) (Superintendent of Documents No. HE 22.8/4)
5	•	Skilled Nursing Facility Cost Reporting Form Skilled Nursing Facility Complex Cost Reporting Form
		Medicare/Medicaid Sanction—Reinstatement Report (HCFA Pub. 69)
99–7	•	Report of Physicians/Practitioners, Providers and/or Other Health Care Suppliers Excluded/Reinstated—June 1999
99–8	•	Report of Physicians/Practitioners, Providers and/or Other Health Care Suppliers Excluded/Reinstated—July 1999
99–9	•	Report of Physicians/Practitioners, Providers and/or Other Health Care Suppliers Excluded/Reinstated—August 1999

ADDENDUM IV.—REGULATION DOCUMENTS PUBLISHED IN THE FEDERAL REGISTER

Publication date	FR Vol. 64 page	CFR* part(s)	File code**	Regulation title	End of comment period	Effective date
07/02/99	36069–36089	482	HCFA–3018–IFC	Medicare and Medicaid Programs; Hospital Conditions of Participation: Patients' Rights.	08/31/99	08/02/99
07/06/99	36320–36321	409, 410, 411, 412, 413, 419, 489, 498, and 1003.	HCFA–1005–4N	Medicare Program; Prospective Payment System for Hospital Outpatient Services; Extension of Comment Period.	07/30/99	
07/06/99	36321–36322	416 and 488	HCFA–1885–6N	Medicare Program; Update of Ratesetting Methodology, Payment Rates, Payment Policies, and the List of Covered Procedures for Ambulatory Surgical Centers Effective October 1, 1998; Extension of Comment Period.	07/30/99	
07/07/99	36695–36696		HCFA–1082–N	Medicare Program; July 22, 1999, Meeting of the Competitive Pricing Advisory Committee and the Area Advisory Committee for the Kansas City Metropolitan.		
07/16/99	38395–38396	405	HCFA–1083–N	Medicare Program; Meetings of the Negotiated Rulemaking Committee on Ambulance Fee Schedule.		
07/22/99	39608–39771	410, 411, 414, and 415.	HCFA–1065–P	Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2000.	09/20/99	
07/23/99	39934–39938	431 and 498	HCFA–2054–IFC	Medicare and Medicaid Program; Appeal of the Loss of Nurse Aide Training Programs.	09/21/99	07/23/99
07/27/99	40534–40539	414	HCFA–1010–P	Medicare Program; Replacement of Reasonable Charge Methodology by Fee Schedules.	09/27/99	
07/30/99	41489–41641	412, 413, 483, and 485.	HCFA–1053–F	Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2000 Rates.	10/01/99	
07/30/99	41684–41701		HCFA–1056–N	Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities—Update.		10/01/99
07/30/99	41643–41683	409, 411, 413, and 489.	HCFA–1913–F	Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities.		09/28/99
08/03/99	42139–42140		HCFA–3021–N	Medicare Program; August 31, 1999 Open Town Hall Meeting To Discuss the End Stage Renal Disease Network Organizations (ESRD Networks) Activities.		
08/04/99	42393–42402		HCFA–1054–N	Medicare Program; Hospice Wage Index.		10/01/99
08/04/99	42403–42406		HCFA–0002–N	Medicare Program; Year 2000 Readiness Letters.		
08/05/99	42610–42614	413	HCFA–1883–F	Medicare Program; Revision of the Procedures for Requesting Exceptions to Cost Limits for Skilled Nursing Facilities and Elimination of Reclassifications.		09/07/99

ADDENDUM IV.—REGULATION DOCUMENTS PUBLISHED IN THE FEDERAL REGISTER—Continued

Publication date	FR Vol. 64 page	CFR* part(s)	File code**	Regulation title	End of comment period	Effective date
08/05/99	42766–42789		HCFA–1060–NC	Medicare Program; Schedules of Per-Visit and Per-Beneficiary Limitations on Home Health Agency Costs for Cost Reporting Periods Beginning on or After October 1, 1999 and Portions of Cost Reporting Periods Beginning Before October 1, 2000.	10/04/99	10/01/99 and 10/01/00
08/09/99	43198–43200		HCFA–1055–NC	Medicare and Medicaid Programs; Announcement of Additional Applications From Hospitals Requesting Waivers for Organ Procurement Service Areas.	10/08/99	
08/10/99	43295	498	HCFA–2054–CN	Medicare and Medicaid Program; Appeal of the Loss of Nurse Aide Training Programs; Correction.		07/23/99
08/10/99	43338–43339	Chapter IV	HCFA–3250–N3	Medicare Program; Negotiated Rulemaking; Coverage and Administrative Policies for Clinical Diagnostic Laboratory Tests; Announcement of Additional Public Meetings.		
08/18/99	44841–44856	413	HCFA–1001–IFC	Medicare Program; Graduate Medical Education (GME): Incentive Payments Under Plans for Voluntary Reduction in the Number of Residents.	10/18/99	09/17/99
08/20/99	45785–45807	45 CFR 144, 146, 148, and 150.	HCFA–2019–IFC	Federal Enforcement in Group and Individual Health Insurance Markets.	10/19/99	09/20/99
08/24/99	46205–46206		HCFA–1076–N	Medicare Program; September 16, 1999, Meeting of the Competitive Pricing Advisory Committee.		
08/27/99	46920		HCFA–1077–N	Medicare Program; September 23, 1999, Meeting of the Competitive Pricing Demonstration Area Advisory Committee, Maricopa County.		
09/07/99	48661		HCFA–1078–N	Medicare Program; September 27 and 28, 1999, Meeting of the Practicing Physicians Advisory Council.		
09/09/99	49020–49021		HCFA–1087–N	Medicare Program; Open Public Meeting To Discuss the Conduct of a Second Competitive Bidding Demonstration.		
09/10/99	49199–49201		HCFA–2057–PN	Medicare and Medicaid Programs; Reapplication of the American Osteopathic Association (AOA) for Continued Approval of Deeming Authority for Hospitals.	10/12/99	
09/10/99	49197–49198		HCFA–2058–PN	Medicare and Medicaid Programs; Application of the Joint Commission for Accreditation of Healthcare Organizations (JCAHO) for Continued Approval of Deeming Authority for Home Health Agencies.	10/12/99	
09/10/99	49121–49128	435, 436, and 440.	HCFA–2082–N	Medicaid Program; Optional Coverage of Certain Tuberculosis-Related Services to TB-Infected Individuals.	11/09/99	

ADDENDUM IV.—REGULATION DOCUMENTS PUBLISHED IN THE FEDERAL REGISTER—Continued

Publication date	FR Vol. 64 page	CFR* part(s)	File code**	Regulation title	End of comment period	Effective date
09/16/99	50288		HCFA–1039–CN2	Medicare Program; Hospice Wage Index; Correction.		10/01/99
09/17/99	50482–50483	405	HCFA–1086–N	Medicare Program; Meetings of the Negotiated Rulemaking Committee on the Ambulance Fee Schedule.		
09/17/99	50523–50524		HCFA–1090–N	Medicare Program; October 6, 1999 and November 15, 1999, Meetings of the Competitive Pricing Demonstration Area Advisory Committee, Kansas City, MO Metropolitan Area.		
09/27/99	51908–51910	413	HCFA–1876–F	Medicare Program; Revision to Accrual Basis of Accounting Policy.		11/26/99
09/28/99	52377		HCFA–1054–N	Medicare Program; Hospice Wage Index.		
09/30/99	52665–52670	405	HCFA–4121–FC	Medicare Program; Telephone Requests for Review of Part B Initial Claim Determinations.	11/29/99	02/01/00

*42 CFR except where noted

**N—General Notice; PN—Proposed Notice; NC—Notice with Comment Period; FN—Final Notice; P—Notice of Proposed Rulemaking (NPRM); F—Final Rule; FC—Final Rule with Comment Period; CN—Correction Notice; IFC—Interim Final Rule with Comment Period; GNC—General Notice with Comment Period

Addendum V—Categorization of Food and Drug Administration-Allowed Investigational Device Exemptions

Under the Food, Drug, and Cosmetic Act (21 U.S.C. 360c), devices fall into one of three classes. Also, under the new categorization process to assist HCFA, the Food and Drug Administration assigns each device with a Food and Drug Administration-approved investigational device exemption to one of two categories. To obtain more information about the classes or categories, please refer to the **Federal Register** notice published on April 21, 1997 (62 FR 19328).

The following information presents the device number, category (in this case, A), and criterion code.

G 990077—A2
G 990162—A1
G 990169—A2

The following information presents the device number, category (in this case, B), and criterion code.

G 980325—B3
G 990123—B1
G 990124—B4
G 990125—B2
G 990127—B4
G 990131—B3
G 990132—B2
G 990134—B4
G 990137—B1
G 990138—B5
G 990139—B3
G 990142—B4
G 990143—B3
G 990144—B2
G 990146—B2
G 990148—B4
G 990150—B3
G 990151—B2
G 990152—B2
G 990153—B4
G 990155—B2
G 990156—B2
G 990158—B3
G 990164—B4
G 990171—B1
G 990172—B2
G 990174—B4
G 990175—B2
G 990176—B4
G 990177—B4
G 990178—B2
G 990179—B
G 990181—B4
G 990183—B4
G 990185—B3
G 990189—B3
G 990192—B1
G 990194—B4
G 990197—B4
G 990199—B4
G 990207—B2
G 990209—B4

[FR Doc. 00–13347 Filed 5–26–00; 8:45 am]

BILLING CODE 4120–03–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Federal Credentialing Program; Working Meeting

Announcement is made of the following Federal Credentialing Program (FCP)Working Meeting scheduled for July 10–13, 2000:

Name: Federal Credentialing Program Working Meeting.

Date and Time:
Monday, July 10, 2000, 8:30 a.m.–5 p.m.
Tuesday, July 11, 2000, 8:30 a.m.–5 p.m.
Wednesday, July 12, 2000, 8:30 a.m.–5 p.m.
Thursday, July 13, 2000, 8:30 a.m.–12 p.m.

Place: The Hilton Alexandria Mark Center, 5000 Seminary Road, Alexandria, VA 22311.

This meeting is open to credentialing software developers and data consultants.

Agenda: The agenda will include an opening address on Web Technology and Interoperable Systems, and an overview of the FCP Program. Additional presentations include an Introduction to Data Exchange and expert panel presentations on trends in the Development of Standards for Health Care Data Exchange and The Standards Creation Process.

This FCP meeting will convene other health care provider professional representatives for work group meetings to be held on Wednesday, July 12, and Thursday, July 13, 2000. The groups will identify the data elements required to credential their professions, and provide an exhibit forum for credentialing software manufacturers. The meeting will provide an open forum for credentialing data, developers and data consultants to discuss design for a new Health Level 7 software developers credentialing data exchange standard.

For registration information, contact Linda White at 314–894–5747 or by e-mail at whitelin@lrn.va.gov

Agenda items are subject to change as priorities dictate.

Dated: May 23, 2000.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 00–13338 Filed 5–26–00; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection To Be Submitted to the Office of Management and Budget (OMB) for Approval Under the Paperwork Reduction Act

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: The U.S. Fish and Wildlife Service will submit the collection of information listed below to OMB for approval under the provisions of the Paperwork Reduction Act. A copy of the information collection requirement is included in this notice. If you wish to obtain copies of the proposed information collection requirement, related forms, and explanatory material, contact the Service Information Collection Clearance Officer at the address listed below.

DATES: You must submit comments on or before July 31, 2000.

ADDRESSES: Send your comments on the requirement to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, ms 222–ARLSQ, 1849 C Street NW., Washington, DC 20204.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related forms, contact Rebecca A. Mullin at (703) 358–2287, or electronically to rmullin@fws.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)). The U.S. Fish and Wildlife Service (We) plan to submit a request to OMB to renew its approval of the collection of information for the nontoxic shot approval process. We are requesting a 3-year term of approval for this information collection activity.

Federal agencies 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 this collection of information is 1018–0067.

The Migratory Bird Treaty Act (16 U.S.C. 703–711) and Fish and Wildlife Act of 1956 (16 U.S.C. 742d) designate the Department of the Interior as the key agency responsible for the wise management of migratory bird populations frequenting the United States and for the setting of hunting regulations that allow appropriate harvests that are within the guidelines that will allow for those populations' well being. These responsibilities include approval of nontoxic shot materials that are allowed for use in hunting waterfowl and coots in the U.S.

As of January 1, 1991, lead shot was banned for hunting waterfowl and coots in the U.S. At that time, steel shot was the only nontoxic alternative available. Since then, we have encouraged manufacturers to develop other alternatives that the hunting public may use. In approving a candidate material as nontoxic for hunting waterfowl and coots we must first ensure that secondary exposure (ingestion of spent shot or its components) are not a hazard to migratory birds and the environment. In order to make this decision, we require the applicant to collect information about the toxicity of their candidate material to migratory birds and the environment. A further requirement pertains to law enforcement. A noninvasive field detection device must be available to distinguish the candidate shot from lead shot. The above information provides the bulk of an application. Once a candidate material is approved as nontoxic there is no seasonal or annual information collection requirement.

Title: Protocol for Nontoxic Approval Procedures for Shot and Shot Coatings.

Approval Number: 1018–0067.

Service Form Number: Not applicable.

Frequency of Collection: Upon application.

Description of Respondents: Shot manufacturers.

Total Annual Burden Hours: The reporting burden is estimated to average 3,200 hours per application.

Total Annual Responses: We expect no more than 3 applications per year.

We invite comments concerning this renewal on: (1) Whether the collection of information is necessary for the proper performance of our migratory bird management functions, including whether the information will have practical utility; (2) the accuracy of our estimate of the burden of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and, (4) ways to minimize the burden of the collection of information on respondents. The information collections in this program are part of a system of record covered by the Privacy Act (5 U.S.C. 552(a)).

Dated: May 19, 2000.

Paul R. Schmidt,

Assistant Director, Refuges and Wildlife.

[FR Doc. 00–13384 Filed 5–26–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent To Prepare a Comprehensive Conservation Plan and Environmental Impact Statement for the Long Island National Wildlife Refuge Complex

ACTION: Notice of intent to prepare a Comprehensive Conservation Plan and Environmental Impact Statement for the Long Island National Wildlife Refuge Complex.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service (Service) intends to gather information necessary to prepare a Comprehensive Conservation Plan (CCP) and Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act and its implementing regulations, for the Long Island National Wildlife Refuge Complex refuges located in the State of New York. These refuges include Amagansett National Wildlife Refuge (NWR), Conscience Point NWR, Lido Beach NWR, Morton NWR, Oyster Bay NWR, Seatuck NWR, Target Rock NWR, and Wertheim NWR. The Refuges are in Suffolk and Nassau Counties, New York.

The Service is furnishing this notice in compliance with the National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. 668dd *et seq.*):

(1) To 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: Inquire at the address below for dates of planning activity and due dates for comments.

ADDRESSES: Address comments and requests for more information to the following: Refuge Manager, Long Island National Wildlife Refuge Complex, P.O. Box 21, Shirley, New York 11976, 631/286–0485.

SUPPLEMENTARY INFORMATION: By Federal law, all lands within the National

Wildlife Refuge System are to be managed in accordance with an approved CCP. The CCP guides management decisions and identifies 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. The CCP will provide other agencies and the public with a clear understanding of the desired conditions for the Refuges 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 area near each refuge of the time and place of opportunities for public input to the CCP.

The Long Island NWR Complex is a diverse group of nine units totaling over 6,200 acres, and contain most of the habitat types found on Long Island which are important to hundreds of migratory bird species and other wildlife .

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.*), NEPA Regulations (40 CFR 1500–1508), other appropriate Federal laws and regulations, and Service policies and procedures for compliance with those regulations.

We estimate that the draft environmental documents will be available in summer 2001.

Dated: May 11, 2000.

Mamie A. Parker,

Deputy Regional Director, U.S. Fish and Wildlife Service, Hadley, Massachusetts.

[FR Doc. 00–13395 Filed 5–26–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Application for an Incidental Take Permit by Culebra Northshore, S.E. for Development of a Residential Project in Culebra, PR

AGENCY: Fish and Wildlife Service.

ACTION: Notice.

SUMMARY: Culebra Northshore, S.E. (Applicant), seeks an incidental take permit (ITP) from the Fish and Wildlife Service (Service), pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (Act), as amended. The ITP would authorize incidental take of hatchlings from two nests of the leatherback sea turtle (*Dermochelys coriacea*) or the hawksbill sea turtle (*Eretmochelys imbricata*), both endangered species, on Tortola Beach for a period of twelve (12) years. The proposed taking is incidental to lighting and other activities associated with the development and occupation of a single-family residential project on a 66.80–''cuerda'' (64.8-acre) lot adjacent to Tortola Beach, Culebra, Puerto Rico (Project). Nest surveys on this beach indicate that both sea turtle species use the beach for nesting, although in very low numbers. The Applicant's Habitat Conservation Plan (HCP) describes the mitigation and minimization measures proposed to address the effects of the Project to the protected species. These measures are outlined in the **SUPPLEMENTARY INFORMATION** section below. The Service has determined that the Applicant's proposal, including the proposed mitigation and minimization measures, will individually and cumulatively have a minor or negligible effect on the species covered in the HCP. Therefore, the ITP is a ''low effect'' project and would qualify as a categorical exclusion under the National Environmental Policy Act (NEPA), as provided by the Department of Interior Manual (516 DM2, Appendix 1 and 516 DM 6, Appendix 1).

The Service also announces the availability of the HCP and our determination of Categorical Exclusion for the incidental take application. Copies of the HCP and Service supporting documents may be obtained by making a request to the Regional Office (see **ADDRESSES**). Requests must be in writing to be processed. This notice is provided pursuant to Section 10 of the Endangered Species Act and NEPA regulations (40 CFR 1506.6).

The Service specifically requests information, views, and opinions from the public via this notice on the Federal action. Further, the Service specifically solicits information regarding the adequacy of the HCP as measured against the Service's Permit issuance criteria found in 50 CFR parts 13 and 17.

If you wish to comment, you may submit comments by any one of several methods. You may mail comments to the Service's Regional Office (see **ADDRESSES**). You may also comment via the internet to ''david_dell@fws.gov''. Please submit comments over the internet 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 Service that we have received your internet message, contact us directly at either telephone number listed below (see **FURTHER INFORMATION**). Finally, you may hand deliver comments to either Service office listed below (see **ADDRESSES**). 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 administrative record. We will honor such requests to the extent allowable by law. There may also be other circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. We will not; however, 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.

DATES: Written comments on the permit application, supporting documentation, and HCP should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before June 29, 2000.

ADDRESSES: Persons wishing to review the application, supporting documentation, and HCP may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. Documents will also be available for public inspection by appointment during normal business hours at the Regional Office, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Endangered Species Permits), or Field Supervisor, U.S. Fish and Wildlife Service, P.O. Box 491, Boqueron, Puerto Rico 00622. Written data or comments concerning the application, or HCP should be submitted to the Regional Office. Requests for the documentation must be in writing to be processed. Please reference permit number TE026114–0 in such comments, or in requests of the documents discussed herein.

FOR FURTHER INFORMATION CONTACT: Mr. David Dell, Regional Permit Coordinator, (see **ADDRESSES** above), telephone: 404/679–7313; or Ms. Marelisa Rivera, Fish and Wildlife Biologist, Boqueron Field Office, (see **ADDRESSES** above), telephone 787/851–7297.

SUPPLEMENTARY INFORMATION: Nesting grounds of the leatherback sea turtle are distributed world-wide. In the Caribbean, the species nests in French Guiana, Surinam, Guyana, Colombia, Venezuela, Panama, and Costa Rica. In the U.S. Caribbean, nesting has been reported from St. Croix, St. Thomas, St. John, and Puerto Rico. The U.S. Caribbean may support nesting by 150 to 200 adult females per year, representing the most significant nesting activity of this species within the United States. The largest concentration of nesting leatherbacks in the U.S. Caribbean has been documented at Sandy Point National Wildlife Refuge, St. Croix, and Playa Brava and Playa Resaca on Culebra Island, Puerto Rico. Nesting females prefer high-energy beaches with deep and unobstructed access.

The hawksbill sea turtle is found throughout the world's tropical waters. However, nesting within United States territory occurs in Puerto Rico, the U.S. Virgin Islands, and very infrequently in Florida. Two important known nesting areas in the U.S. Caribbean are Mona Island in Puerto Rico and Buck Island Reef National Monument in St. Croix, U.S.Virgin Islands. The species nests on beaches all around the coast of Puerto Rico, but the area that receives the highest number of nesting activities is Mona Island, with approximately 500 nests per year.

Nesting hawksbill sea turtles prefer low energy sandy beaches with woody vegetation such as sea grape or saltshrub located within a few meters of the water line. Suitable nesting habitat can be extremely variable, and ranges from high energy ocean beaches to tiny pocket beaches only a few meters in width.

Major threats to all sea turtle species include loss or degradation of nesting habitat from coastal development and beach armoring; disorientation or misorientation of hatchlings and females by artificial lighting; poaching; disease; commercial trawling, longline and gill net fisheries; and illegal trade, particularly in hawksbill products.

Habitat degradation associated with the project development (lighting, boardwalk construction, increased beach use by residents, use of recreational beach gear at the beach, beach cleaning operations, among others) may result in death or injury of sea turtle hatchlings from either sea turtle species, incidental to the carrying out of these otherwise lawful activities. Section 9 of the Act, and implementing regulations, prohibits taking nests of leatherback sea turtle and hawksbill sea turtle. Taking, in part, is defined as an activity that kills, injures, harms, or harasses a listed endangered or threatened species. Section 10(a)(1)(B) of the Act provides an exemption, under certain circumstances, to the section 9 prohibition if the taking is incidental to, and not the purpose of, otherwise lawful activities.

Beach surveys at Tortola Beach indicate that both sea turtle species use this beach for nesting. In the last 15 years, a total of 24 sea turtle nesting activities (3 for hawksbills and 21 for leatherbacks) have been reported at the Tortola Beach. Tortola Beach is a small pocket beach that measures approximately 90 meters long by 15 meters wide. This beach is located in front of the proposed 45-lot development. Three of the lots border the beach area of Tortola.

The HCP describes measures the Applicant will take to minimize and mitigate such taking resulting from the Project. To minimize impacts to listed species from the proposed project, the Applicant will conduct the following: (1) Donate/transfer to the Puerto Rico Department of Natural and Environmental Resources (DNER) a 10 meter litoral zone (comprising 0.9391 cuerda or 0.91 acre) for additional setback from the maritime zone determined by this agency, along the beach front of the property; (2) a setback of 120 feet from the maritime zone will be left on lots 26, 27, and 29, the only three lots with beachfront property; (3) establish a ''central valley'' conservation easement on 5.71 cuerdas (5.54 acres) to protect natural forests; (4) no construction activities such as beach armoring or beach nourishment, no mechanical beach clearing, no vehicle traffic or animals will be allowed on the beach and no beach vegetation will be removed or trimmed on the beach; (5) pedestrian traffic to the beach from the property and from the beach to the property will be directed to only one boardwalk across the litoral zone and sand dune area; (6) a low fence will be erected at the end of the maritime zone (where sand turns into hard soil) to control pedestrian access and stray animals; (7) no artificial lighting will be installed on the beach and the beach will be closed to residents from the property during evening hours; (8) no recreation equipment such as lounge chairs, toys, kayaks will be allowed to remain on the beach after sunset and no boating activities, no camping or fires will be allowed on the beach; (9) each lot will have a site-specific residence location and no additional land clearing will be allowed on the lot; (10) all houses will be designed and remain single family units with a maximum size residence permitted of 2,700 square feet and have a maximum height of 18 feet; (11) a deed restriction will be included in each lot to require a lighting plan to address impacts to sea turtles on Tortola Beach and periodic lighting surveys will be conducted and corrective measures will be required; (12) no street lighting on the roadways within the development will be installed, roads will be closed to the general public during evening hours to minimize vehicular lighting, and vehicular traffic is routed one way to minimize headlight glare; and (13) a deed restriction will require that each owner develop and implement an erosion control plan to reduce potential impacts to nesting habitat by eroded materials.

To mitigate for the nests to be taken, the applicant will provide the following: (1) Provide educational materials regarding sea turtles to all owners and construct an information display board at the entrance of the boardwalk; (2) will encourage beach cleaning activities among the owners; (3) will provide trash containers for trash disposal; (4) turtle nesting activities will be reported, marked off-limit and protected until DNER personnel work the nest, and (5) will recruit and facilitate volunteers for sea turtle conservation projects.

As earlier stated, the Service has determined that the HCP qualifies as a Categorically-Excluded, ''low-effect'' HCP as defined by Service's Habitat Conservation Planning Handbook (November 1996). Low-effect HCPs are those involving: (1) Minor or negligible effects on federally listed and candidate species and their habitats, and (2) minor or negligible effects on other environmental values or resources. The Applicant's HCP qualifies for the following reasons:

1. Approval of the HCP would result in minor or negligible effects on the leatherback sea turtle and hawksbill sea turtle, and their nesting habitats. The Service does not anticipate significant direct or cumulative effects on these species resulting from the construction of the Project.

2. Approval of the HCP would not have adverse effect on known geographic, historic or cultural sites, or involve unique or unknown environmental risks.

3. Approval of the HCP would not result in any significant adverse effects on public health or safety.

4. The project does not require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act, nor does it threaten to violate a Federal,

State, local or tribal law or requirement imposed for the protection of the environment.

5. Approval of the HCP would not establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.

The Service has therefore determined that approval of the HCP qualifies as a categorical exclusion under NEPA, as provided by the Department of the Interior Manual (516 DM 2, Appendix 1 and 516 DM 6, Appendix 1). No further NEPA determination will therefore be prepared.

The Service will evaluate the HCP and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act. If it is determined that those requirements are met, an ITP will be issued for the incidental take of hatchlings from two nests of the leatherback sea turtle or hawksbill sea turtle during a period of 12 years. The Service will also evaluate whether the issuance of a section 10(a)(1)(B) ITP complies with section 7 of the Act by conducting an intra-Service section 7 consultation. The results of the consultation, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITP.

Dated: May 22, 2000.

H. Dale Hall,

Acting Regional Director.

[FR Doc. 00–13388 Filed 5–26–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent To Conduct Public Scoping and Prepare an Environmental Impact Statement

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 (NEPA), this notice advises other agencies and the public that the Fish and Wildlife Service (Service) intends to prepare an Environmental Impact Statement (EIS) related to the proposed issuance of an Incidental Take Permit (Permit) to the Foster Creek Conservation District (District) in Douglas County, Washington for take of endangered and threatened species, pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). As required by the Act, the District is preparing a Habitat Conservation Plan (Plan). The Plan is being developed to address agricultural practices throughout Douglas County, and may include management activities on dryland crop farms, livestock ranches, and irrigated orchards. With issuance of the Permit, participating landowners would receive regulatory certainty with regard to the requirements of the Act by implementing the measures prescribed in the Plan.

The Service is furnishing this notice in order to advise other agencies and the public of our intentions and to announce the initiation of a minimum 30-day public scoping period. During the scoping period, other agencies and the public are invited to provide written comments on the scope of issues to be included in the EIS, which is expected to be available for public review and comment during the second quarter of 2001. Interested parties are encouraged to attend the scoping workshops or to provide written comments on the scope of the issues and range of alternatives for the draft EIS.

DATES: Written comments regarding the scope of the issues and range of alternatives for the draft EIS should be received on or before July 14, 2000. Scoping workshops will be held on June 29, 2000 (see **ADDRESSES** for times and location).

ADDRESSES: Comments and requests for additional information should be submitted to Chris Warren, Fish and Wildlife Service, 11103 East Montgomery Drive, Spokane, Washington, 99206, or call (509) 891–6839.

Scoping workshops will be held at the North-central Washington, Fairground, 601 North Monroe Street, Waterville, Washington, 98858. The workshops will be held from 3 p.m. to 5 p.m. and from 6 p.m. to 8 p.m. on June 29, 2000.

SUPPLEMENTARY INFORMATION: Conservation districts are legal subdivisions of the Washington State government, with powers and duties set forth in accordance with the Revised Code of Washington (RCW 89.08). Among other things, conservation districts are authorized to develop comprehensive long-range programs for the conservation of natural resources within their boundaries, to enter into agreements with other State and Federal agencies and the districts' landowners, and to administer the programs of other State and Federal agencies concerned with the conservation of natural resources. Based upon this authority, the Service anticipates the development of a programmatic Plan by the District. Upon completion and approval of detailed, site-specific farm plans that implement the terms of the programmatic Plan, individual landowners will receive permit coverage under section 10(a)(1)(B) of the Act through Certificates of Inclusion.

Douglas County is located in central Washington and encompasses over one million acres of land. It is anticipated that the activities covered under the Permit will include operation and management of dryland crop farms, liverstock ranches (each comprising roughly 48 percent of the country's total agricultural land base), and fruit orchards (comprising roughly 4 percent). Grazing activities that may be addressed include, among others, stocking types and rates, timing, use levels, and management of livestock facilities (fencing, holding areas, transportation, etc.). Farming activities that may be include are, among others, planting types and techniques, crop rotation, timing, weed and pest control, management of facilities, and irrigation activities. It is also anticipated that the measures of proposed Plan and Permit coverage will be coordinated with existing Federal and State programs for private landowners in Douglas County (Conservation Reserve Program, other Farm Bill programs, private lands initiatives, etc.). The District tentatively proposes that the Plan and Permit be in effect for 50 years.

Agricultural activities on private lands and the management activities of the District, along with those of other State and Federal agencies in Douglas County, have the potential to impact species subject to protection under the Act, as well as other unlisted species of concern to the Service. Section 10 of the Act contains provisions for the issuance of Permits to non-Federal landowners for the take of endangered and threatened species, provided the take is incidental to otherwise lawful activities and will not appreciably reduce the likelihood of the survival and recovery of the species in the wild. To received section 10 coverage under the act, applicants must prepare and submit to the Service for approval a Plan containing a strategy for minimizing and mitigating to the maximum extent practicable all take associated with the proposed activities. Applicants must also demonstrate that adequate funding will be provided to ensure the Plan will be implemented and monitored throughout its proposed life span. The mandatory elements of Plan and the criteria for issuance of Permits are contained in the Code of Federal Regulations (50 CFR 17.22, 17.32, and 222.22).

Section 9 of the Act and Federal regulations prohibit the ''taking'' of any species listed as endangered or threatened. The term ''take'' is defined under the Act to mean harass, harm, pursue, hunt, shoot, would, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Harm is defined to include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering.

The species currently listed under the Act that are being proposed for coverage under the Permit include the Columbia River Basin population of the bull trout (*Salvelinus confluentus*) and the coterminous United States population of the bald eagle (*Haliaeetus leucocephalus*), both currently listed as threatened. The District also plan to address a number of unlisted fish and wildlife species in the Plan, such as the western sage grouse (*Centrocercus urophasianus phaios*), Colombian sharp-tailed grouse (*Tympanuchus phasianellus columbianus*), and the pygmy rabbit (*Brachylagus idahoensis*), among other. Should any of the unlisted species addressed in the Plan be listed under the Act in the future, participating landowners would receive incidental take coverage for them under the specific provisions of the Permit. The District also plans to seek separate Permit coverage for several species listed under the Act that fall within the purview of the Secretary of Commerce, as administered by the National Marine Fisheries Service, including the upper Columbia River Basin populations of spring chinook salmon (*Oncorhynchus tshawytscha*) and steelhead (O. mykiss), both listed as endangered, and the middle Columbia River population of steelhead, listed as threatened.

Under NEPA, reasonable alternatives to a proposed project must be developed and considered in the Service's environmental review. At a minimum, the alternatives developed must include: (1) A No Action alternative, which describes current management and resource conditions and potential future impacts incurred under this scenario; and (2) the Proposed Action, with thorough descriptions of its management features and anticipated resource conservation benefits and potential impacts. For the present environmental review, the No Action alternative will reflect the baseline conditions in Douglas County under current agricultural management practices. The Proposed action alternative will be represented by the District's Plan and its associated management measures. Additional project alternatives may be developed based upon input received from this and future scoping notices during development of the EIS.

Comments and suggestions are invited from all interested parties to ensure that the full range of issues related to these proposed actions are addressed and that all significant issues are identified. The Service requests that comments be as specific as possible. Comments are specifically requested to include information regarding: the direct, indirect, and cumulative impacts that implementation of the proposal could have on endangered and threatened species and their habitats; other possible alternatives; potential adaptive management and/or monitoring provisions; funding issues; baseline environmental conditions in Douglas County; other plans or projects that might be relevant to this project; and minimization and mitigation efforts. In addition to considering impacts on listed species and their habitats, the EIS must include information on impacts resulting from the alternatives on other components of the human environment. These other components include such things as air quality, water quality and quantity, geology and soils, cultural resources, other fish and wildlife species, social resources, and economic resources.

The environmental review for this project will be conducted in accordance with the requirements of NEPA (42 U.S.C. 4321 *et seq.*), Federal regulations implementing NEPA (40 CFR 1500-1508), other appropriate Federal laws and regulations, and the policies and procedures of the Service for compliance with those regulations.

Dated: May 22, 2000.

Carolyn A. Bohan,

Acting Regional Director, Region 1, Fish and Wildlife Service, Portland, Oregon.

[FR Doc. 00–13385 Filed 5–26–00; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–660–00–1990–00; CACA20139 and CACA22901]

Transit Mixed Concrete Company Proposed Sand and Gravel Mining Operation, Soledad Canyon, Los Angeles County, CA

AGENCY: Bureau of Land Management, Department of the Interior, Palm Springs-South Coast Field Office, California Desert District.

ACTION: Notice of availability of Final Environmental Impact Statement.

SUMMARY: In compliance with the National Environmental Policy Act (NEPA) of 1969 and 40 CFR 1503.4, notice is hereby given that the Bureau of Land Management (BLM) has prepared a Final Environmental Impact Statement (EIS) for the Transit Mixed Concrete (TMC) Company Sand and Gravel Mining Project proposed for construction and operation off of Soledad Canyon Road and State Highway 14, in an unincorporated area of Los Angeles County, California.

Interested citizens are invited to review the Final EIS. Hard copies of the Final EIS may be obtained by telephoning or writing the contact persons listed below. The Technical Appendices and Volumes 1 through 6 are also available on CD-ROM. The CD-ROM is in Adobe Acrobat Reader format, and contains a free download of Acrobat Reader so it can be opened easily. Public reading copies are available at the following County of Los Angeles public libraries: Canyon Country Library (18536 Soledad Canyon Road, Santa Clarita); Newhall Library (22704 W. Ninth Street, Santa Clarita); and the Valencia Library (23743 W. Valencia Boulevard, Santa Clarita).

DATES: BLM will be rendering a decision on the proposed Project no sooner than July 3, 2000.

FOR ADDITIONAL INFORMATION CONTACT: Ms. Elena Misquez, BLM, Palm Springs-South Coast Field Office at (760) 251–4810. To obtain copies of the Final EIS, contact Ms. Linda Brody of Chambers Group Inc. at (949) 261–5414. Fax requests can be sent to the attention of Ms. Linda Brody at (949) 261–8950. Please specify either CD–ROM or the specific volume(s) desired (see Supplemental Information below). Please include name, complete mailing address (no P.O. Boxes), and phone number on all requests.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management (BLM) has prepared a Final EIS for the Transit Mixed Concrete (TMC) Company Sand and Gravel Mining Project. The Project is proposed for construction and operation in an unincorporated area within Los Angeles County, north of Soledad Canyon Road, south of the Antelope Valley Freeway (State Highway 14), and west of Agua Dulce Canyon. TMC proposes to mine a total of 83 million tons of sand and gravel over a 20-year period. The Project site is located on ''split-estate'' lands where the surface is privately owned and the minerals are federally owned and

administered by the BLM. The Draft EIS was released for public review on May 6, 1999, and the Supplement to the Draft EIS (SDEIS) was released November 17, 1999. The public comment period for both of these documents closed January 10, 2000.

The Final EIS incorporates changes based on public comments received on the Draft EIS, SDEIS, and technical appendices, including final conformity determination for air quality. The Final EIS also includes responses to written comments received during the public comment period for the DEIS and SDEIS, responses to the BLM public hearing held July 2, 1999, and responses to comments on Los Angeles County's Draft EIR for the Project. The Final EIS is comprised of the following volumes:

- Final EIS—Main Text Volume (incorporates changes to DEIS and SDEIS text)
- Final EIS—Technical Appendices Volume (incorporates changes to DEIS Appendices)
- Volume 1—Responses to Comments (Responses to all written and oral comments received on the DEIS, SDEIS, and DEIR)
- Volume 2—DEIS and SDEIS Written Comment Letters (includes federal, state, and local agencies, community groups, associations, consulting firms, and individual letters)
- Volume 3—BLM Public Hearing Transcript
- Volume 4—DEIR Written Comment Letters from State and Local Agencies, Community Groups, Associations, and Consulting Firms
- Volume 5—DEIR Written Comment Letters from Individuals/Petitions/Form Letters
- Volume 6—County DEIR Public Hearing Transcripts

Dated: May 23, 2000.

Danella George,

Acting Field Manager.

[FR Doc. 00–13440 Filed 5–26–00; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW147467)

Notice of Proposed Reinstatement of Terminated; Oil and Gas Lease

Pursuant to the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), a petition for reinstatement of oil and gas lease WYW147467 for lands in Sweetwater County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 of reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements of reinstatement of the lease as set out in Section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW147467 effective February 1, 2000, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Theresa M. Stevens,

Acting Chief, Leasable Minerals Section.

[FR Doc. 00–13393 Filed 5–26–00; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW147466]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

Pursuant to the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), a petition for reinstatement of oil and gas lease WYW147466 for lands in Sweetwater County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination. The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lesee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW147466 effective February 1, 2000, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Theresa M. Stevens,

Acting Chief, Leasable Minerals Section.

[FR Doc. 00–13397 Filed 5–26–00; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA210–00–1610–01–2410]

Public Land and Resources; Planning, Programming, and Budgeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notification of availability of Draft Land Use Planning Manual and Handbook.

SUMMARY: The Federal Land Policy and Management Act (FLPMA) and the regulations at 43 CFR part 1600 require the Bureau of Land Management (BLM) to prepare Resource Management Plans (RMPs) to provide management direction for the public lands. The objective of land use planning is to ensure that BLM lands are managed under the principles of multiple use and sustained yield (FLPMA, sec. 102 (a)(7)); in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archaeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use (FLPMA, sec. 102 (a)(8)); and in a manner that recognizes the Nation's need for domestic sources of minerals, food, timber, and fiber from the public lands (FLPMA, sec. 102 (a)(12)).

The BLM's current guidance for the preparation of land use plans is a manual that was prepared in the 1980s, shortly after the BLM published its planning regulations in 1983. The BLM is developing new guidance and is providing the public an opportunity to review the proposed guidance and to provide input. The Planning Manual and Handbook, when finalized, will provide direction in implementing the requirements of FLPMA and the BLM planning regulations.

SUPPLEMENTARY INFORMATION: In addition to serving as BLM's primary tool for determining resource protection and allocations in the management of the public lands, RMPs provide the public a voice in BLM's land and resource management programs. They establish goals and objectives for resource management (i.e., desired future outcomes, based on standards and guidelines and, new regulatory requirements), measures needed to achieve them, and parameters for use. They identify lands which are open or

available for certain uses, including any applicable restrictions, and lands which are closed. Land use plans provide direction for the management of BLM administered lands in accordance with the legal mandates of FLPMA, BLM regulations, and the mission and goals of BLM's Strategic Plan under the principles of multiple use and sustained yield, and in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource and archaeological values.

There are more complex demands being made of the public lands today than when the BLM planning regulations and original guidance were issued in the 1980s. There are also new circumstances, such as increasing population growth near public lands in the West, and new data, such as new information on the condition and trend of vegetation, soil, and water resources that must be considered in BLM's land use plans.

The proposed planning guidance differs from existing guidance in that it:

1. Encourages planning on a variety of scales, including both traditional RMPs at the local level and larger regional-level plans, and combinations of these across different land ownerships and jurisdictions;
2. Encourages greater public participation throughout the planning process and facilitates multi-jurisdictional planning;
3. Clarifies the relationship between land use plans and implementation plans;
4. Provides the minimum procedural requirements for completing land use plans and implementation plans;
5. Clarifies the relationships between land use plan and NEPA requirements;
6. Addresses new requirements and approaches for managing public lands or resources; and
7. Addresses the consideration of new information and circumstances, such as new listings of threatened and endangered species, and new requirements and standards for the protection of air and water quality.

In recent years, the BLM has sought to engage and also participate with other landowners and jurisdictions in developing land use plans which address management of natural resource values and uses on a watershed or ecosystem basis, rather than on a strictly jurisdictional basis. The new planning guidance emphasizes the need to plan in conjunction with local communities and stakeholders, and in partnership with other planning jurisdictions. As the existing guidance did not address the BLM's role in these types of multi-jurisdictional plans, there is a need for the policy guidance provided in the planning manual and handbook.

The new guidance is also less process oriented, meaning there is more flexibility in the planning process. Specifically, the new planning guidance highlights the minimum requirements for planning, rather than being prescriptive. It builds on field experience gained in implementing the 1983 planning regulations (43 CFR 1600) and subsequent manual guidance.

This is internal guidance and no comment period is required. However, in the interest of improving BLM's planning process, public comments will be considered in development of the final version of the planning guidance. A public record and summary of how comments were addressed will be available at the BLM Washington Office for review upon request. The final planning manual will not be protestable or appealable.

DATES: Comments on the draft land use planning manual and handbook will be accepted until July 10, 2000.

ADDRESSES: Copies of the draft land use planning manual and handbook may be obtained from the Internet at www.blm.gov; from the BLM Washington Office at the following address: BLM, Planning, Assessment and Community Support Group (WO–210), 1849 C Street, NW., (LS–1050), Washington, D.C. 20240–0001; or from any BLM State Office or field office.

Comments can be electronically sent to www.wo210@blm.gov or mailed to the Bureau of Land Management (WO–210), Attention: Ted Milesnick, 1849 C Street NW., (LS–1050), Washington, DC, 20240–0001.

FOR FURTHER INFORMATION CONTACT: Ted Milesnick at (202) 452–7727, Ann Aldrich at (202) 452–7722, or Paul Politzer at (202) 452–0349.

Dated: May 23, 2000.

Michael Mottice,

Acting Assistant Director, Renewable Resources and Planning.

[FR Doc. 00–13310 Filed 5–26–00; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

National Park Service

Joshua Tree National Park Advisory Commission, Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Joshua Tree National Park Advisory Commission (Commission) will be held from 10:00 am (PDT) until 2:00 pm on Saturday, June 17, 1999, at the Helen Gray Center, on Whitefeather Drive in the community of Joshua Tree, California. The Commission will hear reports on the Climbing Committee, the Wilderness Sustainability Study, Implementation of the Trails Plan, Line Item Construction for the West Entrance Visitor Center, the Learning Center and the Desert Institute.

The Commission was established by Public Law 103–433, section 107 to advise the Secretary concerning the development and implementation of a new or revised comprehensive management plan Joshua Tree National Park.

Members of the Commission include:

Mr. Chuck Bell, Planner

Ms. Cyndie Bransford, Recreational Climbing Interest

Ms. Marie Brashear, Mining Interest

Mr. Gary Daigneault, Property Owner/ Business Interest

Hon. Kathy Davis, County of San Bernardino

Mr. John Freter, Property Owner Interest

Mr. Brian Huse, Conservation

Mr. Julian McIntyre, Conservation

Mr. Roger Melanson, Equestrian Interest

Mr. Ramon Mendoza, Native American Interest

Ms. Leslie Mouriquand, Planner

Mr. Richard Russell, All Wheel Drive Vehicle Interest

Ms. Lynne Shmakoff, Property Owner Interest

Hon. Roy Wilson, County of Riverside

Mr. Gilbert Zimmerman, Tourism

Included on the agenda for this public meeting will be:

Discussion of the Backcountry and Wilderness Management Plan.

- Primitive Auto Camping (*i.e.* study, Environmental Assessment, funding).
- Artificial Water Sources (*i.e.* study, Environmental Assessment, funding).

The meeting is open to the public and will be recorded for documentation and transcribed for dissemination. Minutes of the meeting will be available to the public after approval of the full Advisory Commission. For copies, please contact Superintendent, Joshua Tree National Park, 74485 National Park Drive, Twentynine Palms, California 92277 at (760)367–5502.

Dated: May 11, 2000.

Ernest Quintana,

Superintendent.

[FR Doc. 00–13377 Filed 5–26–00; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before MAY 20, 2000. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240. Written comments should be submitted by June 14, 2000.

Carol D. Shull,
Keeper of the National Register.

Alaska

Valdez-Cordova Borough-Census Area
Bremner Historic Mining District, (Mineral Development in Wrangell-St. Elias National Park and Preserve, Alaska MPS)
Wrangell-St. Elias Park and Preserve, Chitina, 00000659

Florida

Highlands County
Kenilworth Lodge, 836 South Lakeview Dr., Sebring, 00000661
Polk County
Winter Haven Heights Historic Residential District, (Winter Haven, Florida MPS)
Roughly Lake Martha, 2nd St. NE, 5th St. NE, and Avenue A NE, Winter Haven, 00000660

Hawaii

Maui County
Baldwin, Henry Perrine, High School, (Maui Public Schools MPS)
Kaahumanu Ave., Kahuli, 00000667
Kanae School, (Maui Public Schools MPS)
Hana Highway, Keanae, 00000665
Kaupo School, (Maui Public Schools MPS)
Government Rd., Kaupo, 00000662
Paia School, (Maui Public Schools MPS)
Paia vicinity, Paia, 00000664
Puunene School, (Maui Public Schools MPS)
Puunene Ave., Puunene, 00000663
Wailuku School, (Maui Public Schools MPS) High St.,
Wailuku, 00000666

Illinois

Champaign County
Elm Street Court, 1–8 Elm Street Court, Urbana, 00000681
Ricker, Nathan C., House, 612 W. Green St., Urbana, 00000682

Indiana

Johnson County
Hopewell Presbyterian Church, 548 W 100 N, Franklin, 00000680
La Porte County
Michigan City Post Office, 126 E. 5th St., Michigan City, 00000675
Lawrence County
Madden School, 620 H St., Bedford, 00000673
Marion County
Oldfields, 1200 W. 38th St., Indianapolis, 00000676
Marshall County
Forest Place Historic District, Forest Place, bet. College Ave. and Lake Shore Dr., Culver, 00000671
Porter County
Porter Town Hall, 303 Franklin St., Porter, 00000678
Posey County
New Harmony Historic District, Roughly bounded by Third St., Steammill St., Main St., inc. Maple Hill Cem., Arthur St., Atheneum prop. and North St., New Harmony, 00000669
St. Joseph County
Leeper Park, Roughly bounded by St. Joseph R, Park Ln., and Bartlett St., South Bend, 00000679
St. Joseph County Infirmary, 3016 Portage Ave., South Bend, 00000670
Vigo County
Terre Haute Fire Station No. 8, 1831 Wabash Ave., Terre Haute, 00000668
Vigo County Home for Dependent Children, 7140 Wabash Ave., Terre Haute, 00000674
Wayne County
King—Dennis Farm, 2939 King Rd., Centerville, 00000677
White County
Monon Commercial Historic District, Roughly Market St., bet. 3rd St. and 5th St., and 4th St. bet. Arch St. and Railroad St., Monon, 00000672

Louisiana

Caddo Parish
Shreveport Fire Station #8, 3406 Velva St., Shreveport, 00000683
Rapides Parish
Schnack, C.A., Jewelry Co. Store, 924 Third St., Alexandria, 00000684

Massachusetts

Barnstable County
Stony Brook—Factory Village Historic District, Stony Brook Rd.; Setucket Rd., Run Hill Rd., Brewster, 00000688
Middlesex County
Hubbard—French District, 324 and 342 Sudbury Rd., Concord, 00000686
Norfolk County
Fisher School—High Street Historic District, 748–850; 751–823 High St., Westwood, 00000687
Plymouth County
Middleborough Center Historic District, Roughly bounded by Conraill RR, Frank, Pierce, School, North Sts., Nemasket R., and East Grove St., Middleborough, 00000685

Minnesota

Ramsey County
Brooks, Edward, Sr. and Markell, House, 176 N. Mississippi River Blvd., St. Paul, 00000689

Missouri

Buchanan County
Cathedral Hill Historic District, North 9th St., Powell St. and North 13th St., St. Joseph, 00000691
Cass County
Stumbaugh Post No. 180 GAR Hall, Missouri Hwy T, Austin, 00000694
Cole County
Parker, Lester S. and Missouri ''Zue'' Gordon, House, 624 E. Capitol Ave., Jefferson City, 00000690

New Jersey

Camden County
Kay—Evans Farm, 100 Borton Mill Rd., Cherry Hill Township, 00000693

North Carolina

Carteret County
Cape Lookout Village Historic District, Cape Lookout from Lighthouse to Coast Guard St.; bounded by ocean and a concrete road, and concrete road across Bight, Harkers Island, 00000692

South Carolina

Marion County
Mt. Olive Baptist Church, 301 Church St., Mullins, 00000695

Texas

Travis County
Schemedes, Kurt and Meta, House, 804 Baylor St., Austin, 00000696

Washington

Whatcom County
Si'ke village with historic area called Tsi'lich, Address Restricted, Blaine, 00000697

West Virginia

Hardy County
Funkhouse, Henry, Farm, Funhouse Rd., NW of jct. with Grover Smith Rd., Baker, 00000698

Wisconsin

Clark County
Neillsville Downtown Historic District, 500 Block Hewett St. and 118 W. Sixth St., Neillsville, 00000701
Dane County
South Main Street Historic District, S. Main St., jct. with Jefferson and

Janesville Sts., Village of Oregon, 00000699
Waukesha County
Needham, Enoch Gardner and Mary Caroline Koch, House, 12713 W. Greenfield Ave., New Berlin, 00000700

A request for *Removal* has been made for the following resources:

Kansas

Kiowa County
Belvidere Medicine River Bridge, (Masonary Arch Bridges of Kansas TR) 0.25 mi. N of Belvidere, Belvidere vicinity, 85001418
Wyandotte County
Huron Building, 905 N. 7th St., Kansas City, 84001243

[FR Doc. 00–13376 Filed 5–26–00; 8:45 am]

BILLING CODE 4310–70–P

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 April 21, 2000, American Radiolabeled Chemical, Inc., 11624 Bowling Green Drive, St. Louis, Missouri 63146, 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 small quantities of the listed controlled substance as radiolabeled compound.

Any other such applicant and any person who is prsently 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, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than July 31, 2000.

Dated: May 19, 2000.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 00–13439 Filed 5–26–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated February 10, 2000, and published in the **Federal Register** on February 17, 2000, (65 FR 8206), Ansys Diagnostics, Inc., 25200 Commercentre Drive, Lake Forest, California 92630, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Phencyclidine (7471)	II
1–Piperid-ino-cyclo-hex-ane-carbo-nitrile (PCC) (8603).	II
Benzoylecgonine (9180)	II

The firm plans to manufacture the listed controlled substances to produce standards and controls for in-vitro diagnostic drug testing systems.

DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Ansys Diagnostics, Inc. to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Ansys Diagnostics, Inc. on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby order that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: May 19, 2000.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 00–13437 Filed 5–26–00; 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 February 29, 2000, Chemic Laboratories, Inc., 480 Neponset Street, Building 7C, Canton, Massachusetts 02021, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of cocaine (9041), a basic class of controlled substance listed in Schedule II.

The firm plans to bulk manufacture small quantities of cocaine derivative for a customer.

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, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than July 31, 2000.

Dated: May 19, 2000.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 00–13438 Filed 5–26–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated February 10, 2000, and published in the **Federal Register** on February 17, 2000, (65 FR 8207), Noramco of Delaware, Inc., Division of McNeilab, Inc., which has changed its name to Noramco of Delaware, Inc., Division of Ortho-McNeil, Inc., 500 Old Swedes Landing Road, Wilmington, Delaware 19801, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Codeine (9050)	II
Oxycodone (9143)	II

Drug	Schedule
Hydrocodone (9193)	II
Morphone (9300)	II
Thebaine (9333)	II

The firm plans to manufacture the listed controlled substances for distribution to its customers as bulk product.

DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Noramco of Delaware, Inc. to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Noramco of Delaware, Inc. on a regular basis to ensure that the company's continued registsration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: May 19, 2000.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 00–13435 Filed 5–26–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated February 10, 2000, and published in the **Federal Register** on February 17, 2000, (65 FR 8207), Orpharm, Inc., 4815 Dacoma, Houston, Texas 77092, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Methadone (9250)	II
Methadone-intermediate (9254)	II
levo-alphacetymethadol (9648)	II

The firm plans to manufacture methadone and methadone-intermediate for production of LAAM.

DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Orpharm, Inc. to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Orpharm, Inc. on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. § 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: May 19, 2000.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 00–13436 Filed 5–26–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Agency Information Collection Activities: Current Collection: Comments Requested

ACTION: Notice of information collection under review: extension of a currently approved collection; Return A—Monthly Return of Offenses Known to the Police and Supplement to Return A—Monthly Offenses Known to the Police

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until July 31 2000.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Comments should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposal collection of information, including the validity of the methodology and assumptions used;

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

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

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time should be directed to Gregory E. Scarbro (phone number and address listed below). Additional information as well as copies of the proposed information collection instrument with instructions are available by contacting Gregory E. Scarbro, Unit Chief, telephone 304–625–4830, FBI, CJIS Division, Statistical Unit, E–3, 1000 Custer Hollow Road, Clarksburg, WV 26306.

Overview of This Information Collection

(1) Type of information collection: Extension of Currently Approved Collection.

(2) The title of the form/collection: Return A—Monthly Return of Offenses Known to the Police and Supplement to Return A—Monthly Offenses Known to the Police.

(3) The agency form number, if any, and applicable component of the Department Sponsoring the collection. Form: 1–720A; 1–706. Federal Bureau of Investigation, Department of Justice.

(4) Affected public who will be asked or required to respond, as well as brief abstract. Primary: Local and State Law Enforcement Agencies. This collection is needed to collect data regarding criminal offenses and their respective clearances throughout the United States. Data is tabulated and published in the annual *Crime in the United States.* The FBI UCR Program is currently reviewing its race and ethnicity data collection in compliance with the Office of Management and Budget's *Revisions for the Standards for the Classification of Federal Data on Race and Ethnicity.*

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 17,667 agencies with 212,004 responses (including zero reports); and

with an average of 30 minutes a month devoted to compilation of data for this information collection.

(6) An estimate of the total public burden (in hours) associated with both collections: 74,201 hours annually.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: May 23, 2000.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 00–13381 Filed 5–26–00; 8:45 am]

BILLING CODE 4410–02–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 00–056]

Notice of Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration (NASA).

SUMMARY: The National Aeronautics and Space Administration, 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)). The reports will be used to evaluate the use of uncompensated overtime in bids and proposals submitted to NASA for the award of contracts for technical and professional services in support of NASA's mission and in response to contractual requirements. The requirement is stated in 48 CFR 1831.205–670, 1831.205–671, and 1851.231–71.

DATES: All comments should be submitted on or before July 30, 2000.

ADDRESSES: All comments should be addressed to Mr. Richard Kall, Code HK, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Ms. Carmela Simonson, NASA Reports Officer, (202) 358–1223.

Title: Uncompensated Overtime.

OMB Number: 2700–0080.

Type of review: Extension.

Need and Uses: Uncompensated overtime information is used to determine (i) whether a contractor will be able to hire and retain qualified individuals, (ii) whether uncompensated overtime hours will be properly accounted, and (iii) the validity of the proposed uncompensated hours.

Affected Public: Business or other for-profit.

Number of Respondents: 657.

Responses Per Respondent: 1.

Annual Responses: 650.

Hours Per Request: 3¼.

Annual Burden Hours: 2113.

Frequency of Report: Annually.

David B. Nelson,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 00–13352 Filed 5–26–00; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 00–057]

Notice of Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration (NASA).

SUMMARY: The National Aeronautics and Space Administration, 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)). The reports will be utilized by the Office of Small and Disadvantaged Business Utilization as a method for determining if developmental assistance provided to small disadvantaged businesses by prime contractor's performance meets the standards established in NASA policy. The Agency's ability to manage the program effectively would be greatly diminished without receiving the described reports, which are part of the ongoing performance fee evaluation process.

DATES: All comments should be submitted on or before July 30, 2000.

ADDRESSES: All comments should be addressed to Mr. Richard Kall, Code HK, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Ms. Carmela Simonson, NASA Reports Officer, (202) 358–1223.

Title: Small Business and Small Disadvantaged Business Concerns.

OMB Number: 2700–0078.

Type of review: Extension.

Need and Uses: Reports are required to monitor Mentor-Protege performance and progress according to the Mentor-Protege Agreement. Reports are internal control to determine if Agency objectives are met.

Affected Public: Business or other for-profit.

Number of Respondents: 48.

Responses Per Respondent: 2.

Annual Responses: 96.

Hours Per Request: 1½.

Annual Burden Hours: 140.

Frequency of Report: Semi-annually.

David B. Nelson,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 00–13353 Filed 5–26–00; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 00–058]

Notice of Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration (NASA).

SUMMARY: The National Aeronautics and Space Administration, 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)). The information is used by NASA attorneys and technology transfer specialists to determine if a licensee is achieving and maintaining practical application of the licensed inventions as required by its license agreement.

DATES: Written comments and recommendations on the proposal for the collection of information should be received on or before July 31, 2000.

ADDRESSES: All comments should be addressed to Mr. Harry Lupuloff, Office of the General Counsel, Code GP, National Aeronautics and Space Administration, Washington, DC 20546–0001. All comments will become a matter of public record and will be summarized in NASA's request for OMB approval.

FOR FURTHER INFORMATION CONTACT: Ms. Carmela Simonson, Office of the Chief Information Officer, (202) 358–1223.

Reports: None

Title: Patent License Report.

OMB Number: 2700–0010.
Type of review: Extension.
Need and Uses: Information is used to determine if a licensee is achieving and maintaining practical application of the licensed inventions as required by its license agreement.
Affected Public: Individuals or households, business or other for-profit
Number of Respondents: 60.
Responses Per Respondent: 1.
Annual Responses: 60.
Hours Per Request: 30 min.
Annual Burden Hours: 30.
Frequency of Report: Annually.

David B. Nelson,
Deputy Chief Information Officer, Office of the Administrator.
[FR Doc. 00–13354 Filed 5–26–00; 8:45 am]
BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 00–059]

Notice of Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration (NASA).

SUMMARY: The National Aeronautics and Space Administration, 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)). Reports are required to comply with statutes and implementing regulations.

DATES: All comments should be submitted on or before July 30, 2000.

ADDRESSES: All comments should be addressed to Mr. Richard Kall, Code HK National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Ms. Carmela Simonson, NASA Reports Officer, (202) 358–1223.
Title: Patents.
OMB Number: 2700–0048.
Type of review: Extension.
Need and Uses: Grant provisions require that recipients include a list of all inventions required to be disclosed in their annual Performance Report. NASA grant officers and legal counsel review the information to ensure the proper disposition of rights to inventions made in the course of NASA-funded research is completed in accordance with statutes.
Affected Public: Business or other for-profit, Not-for-profit institutions, State, Local or Tribal Government.
Number of Respondents: 9,347.
Responses Per Respondent: 1.
Annual Responses: 9,347.
Hours Per Request: 30 min to 8 hrs.
Annual Burden Hours: 17,276.
Frequency of Report: Annually.

David B. Nelson,
Deputy Chief Information Officer, Office of the Administrator.
[FR Doc. 00–13355 Filed 5–26–00; 8:45 am]
BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 00–060]

Notice of Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration (NASA).

SUMMARY: The National Aeronautics and Space Administration, 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)). This information is used to determine whether the requested license should be granted.

DATES: Written comments and recommendations on the proposal for the collection of information should be received on or before July 31, 2000.

ADDRESSES: All comments should be addressed to Mr. Harry Lupuloff, Office of the General Counsel, Code GP, National Aeronautics and Space Administration, Washington, DC 20546–0001. All comments will become a matter of public record and will be summarized in NASA's request for OMB approval.

FOR FURTHER INFORMATION CONTACT: Ms. Carmela Simonson, Office of the Chief Information Officer, (202) 358–1223.
Reports: None.
Title: Application for a Patent License.
OMB Number: 2700–0039.
Type of review: Extension.
Need and Uses: The information supplied is used by the NASA Associate General Counsel to make agency determinations that NASA should either grant or deny a request for a patent license, and whether the license should be exclusive, partially exclusive, or nonexclusive.
Affected Public: Individuals or households, business or other for-profit.
Number of Respondents: 80.
Responses Per Respondent: 1.
Annual Responses: 80.
Hours Per Request: 8.
Annual Burden Hours: 640.
Frequency of Report: Annually.

David B. Nelson,
Deputy Chief Information Officer, Office of the Administrator.
[FR Doc. 00–13356 Filed 5–26–00; 8:45 am]
BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 00–061]

Notice of Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration (NASA).

SUMMARY: The National Aeronautics and Space Administration, 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)). The reports will be utilized by NASA Goddard Space Flight Center to support services dependent upon accurate locator-type information.

DATES: All comments should be submitted on or before July 30, 2000.

ADDRESSES: All comments should be addressed to Ms. Lois Ryno, Goddard Space Flight Center, National Aeronautics and Space Administration, Greenbelt Road, Greenbelt, MD 20771–001.

FOR FURTHER INFORMATION CONTACT: Ms. Carmela Simonson, NASA Reports Officer, (202) 358–1223.
Title: Locator and Information Services Tracking System (LISTS).
OMB Number: 2700–0064.
Type of review: Extension.
Need and Uses: The LIST System is used primarily to support services on the Center dependent upon accurate locator-type information.
Affected Public: Individuals or households.
Number of Respondents: 8,456.
Responses Per Respondent: 1.
Annual Responses: 8,456.
Hours Per Request: .083.
Annual Burden Hours: 702.

Frequency of Report: As required.

David B. Nelson,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 00–13357 Filed 5–26–00; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 00–053]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council.

DATES: Tuesday, June 6, 2000, 8 a.m. to 5 p.m.; and Wednesday, 7, 2000, 8 a.m. to 10 p.m.

ADDRESSES: The Williamsburg Hospitality House, 415 Richmond Road, Williamsburg, VA 23185.

FOR FURTHER INFORMATION CONTACT: Ms. Kathy Dakon, Code Z, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0732.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Mars Program Independent Assessment Team
—NASA Integrated Action Team
—NASA Intelligent Synthesis Enviroment Program
—NASA Strategic Plan
—Aviation Safety Program Update
—Aerospace System Concepts & Analysis
—Committee/TaskForce/Working Group Reports
—Discussion of Findings and Recommendations

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: May 17, 2000.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 00–13349 Filed 5–26–00; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 00–054]

NASA Advisory Council (NAC), Task Force on International Space Station Operational Readiness; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces an open meeting of the NAC Task Force on International Space Station Operational Readiness (IOR).

DATES: Wednesday, June 7, 2000, 12 p.m.—1 p.m. Eastern Daylight Time.

ADDRESSES: NASA Headquarters, 300 E Street, SW, Room 7W31, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Philip Cleary, Code IH, National Aeronautics and Space Administration, Washington, DC 20546–0001, 202/358–4461.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public up to The seating capacity of the room. The agenda for the meeting is as follows:

—Review the status of the assessment conducted by the IOR Task Force and the Russian Aviation and Space Agency (Utkin) Advisory Expert Council on the Russian investigation of the Proton launch failures of July 5 and October 27, 1999. This assessment includes the corrective action taken to help ensure a successful International Space Station Service Module launch.

It is imperative that the meeting be held on this date to accommodate the Scheduling priorities of the key participants. Visitors will be requested to sign a visitors register.

Dated: May 17, 2000.

Mathew M. Crouch,

Advisory Committee Management Officer,, National Aeronautics and Space Administration.

[FR Doc. 00–13350 Filed 5–26–00; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 00–055]

NASA Advisory Council, Minority Business Resource Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announce a forthcoming meeting of the NASA Advisory Council, Minority Business Resource Advisory Committee.

DATES: Thursday, June 8, 2000, 9 a.m. to 4 p.m., and Friday, June 9, 2000, 9 a.m. to 12 noon.

ADDRESSES: NASA Headquarters, 300 E Street, SW, MIC–5, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph C. Thomas III, Code K, National Aeronautics and Space Administration, Room 9K70, 300 E Street, SW, Washington, DC 20546–0001, (202) 358–2088.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Best Practices on Teaming Agreements Report
—Small Disadvantaged Business Participation in Major NASA Contracts
—Report on ISO 9000 Status
—Action Items
—NASA Small Disadvantaged Business (SDB) Program Update
—Report of Chair
—Public Comment
—Report on New MBRAC Panels
—Report on NASA FY 2000 Small Business Office Priorities

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: May 17, 2000.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 00–13351 Filed 5–26–00; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 00–062]

Notice of prospective patent license

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that MIMIC Health Technologies, LLC, of Santa Barbara, California, has applied for an exclusive patent license to

practice the invention described and claimed in U.S. Patent No. 6,047,216, entitled ''Endothelium Preserving Microwave Treatment for Atherosclerosis,'' including divisions thereof, which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Johnson Space Center.

DATES: Responses to this notice must be received by July 31, 2000.

FOR FURTHER INFORMATION CONTACT: Hardie R. Barr, Patent Attorney, Johnson Space Center, Mail Stop HA, Houston, TX 77058; telephone (281) 483–1003.

Dated: May 19, 2000.

Edward A. Frankle,

General Counsel.

[FR Doc. 00–13358 Filed 5–26–00; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency proposes to request use of NA Form 3035, Applicant Background Survey, to obtain source of recruitment, ethnicity, race, and disability data on job applicants. The information will be used to determine if the recruitment is effectively reaching all aspects of the relevant labor pool. The information will also be used to determine if there are proportinate acceptance rates at various stages of the recruitment process. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1955.

DATES: Written comments must be received on or before July 31, 2000 to be assured of consideration.

ADDRESSES: Comments shoulod be sent to: Paperwork Reduction Act Comments (NHP), Room 3200, National Archives and Records Administration, 8601 Adelphi Rd, College Park, MD 20740–6001; or faxed to 301–713–6913; or electronically mailed to tamee.fechhelm@arch2.nara.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–713–6730, or fax number 301–713–6913.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA'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, including the use of information technology, to minimize the burden of the collection of information on respondents. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Applicant Background Survey.

OMB number: 3095–NEW.

Agency form number: NA Form 3035.

Type of review: Regular.

Affected public: Applicants for NARA jobs.

Estimated number of respondents: 16,600.

Estimated time per response: 5 minutes.

Frequency of response: On occasion (when applicant wishes to apply for a job at NARA).

Estimated total annual burden hours: 1,383 hours.

Abstract: NARA is below parity with the relevant Civilian Labor force representation for many of our mission-critical occupations, and has developed a 10-year Strategic Plan to improve representation and be more responsive to the changing demographics of the country. The only way to determine if there are barriers in the recruitment and selection process is to track the groups that apply and the groups at each stage of the selection process. There is no other objective way to make these determinations and no source of this information other than directly from applicants.

The information is not provided to selecting officials and plays no part in the selection of individuals. Instead, it is used in summary form to determine trends over many selections within a given occupation or organizational area. The information is treated in a very confidential manner. No information from this form is entered into the Personnel File of the individual selected, and the records of those not selected are destroyed after the conclusion of the selection process.

The format of the questions on ethnicity and race are compliant with the new OMB requirements and are identical to those used in the year 2000 census. This form is a simplification and update of a similar OPM applicant background survey used by NARA for many years.

This form is used to obtain source of recruitment, ethnicity, race, and disability data on job applicants to determine if the recruitment is effectively reaching all aspects of the relevant labor pool and to determine if there are proportionate acceptance rates at various stages of the recruitment process. Response is optional. The information is used for evaluating recruitment only, and plays no part in the selection of who is hired.

Dated: May 23, 2000.

L. Reynolds Cahoon,

Assistant Archivist for Human Resources and Information Services.

[FR Doc. 00–13404 Filed 5–26–00; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Change in Subject of Closed Meeting and Previously Held Meetings

The National Credit Union Administration Board determined that its business required the deletion of the following item from the closed meeting held on Wednesday, May 24, 2000.

1. Administrative Action under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (7), (8), (9)(A)(ii), and (9)(B).

The Board voted two-to-one, Board Member Wheat voting no, that agency business required that this item be deleted from the closed agenda and that no earlier announcement of this change was possible.

The previously held meetings were scheduled as follows:

Time and Date: 10:00 a.m., Wednesday, May 24, 2000.

Place: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

Status: Open.

Matters Considered:

1. Request from a Federal Credit Union to Expand its Community Charter.

2. Final Rule: Amendment to Part 714, NCUA's Rules and Regulations, Leasing.

3. Final Rule: Amendments to Part 745, NCUA's Rules and Regulations, Share Insurance.

Recess: 11 a.m.

Time and Date: 11:30 a.m., Wednesday, May 24, 2000.

Place: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428

Status: Closed.

Matters Considered:

1. Four (4) Personnel Matters. Closed pursuant to exemptions (2) and (6).

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518–6304.

Becky Baker,

Secretary of the Board

[FR Doc. 00–13587 Filed 5–25–00; 3:23 pm]

BILLING CODE 7435–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Bioengineering and Environmental Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Bioengineering and Environmental Systems (1189).

Date and Time: June 20–21, 2000, 8 a.m.–5 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 360, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Leon Esterowitz, Program Director, Biomedical Engineering and Research to Aid Persons with Disabilities, Division of Bioengineering and Environmental Systems, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230; Telephone: (703) 306–1318.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals received under the Biophotonics Partnership Initiative announcement (NSF 00–54) as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and person information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Note: Closed portions are proper under the Sunshine Act exemptions cited. The CMO's signature on this Notice is the required determination.

Dated: May 23, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–13421 Filed 5–26–00; 8:45am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Civil and Mechanical System, Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Civil and Mechanical Systems (1205).

Date and Time: June 13, 2000, 8 a.m. to 5 p.m.

Place: NSF, 4201 Wilson Boulevard, Rooms 530, Arlington, Virginia 22230.

Type of Meeting: Closed.

Contact Person: Dr. Jorn Larsen-Basse, Program Director Surface Engineering and Material Design, Division of Civil and Mechanical Systems, Room 545; (703) 306–1361.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate nominations for the FY'00 Mechanics and Structures of Materials and Surface Engineering and Material Design Review Panel proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Note: Closed portions are proper under the Sunshine Act examptions cited. The CMO's signature on this Notice is the required determination.

Dated: May 23, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–13420 Filed 5–26–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Computer and Information Science and Engineering; Committee of Visitors; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Computer and Information Science and Engineering (1115).

Date & Time: June 14–15, 2000, 8:30 a.m.–5 p.m. each day.

Place: Room 1175, NSF, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Part open (see Agenda, below).

Contact Person: Dr. Aubrey M. Bush, Division Director, Advanced Networking Infrastructure and Research, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1950.

Purpose of Meeting: To carry out Committee of Visitors (COV) review, including program evaluation, GPRA assessments, and access to privileged materials.

Agenda

Closed: June 14

To review the merit review processes covering funding decisions made during the immediately preceding three fiscal years of the Networking Infrastructure, Networking Research, and Special Projects Programs.

Open: June 15

To assess the results of NSF program investments in the Advanced Networking Infrastructure and Research Division. This shall involve a discussion and review of results focused on NSF and grantee outputs and related outcomes achieved or realized during the preceding three fiscal years. These results may be based on NSF grants or other investments made in earlier years.

Reason for Closing: During the closed session, the Committee will be reviewing proposal actions that will include privileged intellectual property and personal information that could harm individuals if they are disclosed. If discussions were open to the public, these matters that are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act would be improperly disclosed.

Note: Closed portions are proper under the Sunshine Act exemptions cited. The CMO's signature on this Notice is the required determination.

Dated: May 23, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–13423 Filed 5–26–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Engineering Education and Centers; Revised Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Engineering Education and Centers (173).

Date and Time: July 17–18, 2000, 7:30 a.m. to 5:30 p.m.

Place: National Science Foundation, Room 375, 4201 Wilson Blvd, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Mary Poats, Program Manger, Engineering Education and Centers Division, Nation Science Foundation, Room 585, 4201 Wilson Boulevard, Arlington, VA 22230.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Combined Research-Curriculum Development Program.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Reason for Revision: To change location of meeting.

Dated: May 23, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–13422 Filed 5–26–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Information and Intelligent Systems; Notice of Meetings

In accordance with the Federal advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation's Special Emphasis Panel in Information and Intelligent Systems (1200) announces the following meetings.

Date/Time: June 1–2, 2000, 8:30 a.m.–5 p.m.

Place: National Science Foundation, 4201 Wilson Blvd, Room 530, Arlington, VA.

Type of Meeting: Closed.

Agenda: To review and evaluate Robotics and Human Augmentation Program proposals as part of the selection process for awards.

Date/Time: June 8–9, 2000, 8:30 a.m.–5 p.m.

Place: National Science Foundation, 4201 Wilson Blvd, Room 530, Arlington, VA.

Type of Meeting: Closed.

Agenda: To review and evaluate Robotics and Human Augmentation Program proposals as part of the selection process for awards.

Date/Time: June 13–14, 2000, 8:30 a.m.–5 p.m.

Place: Holiday Inn, 4610 North Fairfax Drive, Arlington, VA.

Type of Meeting: Closed.

Agenda: To review and evaluate Knowledge and Cognitive Systems Program proposals as part of the selection process for awards.

Date/Time: June 15, 2000, 8:30 a.m.–5 p.m.

Place: Key Bridge Marriott, 1401 Lee Highway, Arlington, VA.

Type of Meeting: Closed.

Agenda: To review and evaluate Computation and Social Systems Program proposals as part of the selection process for awards.

Date/Time: June 20–21, 2000, 8:30 a.m.–5 p.m.

Place: River Inn, 925 25th Street NW, Washington, DC.

Type of Meeting: Closed.

Agenda: To review and evaluate Information and Data Management Program proposals as part of the selection process for awards.

CONTACT PERSON: Dr. Ephraim Glinert, Deputy Division Director, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230; (703) 306–1926.

MINUTES: May be obtained from the contact person listed above.

PURPOSE OF MEETINGS: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

REASON FOR CLOSINGS: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Note: Closed portions are proper under the Sunshine Act exemptions cited. The CMO's signature on this Notice is the required determination.

Dated: May 23, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–13424 Filed 5–26–00; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: 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 40, ''Domestic Licensing of Source Material;'' NRC Form 244, ''Registration Certificate—Use of Depleted Uranium under General License;'' and NRC Form 484, ''Domestic Monitoring Data Report.''

3. *The form number, if applicable:* NRC Form 244 and NRC Form 484.

4. *How often the collection is required:* Reports required under 10 CFR Part 40 are collected and evaluated on a continuing basis as events occur. There is a one-time submittal of information to receive a license. Renewal applications need to be submitted every 5 to 10 years. Information in previous applications may be referenced without being resubmitted. In addition, recordkeeping must be performed on an on-going basis. NRC Form 244 is submitted when depleted uranium is received or transferred under general license. NRC Form 484 is submitted biannually to report ground-water data necessary to implement EPA ground-water standards.

5. *Who is required or asked to report:*

10 CFR Part 40: Applicants for and holders of NRC licenses authorizing the receipt, possession, use, or transfer of radioactive source and byproduct material.

NRC Form 244: Persons receiving, possessing, using, or transferring depleted uranium under the general license established in 10 CFR 40.25(a).

NRC Form 484: Uranium recovery facility licensees reporting ground-water monitoring data pursuant to 10 CFR 40.65.

6. *An estimate of the number of responses:*

10 CFR Part 40: 447 responses from NRC licensees and 311 responses from Agreement State licensees.

NRC Form 244: 20 responses for NRC licenses and 40 responses for Agreement State licensees.

NRC Form 484: Included in 10 CFR Part 40, above.

7. *The number of annual respondents:*

10 CFR Part 40: 156 for NRC licensees and 172 for Agreement State licensees.

NRC Form 244: 20 for NRC licensees and 40 for Agreement State licensees.

NRC Form 484: Included in 10 CFR Part 40, above.

8. *The number of hours needed annually to complete the requirement or request:*

10 CFR Part 40: 26,049 hours for reporting requirements and 9,019 hours for recordkeeping requirements, or a total of 35,068 hours for NRC licensees; 28,083 hours for reporting requirements and 9,398 hours for recordkeeping requirements, or a total of 37,481 hours for Agreement State licensees.

NRC Form 244: 20 hours for NRC licensees and 40 hours for Agreement State licensees for reporting requirements.

NRC Form 484: Included in 10 CFR Part 40, above.

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* Not applicable.

10. *Abstract:* 10 CFR Part 40 establishes requirements for licenses for the receipt, possession, use, and transfer of radioactive source and byproduct material. NRC Form 244 is used to report receipt and transfer of depleted uranium under general license, as required by 10 CFR Part 40. NRC Form 484 is used to report certain groundwater monitoring data required by 10 CFR Part 40 for uranium recovery licensees. The application, reporting, and recordkeeping requirements are necessary to permit the NRC to make a determination on whether the possession, use, and transfer of source and byproduct material is in conformance with the Commission's regulations for protection of 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 by June 29, 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 22nd day of May, 2000.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 00–13454 Filed 5–26–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (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:* Application/Permit for Use of the Two White Flint (TWFN) Auditorium.

3. *The form number if applicable:* NRC Form 590.

4. *How often the collection is required:* Each time public use of the NRC auditorium is requested.

5. *Who will be required or asked to report:* Member of the public requesting use of the NRC Auditorium.

6. *An estimate of the number of responses:* 5.

7. *The estimated number of annual respondents:* 5.

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 1.25 hours (15 minutes per request).

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* N/A.

10. *Abstract:* In accordance with the Public Buildings Act of 1959, an agreement was reached between the Maryland-National Capital Park and Planning Commission (MPPC), the General Services Administration (GSA) and the Nuclear Regulatory Commission, the NRC auditorium will be made available for public use. Public users of the auditorium will be required to complete NRC Form 590, Application/Permit for Use of Two White Flint North (TWFN) Auditorium. The information is needed to allow for administrative and security review, scheduling, and to make a determination that there are no anticipated problems with the requester prior to utilization of the facility.

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 June 29, 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–), 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 22nd day of May 2000.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 00–13455 Filed 5–26–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–269, 50–270, and 50–287]

Duke Energy Corporation; Oconee Nuclear Station Units 1, 2, and 3; Notice of Issuance of Renewed Facility Operating License; Nos. DPR–38, DPR–47, and DPR–55 for an Additional 20-Year Period

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued (1) Renewed Facility Operating License No. DPR–38 (the Unit 1 license), (2) Renewed Facility Operating License No. DPR–47 (the Unit 2 license), and (3) Renewed Facility Operating License No. DPR–55

(the Unit 3 license) to Duke Energy Corporation (the licensee). The Unit 1 license authorizes operation of the Oconee Nuclear Station, Unit 1 by the licensee at reactor core power levels not in excess of 2568 megawatts thermal in accordance with the provisions of the Unit 1 license and its Technical Specifications (Appendix A). The Unit 2 license authorizes operation of the Oconee Nuclear Station, Unit 2 by the licensee at rector core power levels not in excess of 2568 megawatts thermal in accordance with the provisions of the Unit 2 license at its Technical Specifications. The Unit 3 license authorizes operation of the Oconee Nuclear Station, Unit 3 by the licensee at reactor core power levels not in excess of 2568 megawatts thermal in accordance with the provisions of the Unit 3 license and its Technical Specifications.

Oconee Nuclear Station, Units 1, 2, and 3, are pressurized water nuclear reactors located in eastern Oconee County about 8 miles northeast of Seneca, South Carolina.

The application for the renewed licenses complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in each license. Public notice of the proposed action and opportunity for hearing regarding the proposed issuance of these renewed operating licenses was published in the **Federal Register** on August 11, 1998 (63 FR 42885).

For further details with respect to these actions, see (1) The Duke Energy Corporation Oconee Nuclear Station Units 1, 2, and 3, Application for Renewed Operating Licenses, dated July 6, 1998, as supplemented by letter dated March 27, 2000, and by letters contained in Appendix E of NUREG–1723, ''Safety Evaluation Report Related to the License Renewal of Oconee Nuclear Station, Units 1, 2, and 3,'' (2) Renewed Facility Operating License Nos. DPR–38, DPR–47, and DPR–55, with the appendix listed above; (3) the Commission's Safety Evaluation Reports dated June 16, 1999, February 3, 2000, and March 2000 (NUREG–1723); (4) the licensee's updated final safety analysis report; and (5) the Commission's Final Environmental Impact Statement (NUREG–1437, Supplement 2), dated December 1996. These items are available at the NRC's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555–0001. In addition, documents that were issued after November 1, 1999, (e.g., NUREG–1723, and NUREG–1437, Supplement 2) can be viewed from the NRC Public Electronic Reading Room at http://www.nrc.gov/NRC/ADAMS/index.html.

A copy of the Renewed Facility Operating Licenses, Nos. DRP–38, DRP–47, and DPR–55, may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Director, Division of Licensing Project Management. Copies of the Safety Evaluation Report (NUREG–1723) and the Final Environmental Impact Statement (NUREG–137, Supplement 2) may be purchased from the National Technical Information Service, Springfield, Virginia 22161–0002 (telephone number 1–800–553–6847, <http://www.ntis.gov>), or the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20402–9328 (telephone number 202–512–1800, <http://www.access.gpo.gov/su_docs>). All orders should clearly identify the NRC publication number and the requestor's Government Printing Office deposit account, or VISA or Mastercard number and expiration date.

Dated at Rockville, Maryland, this 23rd day of May, 2000.

For the Nuclear Regulatory Commission.

Joseph M. Sebrosky,

Project Manager, License Renewal and Standardization Branch, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 00–13457 Filed 5–26–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 040–08868]

Environmental Assessment and Finding of No Significant Impact and Notice of Opportunity for a Hearing

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental Assessment and Finding of No Significant Impact and Notice of Opportunity for a Hearing for disposal pursuant to 10 CFR 20.2002.

SUMMARY: The U.S. Nuclear Regulatory Commission is considering the license amendment request for disposal pursuant to 10 CFR 20.2002 of solid residual material containing up to 25 picocuries of thorium-232 and progeny per gram of filtercake from II–VI, Incorporated, to an industrial landfill. II–VI, Incorporated, is authorized to perform activities with source material pursuant to License STA–1455. The licensee and the NRC performed dose assessments of the disposal of this material in this manner, and determined that such disposal, with the restriction that not more than two effective containers per month be disposed of in this manner, would result in doses of less than 25 millirem per year.

Introduction

II–VI, Incorporated (II–VI), is a specialty manufacturer whose products include optical components for the laser industry, some of which contain thorium. They are authorized to perform manufacturing activities with source material pursuant to License STA–1455. Filtration of liquid effluents to remove metals prior to release to the sanitary sewerage system results in collection of small quantities of thorium in the solid residual material (filtercake). The licensee generates 10 or fewer containers of filtercake each year. Each container holds approximately 23.9 cubic meters of material having a mass of approximately 36,000 kilograms, which is defined as an ''effective container'' for the purpose of dose assessment. The material typically contains less than 25 picocuries of thorium-232 and progeny per gram of filtercake (25 pCi/g Th-232). The licensee requested disposal of this material pursuant to 10 CFR 20.2002 to an industrial landfill, and provided a dose analysis to justify their proposed limit of 25 pCi/g. The licensee and the NRC performed dose assessments of the disposal of this material in this manner, and determined that such disposal would result in doses of less than 25 millirem per year to members of the public so long as not more than two effective containers per month would be disposed of in this manner.

Proposed Action

The U.S. Nuclear Regulatory Commission is considering the request for disposal pursuant to 10 CFR 20.2002 to an industrial landfill, of not more than two effective containers per month of solid residual material (filtercake) containing up to 25 picocuries of thorium-232 and progeny per gram of filtercake from II–VI, Incorporated.

The Need for the Proposed Action

Filtration of liquid effluents is required by other regulatory agencies to remove metals from the liquid effluent prior to release to a public sanitary sewerage system, and small amounts of thorium are retained in the filtercake. The licensee needs this amendment to the license in order to have a cost-effective method of disposal of the

filtercake containing metals. Prior to filtering of the liquid effluents, thorium in this waste stream was released to a public sanitary sewerage system in accordance with 10 CFR 20.2003 regulatory limits. A restriction is required, that not more than two effective containers be disposed of each month, in order to ensure that such disposals do not exceed the criterion of 25 millirem per year (25 mrem/y) to a member of the public.

Alternatives to the Proposed Action

The staff considered results of analyses using a generic model for unrestricted release of the material. The staff concluded that disposal pursuant to 10 CFR 20.2002 of this material without restrictions would meet the 25 mrem/y criterion only if the filtercake did not exceed 4.1 pCi/g Th-232.

The staff considered results of analyses to determine if site-specific data, such as regional meteorological and subsurface information, would be likely to change the dose assessment results significantly. The staff concluded that annual doses would be less than those resulting from assessments using the generic model, but the annual doses still would be in excess of the 25 mrem/y criterion if the filtercake contained up to 25 pCi/g Th-232.

The staff considered results of analyses using a model that assumed the landfill would not be used for any future activities, as could occur if deed restrictions were in place that prevented exhumation of the landfill. The staff concluded that doses would meet the 25 mrem/y criterion but that such deed restrictions are unlikely at this time.

Environmental Impacts of the Proposed Action

The activities that NRC staff will authorize, pursuant to 10 CFR 20.2002, through the issuance of an amendment to License No. STA–1455 is expected to have an insignificant impact on the environment. The disposal of the filtercake containing up to 25 pCi/g Th–232, restricted so that no more than two effective containers of filtercake are disposed of per month to an industrial landfill, would not exceed the criterion of 25 mrem/y to a member of the public.

Conclusion

The environmental impacts from the proposed action are insignificant.

Finding of No Significant Impact

The Commission has prepared an Environmental Assessment related to the proposed disposal pursuant to 10 CFR 20.2002 of filtercake containing up to 25 pCi/g thorium-232 and progeny from II–VI. On the basis of the Environmental Assessment, the Commission has concluded that this licensing action would not significantly affect the environment and does not warrant the preparation of an environmental impact statement. Accordingly, it has determined that a Finding of No Significant Impact is appropriate.

The above documents related to this proposed action are available for public inspection and copying at the Commission's Public Document Room at the Gelman Building, 2120 L Street NW, Washington, DC.

Opportunity for a Hearing

The NRC hereby provides notice that this is a proceeding on an application for a license amendment falling within the scope of Subpart L, Informal Hearing Procedures for Adjudications in Materials Licensing Proceedings, of NRC's rules and practice for domestic licensing proceedings in 10 CFR Part 2. Pursuant to 10 CFR 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with 10 CFR 2.1205(c). A request for a hearing must be filed within thirty (30) days of the date of publication of the **Federal Register** Notice.

The request for a hearing must be filed with the Office of the Secretary either:

1. By delivery to the Docketing and Service Branch of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738; or

2. By mail or telegram addressed to the Secretary, U. S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Docketing and Service Branch.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the NRC's regulations, a request for a hearing filed by a person other than the applicant must describe in detail:

1. The interest of the requestor in the proceeding;

2. How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in 10 CFR 2.1205(g);

3. The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

4. The circumstances establishing that the request for a hearing is timely in accordance with 10 CFR 2.1205(c).

In accordance with 10 CFR 2.1205(e), each request for a hearing must also be served, by delivering it personally or by mail, to:

1. The applicant, II–VI Incorporated, 375 Saxonburg Boulevard, Saxonburg, PA 16056, Attention: Mr. John Lebrecque, and

2. The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD, 20852, or by mail, addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

For further details with respect to this action, the application for amendment request is available for inspection at the Commission's Public Document Room, 2120 L Street NW, Washington, DC 20555.

Dated at King of Prussia, Pennsylvania, this 16th day of May, 2000.

For The U.S. Nuclear Regulatory Commission.

Francis M. Costello,

Deputy Director, Division of Nuclear Materials Safety, Region 1.

[FR Doc. 00–13452 Filed 5–26–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice of a Public Meeting of the Interagency Steering Committee on Radiation Standards

AGENCIES: Nuclear Regulatory Commission and U. S. Environmental Protection Agency.

ACTION: Notice of public meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) will hold a meeting of the Interagency Steering Committee on Radiation Standards (ISCORS) on June 13, 2000. The purpose of ISCORS is to foster early resolution and coordination of regulatory issues associated with radiation standards.

Agencies represented on ISCORS include the NRC; U.S. Environmental Protection Agency; the U.S. Department of Defense; U.S. Department of Energy; U.S. Department of Labor's, Occupational Safety and Health Administration; U.S. Department of Transportation; and the U.S. Department of Health and Human Service. Representatives of the Office of Management and Budget (OMB), the Office of Science Technology Policy (OSTP), and of the States are observers at meetings.

The objectives of ISCORS include:

(1) Facilitating a consensus on acceptable levels of radiation risk to the public and workers;

(2) Promoting consistent risk assessment and risk management approaches in setting and implementing standards for occupational and public protection from ionizing radiation;

(3) Promoting completeness and coherence of Federal standards for radiation protection; and

(4) Identifying interagency issues and coordinating their resolution.

ISCORS meetings involve pre-decisional, intra-governmental discussions and, as such, are not normally open for observation by members of the public or media. However, summary meeting notes are available at the ISCORS website *http://www.iscors.org.* ISCORS meets approximately once each calendar quarter.

DATES: The meeting will be held from 1 to 5 p.m. on Tuesday, June 13, 2000.

ADDRESSES: The meeting will be held in the NRC Auditorium at Two White Flint North, 11545 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Questions with respect to this action should be referred to Patricia A. Santiago, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission at (301) 415–7269; fax 301–415–5398; E-mail *pas2@nrc.gov;* or Behram Shroff, Office of Air and Radiation, U.S. Environmental Protection Agency at (202) 564–9707; fax 202–565–2065; E-mail *shroff.behram@epa.gov.*

SUPPLEMENTARY INFORMATION: Visitor parking around the NRC building is limited; however, the workshop site is located adjacent to the White Flint Metro Station on the Red Line. Seating for the public will be on a first-come, first-served basis.

Dated at Rockville, Maryland, this 22nd day of May, 2000.

For the Nuclear Regulatory Commission.

John T. Greeves,

Director, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 00–13456 Filed 5–26–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Membership on the Executive Resources Board

AGENCY: Nuclear Regulatory Commission.

ACTION: Appointment to the Executive Resources Board for the Senior Executive Service.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has announced the following appointments to the NRC Executive Resources Board. The NRC Executive Resources Board is responsible for providing institutional continuity in executive personnel management by overseeing NRC's Senior Executive Service and Senior Level System merit staffing, executive succession planning, and position management activities.

Appointees

William D. Travers, Executive Director for Operations, Chair

Karen D. Cyr, General Counsel

Stuart Reiter, Acting Chief Information Officer

Jesse L. Funches, Chief Financial Officer

Annette Vietti-Cook, Secretary of the Commission

Frank J. Miraglia, Deputy Executive Director for Reactor Programs

Carl J. Paperiello, Deputy Executive Director for Materials, Research and State Programs

Patricia G. Norry, Deputy Executive Director for Management Services

Samuel J. Collins, Director, Office of Nuclear Reactor Regulation

William F. Kane, Director, Office of Nuclear Material Safety and Safeguards

Ashok C. Thadani, Director, Office of Nuclear Regulatory Research

Michael L. Springer, Director, Office of Administration

Paul E. Bird, Director, Office of Human Resources

Irene P. Little, Director, Office of Small Business and Civil Rights

Hubert J. Miller, Regional Administrator, Region I

Luis A. Reyes, Regional Administrator, Region II

James E. Dyer, Regional Administrator, Region III

Ellis W. Merschoff, Regional Administrator, Region IV

EFFECTIVE DATE: May 18, 2000.

FOR FURTHER INFORMATION CONTACT: Carolyn J. Swanson, Secretary, Executive Resources Board, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 415–7530.

Dated at Rockville, Maryland this 18th day of May 2000.

For the U.S. Nuclear Regulatory Commission.

Paul E. Bird,

Director, Office of Human Resources.

[FR Doc. 00–13453 Filed 5–26–00; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission Office of Filings and Information Services Washington, DC 20549

Extension:

Form F–80, SEC File No. 270–357, OMB Control No. 3235–0404

Form 18, SEC File No. 270–105, OMB Control No. 3235–0121

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget for extension and approval.

Form F–80 is used by certain Canadian issuers to register securities to be issued in exchange offers or business combinations. All information provided on Form F–80 must be submitted to the Commission. Form F–80 is required to be filed on occasion and is a public document. Form F–80 takes approximately 2 hours to prepare and is filed by 2 respondents for a total of 4 burden hours.

Form 18 is used for the registration of securities of any foreign government or political subdivision on a U.S. Exchange. All information provided on Form 18 must be submitted to the Commission. Form 18 is filed on occasion and is a public document. Form 18 takes approximately 8 hours to prepare and filed by 5 respondents for total of 40 burden hours.

Written 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of

Information Technology, Securities and Exchange Commission, 450 5th Street, NW Washington, DC 20549.

Dated: May 22, 2000.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–13412 Filed 5–26–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Boise Cascade Corporation, Common Stock, $2.50 Par Value, and Associated Common Stock Purchase Rights) File No. 1–05057

May 23, 2000.

Boise Cascade Corporation (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Common Stock, $2.50 par value, and associated Common Stock Purchase Rights (referred to collectively herein as the ''Securities''),[3] from listing and registration on the Chicago Stock Exchange, Incorporated (''CHX'').

The Company, whose Securities are additionally listed on the New York Stock Exchange (''NYSE''), is seeking to withdraw the Securities from listing and registration on the CHX at this time in order to save the costs associated with such listing and related compliance. The Company's Common Stock has been listed for trading on the CHX since 1968, but in a recent review of its business conduct the Company found that the majority (more than 95%) of its Common Stock is traded on the NYSE. The Company's board of directors has therefore determined that no significant business reasons exist for maintaining the Securities' listing and registration on the CHX.

The Company has stated that its application relates solely to the withdrawal of the Securities from listing and registration on the CHX and shall have no effect upon the Securities' continued listing and registration on the NYSE under Section 12(b) of the Act.[4]

The withdrawal of the Securities from listing and registration on the CHX was approved by the Company's board of directors at a meeting held on July 31, 1998, and a resolution so stating was forwarded to the CHX in accordance with its rules. The Company has included with its application a copy of a letter from the CHX confirming that the Company's request for withdrawal complies with the rules of the CHX governing an issuer's removal of securities from listing and registration on the CHX.

Any interested person may, on or before June 14, 2000, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the CHX and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 00–13411 Filed 5–26–00; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] The Common Stock Purchase Rights are currently attached to, and trade together with, the Company's Common Stock.

[4] 15 U.S.C. 78*l*(b).

[5] 17 CFR 200.30–3(a)(1).

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–24460; File No. 812–11684]

The Ohio National Life Insurance Company, et al.

May 19, 2000.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of Application for an Order under Section 6(c) of the Investment Company Act of 1940, as amended (the ''Act'') granting exemptions from the provisions of Sections 2(a)(32), 22(c), and 27(i)(2)(A) of the Act and Rule 22c-1 thereunder, to permit the recapture of certain credits applied to purchase payments made under certain deferred variable annuity contracts.

SUMMARY OF APPLICATIONS: Applicants seek an order under Section 6(c) of the Act to the extent necessary to permit the issuance and, under specified circumstances, the subsequent recapture of certain credits applied to purchase payments made under certain deferred variable annuity contracts, described herein, that The Ohio National Life Insurance Company (''Ohio National'') will issue through the Ohio National Variable Account A (the ''Account'') (the contracts are collectively referred to herein as the ''Contracts'').

Applicants: Ohio National, the Account, and Ohio National Equities, Inc. (''ONEQ'') (collectively, ''Applicants'').

Filing Date: The Application was filed on November 19, 1999 and amended on March 17, 2000.

Hearing or Notification of Hearing: An order granting the Application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 on June 13, 2000 and should be accompanied by proof of service on Applicants, in the form of an affidavit or, lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, DC 20549–0609. Applicants c/o Ronald L. Benedict, Esq., Corporate Vice President, Counsel and Secretary, The Ohio National Life Insurance Company, P.O. Box 237, Cincinnati, Ohio 45201.

FOR FURTHER INFORMATION CONTACT: Rebecca Marquigny, Senior Counsel, or Keith Carpenter, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the Application. The complete Application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, DC 20549–0102 (tel. (202) 942–8090.).

Applicants' Representations

1. Ohio National was organized under the laws of Ohio in 1909. It writes life, accident and health insurance and annuities in 47 states, the District of Columbia and Puerto Rico. Currently, Ohio National has assets in excess of $7 billion and equity in excess of $710 million. Ohio National is a stock company ultimately owned by a mutual insurance holding company (Ohio National Mutual Holdings, Inc.) with Ohio Nation's contract owners having majority ownership of the latter.

2. Variable Account A was established in 1969 by Ohio National as a separate account under Ohio law for the purpose of funding variable annuity contracts issued by Ohio National. The Account is a segregated asset account of Ohio National. The Account and its component sub-accounts are registered together with the Commission as a single unit investment trust under the Act (File No. 811–1978). The Account will fund the variable benefits available under the Contracts. The offering of the Contracts will be registered under the Securities Act of 1933 (the ''1933 Act''). That portion of the assets of the Account that is equal to the reserves and other Contract liabilities with respect to the Account is not chargeable with liabilities arising out of any other business of Ohio National. Any income, gains or losses, realized or unrealized, from assets allocated to the Account are, in accordance with the Contracts, credited to or charged against the Account, without regard to other income, gains or losses of Ohio National.

3. ONEQ is the principal underwriter of the Contracts. ONEQ is registered with the Commission as a broker-dealer under the Securities Exchange Act of 1934 and is a member of the National Association of Securities Dealers, Inc. The Contracts are sold by insurance agents of Ohio National who are also registered representatives of registered broker-dealers that have entered into distribution agreements with ONEQ. ONEQ is a wholly-owned subsidiary of Ohio National.

4. The minimum initial purchase payment is $5,000 ($2,000 for IRAs). A Contract owner may make additional payments of at least $500 at any time ($300 for payroll deduction plans). Ohio National may limit total purchase payments to $1,500,000.

5. Ohio National credits extra amounts to the Contract each time a Contract owner makes a purchase payment (the ''Credit''). The Credit equals 4% of each purchase payment. Ohio National allocates Credit amounts pro rata to the Sub-Accounts (defined herein) and to Ohio National's general account in the same ratio as the purchase payments. Ohio National will fund Credit amounts from its general account assets.

6. The Credit is not part of the amount a Contract owner will be paid if the 10-day free look option is exercised. Ohio National may not offer a Credit on purchase payments made within one year of a free partial withdrawal to the extent those purchase payments are less than the amount withdrawn. Credit amounts applied within one year of the date of death are deducted from amounts payable for any death benefit or stepped-up death benefit where the amount to be paid is based upon Contract value (as opposed to being based on payments minus withdrawals). Credit amounts paid within one year of a Contract owner's confinement in a nursing facility are deducted from any amounts paid under the nursing facility confinement benefit.

7. The free look period is the 10-day period during which an owner may return a Contract after it has been delivered and receive a full refund of the Contract value, less any Credit amounts. The owner bears the investment risk from the time of purchase until he or she returns the Contract. The refund amount may be more or less than the purchase payment the owner made, unless the law requires that the full amount of the purchase payment be refunded.

8. The Contract's death benefit provision states that a death benefit will be paid to the Contract owner's designated beneficiary if the annuitant (and any contingent annuitant) dies before annuity payments begin. This death benefit will be the greatest of: (i) The Contract value (minus any Credit amounts applied within one year of the date of death); or (ii) the net of purchase payments less withdrawals; or (iii) the stepped-up death benefit amount if the Contract has been in effect for at least 8 years.[1] However, if the death benefit is not claimed within 90 days after the date of death, Ohio National will pay the Contract value (minus any Credit amounts applied within one year of the date of death) instead of any greater death benefit. The death benefit is an optional feature of the Contract that must be elected by the owner. Ohio National presently does not assess a charge for the death benefit but reserves the right to do so for Contracts issued in the future in an amount up to 0.25% of annual premium.

9. The Contract's nursing facility confinement benefit provision provides that, if the annuitant is, or has been, confined to a state licensed or legally operated in-patient nursing home facility for at least 30 consecutive days, Ohio National will not assess a surrender charge on partial withdrawals of up to $5,000 per month. Under the Contract's nursing facility confinement benefit provision, a Contract owner may withdraw, subject to the $5,000 per month limit, an aggregate amount equal to one half of the Contract value as of the beginning of the confinement without incurring a surrender charge. Any Credit amounts applied within one year before confinement will be deducted from the proceeds of the first such withdrawal. This waiver of the surrender charge may not be available in all states and it only applies when: (i) The confinement begins after the first contract anniversary and before annuity payments begin; (ii) the Contract was issued before the annuitant's 80th birthday; and (iii) Ohio National receives the request for withdrawal, together with proof of the confinement, at Ohio National's home office while the annuitant is confined or within 90 days after discharge from the facility.

10. The amount the owner receives upon exercise of free look rescission rights or payment of the Contract's death benefit will always equal or exceed the surrender value of the Contract.[2] The amount the owner receives upon payment of a partial withdrawal in connection with the Contract's nursing facility confinement benefit will always equal or exceed the amount the owner would have received had the surrender charge not been waived.

11. Owners of the Contracts may allocate their purchase payments among a number of sub-accounts of the Account (the ''Sub-Accounts''). Each Sub-Account will invest in shares of a corresponding portfolio of Ohio National Fund, Inc., The Dow (SM) Target Variable Fund LLC, Goldman Sachs Variable Insurance Trust, Janus Aspen Series, J.P. Morgan Series Trust II, Lazard Retirement Series, Inc., Mitchell Hutchins Series Trust, Morgan Stanley Dean Witter Universal Funds,

[1] For the 8-year period beginning on the eighth Contract anniversary, the stepped-up death benefit will be the greater of (i) the Contract value (minus any Credit amounts applied during the preceding year) as of the eighth anniversary or (ii) the net of purchase payments less withdrawal made on or before the eight anniversary. At the beginning of each later 8-year period (until the annuitant attains age 90), the stepped-up death benefit will be the greater of (i) The Contract value (minus any credit amounts applied during the preceding year) on that date or (ii) the death benefit as of the last day of the preceding 8-year period. The stepped-up death benefit amount is increased by purchase payment and decreased by withdrawals made during each 8-year period after the eighth anniversary. In those states where permitted, the Contract owner may elect an optional annual stepped-up death benefit at the time the Contract is issued. With that option, the death benefit will be increased in the manner indicated above, until the annuitant attains age 80, on each Contract anniversary on which the Contract value (minus any Credit amounts applied during the preceding year) exceeds the death benefit for the previous year. There is an additional charge (presently at an annual rate of 0.10% of the optional death benefit amount, which rate may be increased to no more than 0.25% on Contracts in the future) for this optional benefit.

[2] The surrender value of the Contract equals the Contract value minus the contingent deferred sales charge or ''CDSC.''

Inc., Salomon Brothers Variable Series Fund Inc., and Strong Variable Insurance Funds, Inc.

12. Ohio National, at a later date, may decide to create additional Sub-Accounts to invest in any additional funding media as may not or in the future be available. Ohio National, from time to time, also may combine or eliminate Sub-Accounts, or transfer the assets to and from Sub-Accounts.

13. The Contract provides for various surrender options, annuity benefits and annuity payout options, as well as transfer privileges among Sub-Accounts, dollar cost averaging, and other features. The Contract contains the following charges: (i) A CDSC as a percentage of the amount withdrawn or surrendered; [3] (ii) a $30 annual administrative charge; (iii) a mortality and expense risk charge of 1.15%; (iv) administrative expense charge of 0.25%; (v) a transfer fee of $10 after the first transfer made during a calendar month; and (vi) any applicable state premium tax.

Applicants' Legal Analysis

1. Section 6(c) of the Act authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities or transactions from the provisions of the Act and the rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request that the Commission, pursuant to Section 6(c) of the Act, grant the exemptions requested below. Applicants represent that it is not administratively feasible to track the Credit amount in the Account after the Credit is applied. Accordingly, the asset-based charges applicable to the Account will be assessed against the entire amounts held in the Account, including the Credit amount, during the free look period and the one year recapture periods. As a result, during such periods, the aggregate asset-based charges assessed against an owner's annuity account value will be higher than those that would be charged if the owner's annuity account value did not include the Credit.

2. Subsection (i) of Section 27 of the Act provides that Section 27 does not apply to any registered separate account funding variable insurance contracts, or to the sponsoring insurance company and principal underwriter of such account, except as provided in paragraph (2) of the subsection. Paragraph (2) provides that it shall be unlawful for such a separate account or sponsoring insurance company to sell a contract funded by the registered separate account unless such contract is a redeemable security. Section 2(a)(32) defines ''redeemable security'' as any security, other than short-term paper, under the terms of which the holder, upon presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof.

3. Applicants submit that the recapture of the Credit amount in the circumstance set forth in the Application would not deprive an owner of his or her proportionate share of the issuer's current net assets. An owner's interest in the Credit amount allocated to his or her annuity account value upon receipt of an initial purchase payment is not vested until the applicable free look period has expired without return of the Contract. Similarly, and owner's interest in the Credit amounts allocated to his or her annuity account within one year of the date of death or confinement to a nursing facility also is not vested. Until the right to recapture has expired and any Credit amount is vested, Ohio National retains the right and interest in the Credit amount, although not in the earnings attributable to that amount. Thus, when Ohio National recaptures any Credit, it is merely retrieving its own assets, and the owner has not been deprived of a proportionate share of the Account's assets because his or her interest in the Credit amount has not vested.

4. In addition, permitting an owner to retain a Credit amount under a Contract upon the exercise of the free look would not only be unfair, but would also encourage individuals to purchase a Contract with no intention of keeping it and returning it for a quick profit. Furthermore, the recapture of Credit amounts within one year preceding the date of death or confinement to a nursing facility is designed to provide Ohio National with a measure of protection against anti-selection. The risk here is that, rather than spreading purchase payments over a number of years, an owner might make very large purchase payments shortly before death or confinement, thereby leaving Ohio National little time to recover the cost of the Credit amounts. As noted earlier, the amounts recaptured equal the Credit amounts provided by Ohio National from its general account assets, and any gain would remain a part of the owner's Contract value. In addition, with respect to free look and death benefit recapture of Credit amounts, the amount the owner receives will always equal or exceed the surrender value of the Contract and, with respect to the recapture of Credit amount in connection with a partial withdrawal made under the nursing facility confinement benefit, the amount the owner receives will always equal or exceed the amount the owner would have received had the surrender charge not been waived.

5. Applicants represent that the Credit will be attractive to and in the interest of investors because it will permit owners to put 104% of their purchase payments to work for them in the selected Sub-Accounts. In addition, the owner will retain any earnings attributable to the Credit, as well as the principal Credit amount once vested.

6. Applicants submit that the provisions for recapture of any Credit under the Contracts do not violate Sections 2(a)(32) and 27(i)(2)(A) of the Act. Applicants believe that a contrary conclusion would be inconsistent with a stated purpose of the National Securities Markets Improvement Act of 1996 (''NSMIA''), which is to amend the Act to ''provide more effective and less burdensome regulation.'' Sections 26(e) and 27(i) were added to the Act to implement the purposes of NSMIA and Congressional intent. The application of a Credit to purchase payments made under the Contracts should not raise any questions as to Ohio National's compliance with the provisions of Section 27(i). However, to avoid any uncertainty as to full compliance with the Act, Applicants request an exemption from Sections 2(a)(32) and 27(i)(2)(A), to the extent deemed necessary, to permit the recapture of any Credit under the circumstances described in the Application, without the loss of relief from Section 27 provided by Section 27(i).

7. Section 22(c) of the Act authorizes the Commission to make rules and regulations applicable to registered investment companies and to principal underwriters of, and dealers in, the redeemable securities of any registered investment company to accomplish the same purposes as contemplated by Section 22(a). Rule 22c–1 thereunder prohibits a registered investment company issuing any redeemable security, a person designated in such issuer's prospectus as authorized to consummate transactions in any such security, and a principal underwriter of, or dealer in, such security, from selling, redeeming, or repurchasing any such

[3] The CDSC Schedule is as follows: 9% in year 1; 8% in year 2; 7% in year 3; 6% in year 4; 5% in year 5; 4% in year 6; 2% in year 7; 1% in year 8; and 0% in year 9 and thereafter.

security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

8. Ohio National's recapture of the Credit might arguably be viewed as resulting in the redemption of redeemable securities for a price other than one based on the current net asset value of the Account. Applicants contend, however, that the recapture of the Credit does not violate Section 22(c) and Rule 22c–1. To effect a recapture of a Credit, Ohio National will redeem interests in an owner's Account at a price determined on the basis of the current net asset value of that Account. The amount recaptured will equal the amount of the Credit that Ohio National paid out of its general account assets. Although the owner will be entitled to retain any investment gain attributable to the Credit, the amount of that gain will be determined on the basis of the current net asset value of the Account. Thus, no dilution will occur upon the recapture of the Credit. Applicants also submit that the second harm that Rule 22c–1 was designed to address, namely speculative trading practices calculated to take advantage of backward pricing, will not occur as a result of the recapture of the Credit. However, to avoid any uncertainty as to full compliance with the Act, Applicants request an exemption from the provisions of Section 22(c) and Rule 22c–1 to the extent deemed necessary to permit them to recapture the Credit under the Contracts.

Conclusion

Applicants submit, based on the grounds summarized above, that their exemptive request meets the standards set out in Section 6(c) of the Act, namely, that the exemptions requested are necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act, and that, therefore, the Commission should grant the requested order.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 00–13375 Filed 5–26–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42807; File No. SR–ISE–00–03]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 by the International Securities Exchange LLC Relating to Block and Facilitation Trades

May 22, 2000.

I. Introduction

On February 25, 2000, the International Securities Exchange LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 29b–4 thereunder,[2] a proposed rule change relating to its proposed block order and facilitation mechanisms.

The proposed rule change was published for comment in the **Federal Register** on March 6, 2000.[3] The Commission received three comment letters regarding the proposal.[4] On May 19, 2000, the ISE filed Amendment No. 1 to the proposed rule change.[5] This order approves the proposed rule change. In addition, the Commission is publishing this notice to solicit comments on Amendment No. 1 and is simultaneously approving Amendment No. 1 on an accelerated basis.

II. Description of the Proposal

ISE Rule 716(c) establishes a ''block mechanism'' through which ISE members can obtain liquidity for the execution of block-size orders[6] from market makers and other ISE members with orders at the ISE inside bid or offer (''Crowd Participants''). Similarly, ISE Rule 716(d) establishes a ''facilitation mechanism'' through which members can seek to facilitate block-size public customer orders. Upon the entry of an order into the block or facilitation mechanisms, a broadcast message is sent to the Crowd Participants.

The proposed rule change contains several proposed revisions to existing ISE Rule 716. First, the ISE has proposed commentary to ISE Rules 716(c) and (d) with respect to the block order mechanism and the facilitation mechanism, specifying that participants will be given 30 seconds to respond to a broadcast message from either the block or facilitation mechanism.

Second, the ISE proposes to amend ISE Rule 716(d)(4)(i) to provide that only public customer bids (offers) on the Exchange at the time a facilitation order is executed that are priced higher (lower) than the facilitation price will be executed at the facilitation price, unless there is sufficient size to execute a facilitation order entirely at a better price. Higher bids and lower offers from non-customer orders and quotes will be executed at their stated price. The current rule provides non-customer orders and quotes the benefit of the facilitation or ''block clean-up'' price.

Third, ISE is proposing amendments to ISE Rule 716(d)(4)(ii)[7] to eliminate a Primary Market Maker's (''PMM'') participation right with respect to the allocation of orders entered into the facilitation mechanism by deleting a reference to ISE Rule 713.[8] In other words, under ISE's proposed amendments to ISE Rule 716(d)(4)(ii), if a PMM is among the Crowd Participants with interest at the facilitation price, the PMM will be treated the same as all other Crowd Participants and not given a preferential allocation under ISE Rule 713.

Finally, ISE is proposing to amend ISE Rule 716(d)(2) and (3)[9] to clarify that a Crowd Participant may enter into the facilitation mechanism an indication at a better price than the facilitation price, but only if such better price is inferior to the ISE best bid or offer. If a Crowd Participant wishes to enter an indication at a price equal to or better than the ISE best bid or offer, the Crowd Participant may do so only by changing its quote or entering an order, so that

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 42473 (February 29, 2000), 65 FR 11818.

[4] *See* letters to Jonathan G. Katz, Secretary, SEC, from Holly H. Smith, Sutherland, Asbill & Brennan LLP, dated March 24, 2000 (''SA&B Letter''); Peter J. Chepucavage, Fulbright 7 Jaworski L.L.P., dated March 28, 2000 (''Phlx Letter''); and Charles J. Henry, President and Chief Operating Officer, Chicago Board Options Exchange, dated March 31, 2000 ''CBOE Letter'').

[5] *See* letter from Katherine Simmons, Vice President and Associate General Counsel, ISE, to Deborah Flynn, Senior Special Counsel, Division of Market Regulation, SEC, dated May 19, 2000 (''Amendment No. 1''). In Amendment No. 1, ISE proposes to delete a reference to ISE Rule 713 to eliminate a Primary Market Maker's participation right with respect to facilitation orders. ISE also proposes to clarify that members may enter indications at prices that improve the facilitation price if such improved price is inferior to the ISE best bid or offer.

[6] For purposes of ISE rules only, block-size orders are orders for fifty contracts or more. *See* ISE Rule 716(a).

[7] *See* Amendment No. 1, *supra* note 5.

[8] ISE Rule 713 sets forth the PMM's allocation algorithm. *See* Securities Exchange Act Release No. 42808.

[9] *See* Amendment No. 1, *supra* note 5.

such interest will be disseminated to the public.

III. Summary of Comments

The Commission received three comment letters on the proposal.[10] These commenters opposed ISE's proposed rule change, as originally proposed.[11] Commenters argued that the proposed 30 second response time would make it easier for ISE members to execute as principal their own customers' orders for 50 contracts or more without meaningful opportunity for price improvement by competitors, which they argued would undermine the intended purpose of having customers' orders reasonably exposed to other trading interest before being executed by the facilitating ISE member.[12] Moreover, this proposed 30 second response time, commenters emphasized, is not enough time for market participants to have a reasonable opportunity to improve the facilitation price, especially because Crowd Participants who wish to improve the price are required by the rules to do so 10 seconds prior to the expiration of the 30 second time period, effectively reducing the response time to 20 seconds.[13]

In response to commenters' objections to the proposed 30 second ''exposure period,'' ISE states that 30 seconds is sufficient time for Crowd Participants in the ISE market to respond to an order, noting that the Commission has approved exposure times of as few as 15 seconds for certain equity exchanges.[14] ISE notes that floor-based exchanges have no specific limitation on how long a proposed facilitation order must be exposed to the crowd before it is executed. Moreover, ISE states that commenters have no basis to assert that 20, 30 or 60 seconds is the appropriate exposure time, given the lack of precedent for an electronic options market.[15] ISE asserts that, based upon consultation with its members and using the knowledge and understanding of electronic trading it has developed, its proposal is reasonably designed to protect both customers and liquidity providers in its electronic marketplace and is consistent with the requirements of the Act.[16]

Commenters also objected to the proposed amendment requiring non-customer bids (offers) priced higher (lower) than the facilitation price to be executed at their stated price, rather than a single ''clean-up'' price.[17] The commenters argued that the ISE's proposal would act as a disincentive to ISE Competitive Market Makers (''CMMs'') and other Electronic Access Members (''EAMs'') to display their true trading interest and offer price improvement, because a CMM who wants to trade, but cannot facilitate the entire order at an improved price, will likely elect not to offer any price improvement to avoid the ''penalizing impact'' of the rule.[18]

In response, ISE argues that this proposed amendment benefits customers because where a non-customer (*i.e.,* broker-dealer or market maker) indicates that it is willing to trade at a price that is better than the facilitation or ''clean-up'' price, the customer order being facilitated would get the benefit of the better price, even if the entire order cannot be executed at the better price.[19] The ISE believes that the effect of the proposed change will be to increase opportunities for price improvement for customer orders.[20]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1, including whether the proposed amendment is consistent with the Act. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the ISE. All submissions should refer to File No. SR–ISE–00–03 and should be submitted by June 20, 2000.

V. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[21] In particular, the Commission finds that proposal is consistent with Section 6(b)(5) of the Act.[22]

Under Section 6(b)(5) of the Act,[23] a registered national securities exchange must have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

Specifically, the Commission finds that ISE's proposed commentary to ISE Rule 716 establishing the ''exposure time'' for a facilitation order at 30 seconds is consistent with Section 6(b)(5) of the Act.[24] Currently, there is no time period specified in the ISE's rules for how long facilitation orders must be exposed to the trading crowd. Instead, the amount of time to respond is set by the Exchange. The Commission believes that setting out in the ISE's rules the response period will provide certainty to the other market participants and ensure that this time period will not be changed without a corresponding change in the ISE rules. On floor-based exchanges, there are no rules that govern how long an order, including a proposed facilitation order, must be exposed to the crowd before it is executed. In addition, in the Commission's view, 30 seconds is a reasonable time frame for Crowd Participants in ISE's market to assess market conditions and their own trading interest and to enter a response to a facilitation order. Accordingly, the Commission is approving the ISE's proposed commentary to ISE Rule 716.

[10] *See* note 4, *supra.*

[11] The Commission notes that commenters expressed views on a number of issues related to the ISE block and facilitation mechanisms that were outside the scope of the current ISE proposal, several of which were addressed in the Commission's approval of ISE as a national securities exchange. *See* Securities Exchange Act Release No. 42455 (February 24, 2000, 65 FR 11388. Consequently, this order addresses only comments regarding those issues presented by the current proposal.

[12] *See* SA&B Letter; Phlx Letter; CBOE Letter.

[13] *See* SA&B Letter; Phlx Letter.

[14] *See* letter to Jonathan G. Katz, Secretary, SEC, from Katherine Simmons, Vice President and Associate General Counsel, ISE, dated May 19, 2000 (''ISE Response Letter'').

[15] *Id.*

[16] *Id.*

[17] *See* SA&B Letter; Phlx Letter.

[18] *Id.*

[19] *See* ISE Response Letter.

[20] *Id.*

[21] In approving this rule, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[22] 15 U.S.C. 78f(b)(5).

[23] *Id.*

[24] *Id.*

The Commission also agrees with the ISE that public customer bids (offers) on the Exchange at the time a facilitation order is executed that are priced higher (lower) than the facilitation price should be executed at the facilitation price. The Commission believes that this proposal will both protect public customer limit orders on the ISE's book and provide public customers with the benefit of price improvement through the facilitation mechanism. The Commission also believes that allowing the execution of higher bids and lower offers from non-customer orders and quotes by executing them at their stated price is reasonable. Accordingly, the Commission finds that the proposed amendment to ISE Rule 716(d)(4)(i) is consistent with Section 6(b)(5) of the Act [25] in that it promotes just and equitable principles of trade and facilitates transactions in securities by allowing the partial execution of a facilitation order at an improved price for the number of non-customer contracts available, while protecting public customer orders on the book by giving them the benefit of a better execution price.

The Commission also finds that the proposed amendments to ISE Rule 716(d)(4)(ii) are consistent with Section 6(b)(5) of the Act.[26] Under current ISE rules, a PMM is guaranteed certain participation rights in a facilitation order after public customer orders are executed and the facilitating EAM receives an allocation of 40 percent of the order. Amendment No. 1 eliminates the PMM's participation guarantee. Thus, any indication or quote by a PMM will be treated the same as other Crowd Participants' interest. The Commission believes that this proposed amendment is consistent with the public interest, and that it promotes just and equitable principles of trade by ensuring that market makers will be able to compete in a fair and equitable manner, based on the competitiveness of their quotes, for that portion of an order remaining after public customer interest and the EAM's facilitation guarantee.

The Commission finds good cause for approving this proposed amendment prior to the thirtieth day after date of publication of the notice of filing in the **Federal Register**. The proposed change to paragraph (d)(4)(ii) of ISE Rule 716 makes available to Crowd Participants a greater percentage of facilitation orders. [27] Specifically, this change ensures that, if a PMM is among the Crowd Participants with interest at the facilitation price, the PMM will be treated equally with all other Crowd Participants, rather than being ''guaranteed'' special participation rights. Because this amendment reduces the guarantees to PMMs, the Commission believes it will increase the opportunity for other participants in ISE to complete for order flow and finds that granting accelerated approval to the proposed amendments to ISE Rule 716(d)(4)(ii) in Amendment No. 1 consistent with Section 18(b)(2) Act. [28]

Finally, the Commission believes that ISE's proposed amendment to ISE Rules 716(d)(2) and (3) to clarity that members may enter indications into the facilitation mechanism at prices that improve the facilitation price, if such improved price is inferior to the ISE best bid or offer, is consistent with the Act. ISE's rules currently state that indications from Crowd Participants must be priced *at* the price of the order to be facilitated and must not exceed the size of the order to be facilitated. To facilitate the order at a price superior to the facilitation price, ISE's current rules require Crowd Participants to enter orders change their quotes, as applicable. The proposed amendment allows a Crowd Participant to enter an indication to facilitate an order at a price better than the facilitation price, but inferior to the ISE best bid or offer. Without this change, it would have been possible for a Crowd Participant to improve the facilitation price, but not be at the ISE best bid or offer. In this situation, only the PMM [29] would know about the improved price, creating the potential for PMM to benefit at the expense of the customer order being facilitated. For these reasons, the Commission finds that ISE's proposed amendment is consistent with Section 6(b)(5) of the Act [30]

The Commission also finds good cause for approving the proposed amendments of ISE Rules 716(d)(2) and (3) prior to the thirtieth day after the date of publication of notice of filing in the **Federal Register**. These proposed changes eliminate a potential avenue for abuse and ensure that a public customer order would receive the benefit of any price offered that is better than the facilitation price. Accordingly, the Commission believes that these proposed amendments do not significantly alter the original proposal, which was subject to a full notice and comment period and addresses the issued raised by commenters. Therefore, the Commission finds that granting accelerated approval to the proposed changes to ISE Rules 716(d)(2) and (3) in Amendment No. 1 is consistent with Section 19(a)(2) of Act. [31]

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, [32] that the proposed rule change (SR–ISE–00–03), including Amendment No. 1, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[33]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–13413 Filed 5–26–00; 8:45 am]

BILLING CODE 8010–01–M

[25] *Id.*

[26] *Id.*

[27] *See* Amendment No. 1, *supra* note 5.

[28] 15 U.S.C. 78f(b)(2).

[29] Under ISE's rules, only the PMM has access to all orders on the ISE book; not just the top of the book.

[30] 15 U.S.C. 78f(b)(5).

[31] 15 U.S.C. 78f(b)(2).

[32] *Id.*

[33] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42808; File No. SR–ISE–00–01]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 by the International Securities Exchange LLC Relating to Market Maker Allocations

May 22, 2000.

I. Introduction

On February 25, 2000, the International Securities Exchange LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to its proposed market maker allocation algorithm.

The proposed rule change was published for comment in the **Federal Register** on March 6, 2000.[3] The Commission received three comment letters regarding the proposal.[4] On May 19, 2000, the ISE filed Amendment No.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 42473 (February 29, 2000), 65 FR 11818.

[4] *See* letters to Jonathan G. Katz, Secretary, SEC, from Holly H. Smith, Sutherland, Asbill & Brennan LLP, dated March 24, 2000 (''SA&B Letter''); Peter J. Chepucavage, Fulbright & Jaworski L.L.P., dated March 28, 2000 (''Phlx Letter''); and Charles J. Henry, President and Chief Operating Officer, Chicago Board Options Exchange, dated March 31, 2000 (''CBOE Letter'').

1 to proposed rule change.[5] This order approves the proposed rule change. In addition, the Commission is publishing this notice to solicit comments on Amendment No. 1 and is simultaneously approving Amendment No. 1 on an accelerated basis.

II. Description of the Proposal

ISE Rule 713(d) provides that public customer orders at a given price have priority. ISE Rule 713(e) provides that, if there are two or more non-customer orders or market maker quotations at the Exchange's inside market, after filling all customer orders at that price, executions will be allocated between the non-customer orders and market maker quotations ''pursuant to an allocation procedure to be determined by the Exchange from time to time. * * *'' ISE Rule 713(e) also states that if the PMM is quoting at the Exchange's inside market, it will have precedence over non-customer orders and CMM quotes for execution of orders that are up to a specified number of contracts. The ISE is proposing to establish its allocation procedure for non-customer orders and market maker quotations, and to define the size of orders for which the PMM has priority.

According to the ISE, the allocation procedure is a trading algorithm programmed in the ISE's electronic auction market system (''System'') that determines how to split the execution of incoming orders among professional trading interests at the same price. All public customer orders at a given price are executed fully before the trading algorithm is applied. Moreover, because the algorithm is applied automatically by the System upon the receipt of an executable order, only those non-customer orders and market maker quotes that are in the System participate in the algorithm. The ISE represents that, subject to the PMM's participation rights discussed below, the allocation of executions to non-customer orders and market maker quotes is based on the size associated with the order or quote relative to the total size available at the execution price.

The ISE is also proposing certain participation rights for PMMs. If the PMM is one of the participants with a quote at the best price, it has participation rights equal to the greater of (1) the proportion of the total size at the best price represented by the size of its quote, or (2) 60 percent of the contracts to be allocated if there is only one other non-customer order or market maker quotation at the best price, 40 percent if there are two other non-customer orders and/or market maker quotes at the best price, and 30 percent if there are more than two other non-customer orders and/or market maker quotes at the best price. In addition, the PMM has precedence to execute orders of five contracts of fewer if it is quoting at the best price. The proposal provides that the PMM cannot receive any portion of an allocation unless it is quoting at the best price at the time the System receives the executable order. Moreover, the size associated with the PMM's quote must be sufficient to fill the portion of the order that would be allocated to it according to the participation rights.

The Exchange proposes to implement the PMM five contract preference as a one-year pilot program.[6] During that time, ISE proposes to evaluate what percentage of the volume executed on the Exchange, excluding volume resulting from the execution of orders in the facilitation mechanism, is comprised of orders for five contracts or fewer executed by PMMs, and will reduce the size of the orders included in this provision if such percentage is over 40 percent.[7] In addition, during this pilot period, ISE proposes to provide certain data to the Commission on a quarterly basis, with respect to OCC cleared transaction: (1) The percentage of volume executed on the Exchange (excluding facilitation orders) that results from the execution of orders of five contracts or fewer (''Five Contract Volume''); (2) the percentage of Five Contract Volume executed by PMMs; (3) the ratio of PMM and CMM trades; and (4) the ratio of the PMM contract volume divided by the total of PMM and CMM contract volume.[8]

III. Summary of Comments

The Commission received three comment letters on the proposal.[9] These commenters opposed ISE's proposed rule change, as originally proposed. The commenters argued that the ISE's proposed allocation algorithm would discourage competition among market participants by requiring that other market makers and non-customers be quoting at the best bid or offer on ISE to participate in the execution of an incoming order. Thus, ISE Rule 713 would allow a PMM to trade with 100 percent of an incoming order when it was along at the ISE's best bid or offer.[10] In addition, commenters asserted that the algorithm would permit a PMM to internalize order flow by giving PMMs at the best bid or offer an absolute right to trade against all orders of five contracts or fewer.[11] Commenters characterize this proposed guarantee as essentially a small order referencing rule giving PMMs a distinct economic advantage over all other non-customer trading interest entered into the ISE. In connection with the proposed allocation procedure, the commenters argued that these rules build an infrastructure for percentage and crossing, and guarantee that the orders routed to ISE will not be exposed to the level of price competition necessary to protect the public interest.[12]

Commenters also disagreed with ISE's characterization of five contracts as an ''odd lot,'' noting that five contracts represent 500 shares of underlying stock and that orders of five contracts or fewer constitute a significant portion of all portion of all options order flow.[13] According to commenters, the proposed five contract precedence for PMMs will result in referencing arrangements, internalization, and payment for order flow to attract these low-risk orders, and is anticompetitive because it reduces incentives for other market makers to quote aggressively due to their inability to attract these smaller orders.[14]

In response to commenters' objections, the ISE notes that the percentage of an order that a PMM executes is uncertain from the outset, and far from a ''guarantee.'' [15] Instead, the allocation is dependent on the number of public customer orders, the price and size of the PMM's quote, and

[5] *See* letter from Katherine Simmons, Vice President and Associate General Counsel, ISE, to Deborah Flynn, Senior Special Counsel, Division of Market Regulation, SEC, dated May 19, 2000 (''Amendment No. 1''). In Amendment No. 1, the ISE requests that the Commission approve its proposal with respect to its proposed five contract preference as a one-year pilot program. Consistent with this request, the ISE proposes to revise paragraph .01(c) of Supplementary Material to ISE Rule 713 to require that the ISE provide the following information to the Commission on a quarterly basis, with respect to OCC cleared transactions: (1) The percentage of volume executed on the Exchange (excluding facilitation orders) that results from the execution of orders of five contracts or fewer (''Five Contract Volume''); (2) the percentage of Five Contract Volume executed by Primary Market Makers (''PMMs''); (3) the ratio of PMM trades to the total of PMM and Competitive Market Maker (''CMM'') trades; and (4) the ratio of PMM contract volume to the total of PMM and CMM contract volume.

[6] *See* Amendment No. 1, *supra* note 5.

[7] *Id.*

[8] *Id.*

[9] *See* note 4, *supra.*

[10] *See* CBOE Letter.

[11] *See* SA&B Letter, Phlx Letter; CBOE Letter.

[12] *Id.*

[13] *See* CBOE Letter.

[14] *Id.*

[15] *See* letter to Jonathan G. Katz, Secretary, SEC, from Katherine Simmons, Vice President and Associate General Counsel, ISE, dated May 19, 2000 (''ISE Response Letter'').

the number of non-customers competing with the PMM at the same price. The ISE argues that, contrary to the commenters' characterization of an absolute ''guarantee,'' the algorithm provides only that if an order is not completely executed after public customer orders are executed, the PMM has preference as to the balance, but only if quoting at the best price and only if it has displayed sufficient size. Thus, according to the ISE, a PMM must be competitive on price in order to receive any allocation, and must be competitive on size—otherwise its allocation is limited by the size associated with its quote.[16]

Similarly, the ISE argues that the commenters' assertions that the PMM preference as to orders of five contracts or fewer will lead to decreased competition for small orders, preferencing, internalization, and payment for order flow is erroneous because it is based on the flawed premise that this preference is an ''exclusive right'' and absolute ''guarantee.'' [17] The ISE further claims that preferencing and payment for order flow arrangements are unlikely because orders for five contracts or fewer are expected to constitute only a small percentage of order flow.[18] Moreover, the ISE maintains that because its market is based on intramarket price and size competition and incoming orders are executed automatically, market participants, including the PMM, would not have the opportunity to know the size of an incoming order, nor would market participants know whether the PMM would be quoting at the best with sufficient size.[19]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1, including whether the proposed amendment is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the ISE. All submissions should refer to File No. SR–ISE–00–01 and should be submitted by June 20, 2000.

V. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[20] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act.[21]

Under Section 6(b)(5) of the Act, a registered national securities exchange must have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions is securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission finds that ISE's proposed amendments to Supplementary Material .01 to ISE Rule 713 are consistent with Sections 6(b)(5) of the Act.[22] The Commission believes that ISE's proposed amendment to the commentary to ISE Rule 713 establishing its algorithm governing the allocation of orders to market participants, including PMMs, is reasonable. Moreover, because PMMs, like specialists on floor-based options exchanges, perform important functions and undertake responsibilities greater than those of other market makers, the Commission believes it is reasonable for the ISE to choose to offer its PMMs an elevated level of participation rights like other options exchanges currently provide to their specialists.

Although the Commission recognizes that intramarket competition, as well as protection of public customers, could be compromised if such a participation right constituted an absolute guarantee or if it consumed too great a percentage of order flow, the Commission believes that the ISE's proposal sets forth reasonable safeguards against such potential harms. The ISE's proposal prioritizes public customer limit orders on the book. Indeed, if sufficient existing customer interest exists, a PMM might not receive *any* allocation of a given incoming order. Moreover, a PMM's participation is directly dependent on the competitiveness of the PMM's quote as well as the number of non-customers who have entered competitive quotes at the same price at the time an order is received by the market. In addition, the size of a PMM's quote is important, because a PMM's execution is limited by the size of its quote, regardless of any participation right that ISE's allocation algorithm would otherwise prescribe. The Commission believes that these limits on a PMM's participation right should assure reasonable protection for public customers and prevent impediments to a free and open market that might otherwise result from an absolute specialist guarantee.

The Commission further finds that the ISE's proposal to provide on a one-year pilot basis PMMs with a preference for orders of five contracts or fewer is consistent with Section 6(b)(5) of the Act.[23] The Commission acknowledges the potential competitive issues noted by commenters, and intends to use the one-year pilot period to monitor the rule's impact on competition. To assist the Commission in evaluating the pilot program, the ISE will provide four types of specific data to the Commission, on a quarterly basis and should allow the ISE to achieve its stated goal of limiting execution for five contracts or fewer by PMMs to 40 percent or less of total exchange volume (excluding facilitation orders).[24]

The Commission finds good cause for approving proposed Amendment No. 1 prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission notes that Amendment No. 1 clarifies the proposed rule change and is responsive to the issues raised by commenters. By approving this proposal as a one-year pilot program and requesting certain statistics from the ISE on a quarterly basis regarding the volume of orders for five contracts or fewer executed by PMMs, the Commission should be able to adequately assess the operation of this proposal and determine whether the competitive issues raised by commenters pose a concern. Because Amendment No. 1 does not significantly

[16] *See* ISE Response Letter.

[17] *Id.*

[18] *Id.*

[19] *Id.*

[20] In approving this rule, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[21] 15 U.S.C. 78f(b)(5).

[22] *Id.*

[23] *Id.*

[24] *See* Amendment No. 1, *supra* note 5.

alter the original proposal, which was subject to a full notice and comment period, and addresses the issues raised by commenters, the Commission finds that granting accelerated approval to Amendment No. 1 is consistent with Section 19(b)(2) of the Act.[25]

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[26] that the proposed rule change (SR–ISE–00–01), including Amendment No. 1, is approved, and that PMM five contract preference proposal contained in Amendment No. 1 is approved as a one-year pilot to expire on May 22, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[27]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–13414 Filed 5–26–00; 8:45 am]

BILLING CODE 8010–01–M

[25] 15 U.S.C. 78f(b)(2).

[26] *Id.*

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42806; File No. SR–NASD–99–33]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Approval to Proposed Rule Change and Amendment Nos. 1 and 2 Relating to the Establishment of Trade and Quote Halt Authority for the National Association of Securities Dealers, Inc.'s Over-the-Counter Bulletin Board Service

May 22, 2000.

I. Introduction

On July 14, 1999, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its wholly-owned subsidiary, the Nasdaq Stock Market, Inc. (''Nasdaq'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to establish trade and quote halt authority for the NASD's over-the-counter Bulletin Board Service (''OTCBB'').

The proposed rule change, including Amendment Nos. 1 and 2, was published for comment in the **Federal Register** on January 25, 2000.[3] No comments were received on the proposal. This order approves the proposal.

II. Description of the Proposal

The OTCBB is an NASD system which, pursuant to delegated authority, Nasdaq is responsible for operating. In the proposed rule change, the NASD and Nasdaq propose to expand Nasdaq's authority so that Nasdaq may impose quotation and trading halts in OTCBB securities when: (1) The OTCBB security or the securities underlying the OTCBB American Depository Receipt (''ADR'') is dually listed or registered and a foreign regulatory authority or market halts trading in the security; (2) the OTCBB security is a derivative or component of a security listed on Nasdaq, a domestic exchange, or foreign exchange/market (*e.g.,* a convertible security or warrant) and Nasdaq, the exchange, or foreign exchange/market halts trading in the underlying security; or (3) the OTCBB issues does not timely provide the NASD with information required by Rule 10b–17 under the Act.[4]

Currently, NASD Rule 4120 authorizes Nasdaq to impose trading halts in Nasdaq-listed securities and securities listed on a national securities exchange and traded in the third market. There are, however, no rules that grant Nasdaq authority to impose trading or quotation halts in OTCBB securities, Additionally, unlike the Nasdaq market, there is no listing agreement between Nasdaq and OTCBB issuers, and thus Nasdaq does not have the ability to compel such issuers to disclose information to Nasdaq. Accordingly, it is difficult for Nasdaq to unilaterally impose trade and quote halts in an OTCBB security because, in most cases, information from the issuer is necessary before the NASD can assess the situation and determine if a halt and/or resumption of trading is appropriate.[5] In light of the foregoing, the NASD and Nasdaq are proposing to vest Nasdaq with trade and quote halt authority as described below.

Foreign Regulatory Authority Halts. First, the NASD and Nasdaq are proposing to impose trading and quotation halts in OTCBB eligible securities [6] when a foreign market or regulatory authority has imposed a trade halt in the security in its open market for regulatory reasons. This authority would permit Nasdaq to impose a trade and quotation halt on an OTCBB security or OTCBB ADRs when a foreign market on which the OTCBB security is also traded, or a regulatory authority that has oversight authority for the OTCBB security, halts trading in the security or the security underlying the ADR for ''regulatory'' reasons. (Nasdaq currently has similar trading-halt authority for Nasdaq-listed securities.) [7] Under the proposal, upon receipt of information from a foreign securities market on which the OTCBB security or the security underlying the OTCBB ADR is listed or registered or from a regulatory authority overseeing such issuer, exchange, or market, Nasdaq's Stockwatch section will evaluate the information (generally, a trade-halt order issued by the foreign market or regulatory authority) and determine whether a trade and quotation halt in the OTCBB security is appropriate. Nasdaq will impose such a halt only when the foreign market or regulatory authority has imposed its halt because of potential fraudulent conduct or other public interest concerns. Nasdaq will not impose a halt if the foreign entity's halt is based on the dissemination of material news, an issuer's failure to meet regulatory filing requirements imposed by a foreign market or regulatory authority, or for operational reasons (*e.g.,* order imbalance in the foreign market). [8]

For this and the proposed halts described below, an OTCBB halt would be lifted if Nasdaq determines that the basis of the halt no longer exists or upon the passage of five trading days, which ever occurs first. [9] If quoting and trading

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 42345 (January 18, 2000), 65 FR 4002.

[4] 17 CFR 240.10b–17. For a description of the rule, *see* text accompanying notes 12 and 13 *infra.*

[5] Under Section 12(k) of the Act, the Commission may impose trading suspensions in the U.S. securities markets. *See* 15 U.S.C. 78*1*(k). Additionally, NASD Rule 3340 prohibits members from trading any security as to which a trading suspension is in effect. When the Commission suspends trading in an OTCBB security, Nasdaq announces the trading ban via the NEWS frame on the Nasdaq Workstation II and prohibits trading and quotations on the OTCBB.

[6] NASD Rules 6530 and 6540 impose certain regulatory filing requirements for securities to be included in the OTCBB.

[7] *See* NASD Rule 4120(a)(4).

[8] The NASD and Nasdaq do not proposed to halt for material news because Nasdaq does not have a formal listing agreement with OTCBB issuers, and thus cannot compel the full disclosure and dissemination of material news. The NASD and Nasdaq do not propose to halt trading if an issuer fails to meet filing or disclosure requirements imposed by a foreign regulatory authority or market, because Nasdaq would, in essence, be importing filing obligations of a foreign regulatory authority on OTCBB issuers when such requirements may not currently exist in the United States for such issuers. Lastly, the NASD and Nasdaq are not proposing to halt trading based on a foreign exchange's operational halt, such as an order imbalance, because Nasdaq generally does not halt for operational reasons.

[9] Of course, if an issuer failed to meet the eligibility requirements contained in NASD Rules

in a security stock is halted for five or more consecutive business days and then the halt is lifted, at the time the halt is lifted, market makers will be required to fulfill their obligation under Rule 15c2–11 under the Act prior to initiating a priced or unpriced quotation in the security.[10] Nasdaq will notify market participants and the public of halts through the NASD Regulation and Nasdaq Websites (*e.g.,* OTCBB.com, Nasdaqtrader.com, NASDR.com), as well as the Nasdaq NEWS frame on the Nasdaq Workstation II.

Halts in Derivative Securities. Nasdaq currently has the authority to halt trading in a Nasdaq-listed derivative security when a national securities exchange or Nasdaq halts trading in the underlying equity security that is listed on the exchange or Nasdaq.[11] Halt authority only extends to derivatives listed on Nasdaq, and does not extend to derivatives quoted in the OTCBB. Thus, for example, Nasdaq or an exchange may halt trading in a security, but trading may continue in the OTCBB derivative security. Since the trading price of the OTCBB derivative is dependent on the price of the underlying listed security, it is difficult to accurately price the derivative security when there is no current pricing information on the underlying security. Such difficulty in pricing may lead to disorderly markets and investor confusion. Accordingly, the NASD and Nasdaq are proposing to halt trading and quotations in OTCBB securities when the OTCBB security is a derivative or component of a security listed on a domestic exchange, foreign market/exchange, or Nasdaq and the exchange or foreign market/exchange or Nasdaq imposes a trading halt in the underlying listed security.

OTCBB Halts for Failure to Comply with Rule 10b–17 under the Act. Finally, the NASD and Nasdaq are proposing to halt quotations and trading in an OTCBB security if the issuer fails to comply with the requirements of Rule 10B–17 under the Act regarding Untimely Announcements of Record Dates.[12] Rule 10b–17 requires issuers to give the NASD, in a timely fashion, information relating to: (1) A dividend or other distribution in cash or in kind; (2) a stock split or reverse split; and (3) a rights or other subscription offering. Under Rule 10b–17, the issuer is required to provide this information to the NASD no later than 10 prior to the record date or, in case of a rights subscription or other offering if such 10 days advance notice is not practical, on or before the record date.[13]

For both Nasdaq-listed and OTCBB securities, Nasdaq publishes the record date of the action and the ex-date in its ''Daily List'' on the Nasdaq Websites. This provides information to broker-dealers, clearing agencies, and the public regarding the record date and settlement date of such trades. For Nasdaq-listed securities, if an issuer does not provide the information in a timely manner, Nasdaq may request the Rule 10b–17 information from the issuer and halt trading pending receipt of such information.[14] Nasdaq may then issue a Uniform Practice Code (''UPC'') notice informing members of the status of the record date and underlying event in order to clarify any confusion in the marketplace regarding the price or settlement of these trades.

While OTCBB issuers are also required to give the NASD information required by Rule 10b–17 in a timely manner, Nasdaq does not currently have the authority to institute a trading halt in an OTCBB security when this information has not been timely provided. Under the proposed rule change, the NASD and Nasdaq will have the authority to halt trading and quotations in an OTCBB security when the issuer fails to give the NASD notice of the inforamtion specified in Rule 10b–17.

Finally, the NASD and Nasdaq are proposing to amend the Plan Of Allocation And Delegation Of Functions by NASD To Subsidiaries to clarify that the Stockwatch section of Nasdaq would have authority to effectuate OTCBB halts.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association. In particular, the Commission believes that the proposed rule is consistent with the requirements of Sections 11A(c)(1)(A),[15] 11A(c)(1)(B),[16] 15A(b)(6)[17] and 15A(b)(11)[18] of the Act.

The Commission believes that the proposed rule change is consistent with the goals expressed in Sections 11A(c)(1)(A)[19] and 11A(c)(1)(B)[20] of the Act, which give the Commission the authority to promulgate rules designed to prevent the use, distribution or publication of fraudulent, deceptive, or manipulative information with respect to quotations, and to assure that those responsible for disseminating securities information obtain such information on fair and reasonable terms. The Commission believes that allowing Nasdaq to halt quotation and trading in OTCBB securities when there is a threat that quotations may be inaccurate because of fraudulent conduct discovered by foreign regulatory authorities, will further the goals of those sections. The Commission finds that the proposed rule will help prevent the dissemination of quotations that are based on fraudulent information and will help ensure that quotes in the OTCBB are accurate.

Further, the Commission finds the proposed rule is consistent with the Section 15A(b)(6)[21] requirements that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. In addition, the Commission finds the proposed rule is consistent with Section 15A(b)(11),[22] which requires that the rules of the association be designed to produce fair and informative quotations, to prevent fictitious or misleading quotations, and to promote orderly procedures for collecting, distributing, and publishing quotations.

Proposed Rule 6545 will enhance Nasdaq's authority to initiate trade and quotation halts in OTCBB securities based on regulatory halts imposed by foreign securities exchanges or foreign regulatory authorities. The Rule will allow Nasdaq to halt trading and quotations in OTCBB securities when a foreign securities exchange or foreign regulatory authority has imposed a halt because of potential fraudulent conduct or other public interest concerns. The Commission believes that granting

6530 and 6540, the security would be removed from the OTCBB.

[10] That is, the Nasdaq directs all members to cease quoting a security for five or more consecutive business days, pursuant to NASD Rule 6740 and Rule 15c2–11, members will be required a file a Form 211 prior to the resumption of quotations in the OTCBB. See 17 CFR 240.15c–11. The Commission issued for comment a reproposal of amendments to Rule 15c2–11. *See* Securities Exchange Act Release No. 41110 (February 25, 1999), 64 FR 11124 (March 8, 1999). The NASD and Nasdaq will monitor developments regarding Rule 15c2–11 and plan to make any necessary changes to conform the rules proposed in this filing with and changes to Rules 15c2–11.

[11] *See* NASD Rule 4120(a)(3)(ii).

[12] *See* 17 CFR 240.10b–17.

[13] *Id.*

[14] *See* NASD Rule 4120(a)(5).

[15] 15 U.S.C. 78k–1(c)(1)(A).

[16] 15 U.S.C. 78k–1(c)(1)(B).

[17] 15 U.S.C. 78*o*–3(b)(6).

[18] 15 U.S.C. 78*o*–3(b)(11).

[19] 15 U.S.C. 78k–1(c)(1)(A).

[20] 15 U.S.C. 78k–1(c)(1)(B).

[21] 15 U.S.C. 78*o*–3(b)(6).

[22] 15 U.S.C. 78*o*–3(b)(11).

Nasdaq this authority will help prevent fraudulent practices and protect investors in accordance with Section 15A(b)(6) of the Act.[23] Moreover, this authority will help ensure that Nasdaq disseminates fair and accurate quotes, and that the dissemination of quotes is done in an orderly manner pursuant to the requirements of Section 15A(b)(11) of the Act.[24]

The Commission believes the proposed rule will benefit investors because it will grant Nasdaq the authority to halt trading and quotations in OTCBB securities when the OTCBB security is a derivative or component of a security listed on a domestic exchange, foreign exchange or Nasdaq and the domestic exchange, foreign exchange or Nasdaq imposes a trading halt in the underlying listed security. This will help assure accurate pricing of OTCBB derivatives and components, as the price of these securities is derived from the price of the underlying security. Market makers will be unable to quote or trade an OTCBB derivative or component when no accurate pricing information on the underlying security is available.

In addition, without this rule in place, the purpose of a trade halt in the underlying security could be frustrated. For example, if Nasdaq imposed a trade halt on a Nasdaq security in order to allow for dissemination of material news regarding the issuer, but quoting and trading of a derivative of that security continued on the OTCBB, the goal of the original halt would not be fully accomplished. Rather, before the material news could be fully absorbed by the public, trading based on incomplete or inaccurate information would take place. The NASD's new rule will prevent this.

Finally, the proposed rule will authorize Nasdaq to halt trading in an OTCBB security when there is a failure to timely provide the NASD with information mandated by Rule 10b–17 under the Act, which if not timely disseminated could have an impact on the pricing and trading of OTCBB issues. Thus, the Commission finds that the proposed rule is designed to protect investors and to produce fair and informative quotations, prevent fictitious or misleading quotations and to promote orderly procedures for collecting, distributing, and publishing quotations.

IV. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the Exchange Act and the rules and regulations thereunder applicable to the NASD and, in particular, Sections 15A(b)(6) and 15(b)(11).[25]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[26] that the proposed rule change (SR–NASD–99–33) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[27]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–13417 Filed 5–26–00; 8:45 am]

BILLING CODE 8010–01–M

[23] 15 U.S.C. 78*o*–3(b)(6).

[24] 15 U.S.C. 78*o*–3(b)(11).

[25] In approving this rule proposal, the Commission notes that it has also considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[26] 15 U.S.C. 78s(b)(2)

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42805; File No. SR–PHLX–00–10]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Reduce the Value of the Over-the-Counter Prime Index (''OTX'')

May 22, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 31, 2000, the Philadelphia Stock Exchange, (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The proposed rule change has been filed by the Phlx as a ''non-controversial'' rule change under Rule 19b–4(f)(6)[3] of the Act. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx, pursuant to Rule 19b–4 of the Act,[4] proposes to reduce the value of its Over-The-Counter prime Index (''Index'') option (''OTX'') to one-fourth its present value by quadrupling the base market divisor used to calculate the Index. In addition, the position and exercise limits applicable to OTX will be quadrupled until the last expiration then trading. The Index is a price weighted, A.M. settled index composed of fifteen stocks which are considered to be the ''most active'' stocks traded on the Nasdaq market.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. Phlx has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change, as discussed more fully below, is to attract additional liquidity to OTX.

a. Background. The Exchange began trading OTX in 1998.[5] As of March 21, 2000, the index value was 714 and the near-month in-the-money call premium was $57.75 per contract. The Exchange proposes to conduct a ''four-for-one split''of the Index, such that the value would be reduced to one-quarter of the current value. The number of OTX contracts will be quadrupled, such that for each OTX contract currently held, the holder would receive four contracts at the reduced value with a strike price one quarter of the original strike price. For instance, the holder of an OTX 800 call will receive four OTX 200 calls. In addition to the strike price being reduced by one-quarter, the position and exercise limits applicable to OTX will be quadrupled, from 25,000 contracts to 100,000 contracts until the last expiration then trading. The result would be an index value of 178.50 and a near-month at-the-money call premium of $14.44. This procedure is similar to the one employed respecting equity options where the underlying security is subject to a four-for-one stock split. The trading symbol will remain as OTX.

In conjunction with the split, the Exchange will list strike prices surrounding the new, lower index

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] 17 CFR 240.19b–4

[5] *See* Securities Exchange Act Release No. 40058 (June 2, 1998), 63 FR 31543 (June 9, 1998).

value, pursuant to Phlx Rule 1101A. The Exchange will announce the effective date by way of an Exchange memorandum to the membership, also serving as notice of the strike price and position exercise limit changes.

b. *Purpose.* As stated above, the purpose of the proposal is to attract additional liquidity to OTX. A four-for-one split, thus reducing the value of the Index, should have a positive effect on overall transaction volumes by making the option premiums more attractive for retail investors. A reduced value should thus encourage additional investor interest. By reducing the value of the Index, investors will be able to utilize this trading vehicle while extending a smaller outlay of capital. This should attract additional investors, and, in turn, create a more active and liquid trading environment.

2. Statutory Basis

For these reasons, Phlx believes that the proposed rule change is consistent with Section 6 of the Act [6] in general, and in particular, with Section 6(b)(5),[7] in that it is designed to promote just and equitable principles of trade, as well as to protect investors and the public interest, by establishing a lower index value, which should, in turn, facilitate trading in OTX options. The Exchange believes that reducing the value of the Index should not raise manipulation concerns and should not cause adverse market impact, because the Exchange will continue to employ its surveillance procedures and has proposed an orderly procedure to achieve the index split, including adequate prior notice to market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has been filed by the Exchange as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A) of the Act [8] and Rule 19b–4(f)(6) thereunder.[9] Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest, (2) does not impose any significant burden on competition, and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate,[10] it has become effective pursuant to Section 19(b)(3)(A) [11] of the Act and Rule 19b–4(f)(6) [12] thereunder. The Exchange has requested that the Commission accelerate the operative date of the rule change to permit the Exchange to implement it immediately. The Commission has determined, consistent with the protection of investors and the public interest, to make the proposed rule change operative upon filing, pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii). Under Rule 19b–4(f)(6)(iii), a proposed ''non-controversial'' rule change does not become operative for 30 days after the date of filing, unless the Commission designates a shorter time. The Commission believes that it is consistent with the protection of investors and the public interest to make the proposed rule change operative upon filing because reducing the value of the Index should enable more investors to participate in the market, thereby promoting liquidity in the marketplace. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–PHLX–00–10 and should be submitted by June 20, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–13415 Filed 5–26–00; 8:45 am]

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[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] The Exchange provided the Commission with the five business day notice required by Rule 19b–4(f)(6) of the Act on March 3, 2000.

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42800; File No. SR–Phlx–00–28]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Divide Its Allocation, Evaluation and Securities Committee Into Two Separate Committees: the Equity Allocation, Evaluation and Securities Committee and the Option Allocation, Evaluation and Securities Committee

May 19, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 28, 2000, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Exchange By-Law, Article X, Section 10–7 and Exchange Rule 500, each concerning its Allocation, Evaluation and Securities Committee (''AESC''), to divide the AESC into two separate committees: the Equity Allocation, Evaluation and Securities Committee and the Option Allocation, Evaluation

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

and Securities Committee. The text of the proposed rule change is available at the Phlx and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed change to By-Law Article X, Section 10–7 is intended to divide the Exchange's current Allocation, Evaluation and Securities Committee into two separate committees, one for equities and one for options. The proposed change to Rule 500 is intended to allow the rules governing the Committees to conform to the new By-Law.

Currently, the AESC is composed of persons who are active on both the equity and options trading floors, persons who conduct a public securities business, one Public Governor, and one Non-Industry Governor, and one Non-Industry Governor.[3] The full AESC is responsible for appointment of specialist units on each floor;[4] approving the transfer of equities and options among specialist units on each floor;[5] allocating both equities and options to applicant specialist units on each floor;[6] evaluating the performance of specialist units on each floor;[7] reallocating equities and options when warranted due to performance issues from one specialist unit to another on each floor;[8] and supervising questions pertaining to securities admitted to dealings on the Exchange.[9]

The proposal to divide the AESC into separate committees—the Equity Allocation, Evaluation and Securities Committee and the Option Allocation, Evaluation and Securities Committee—would serve to provide expertise on each new committee in allocating securities to, and evaluating performance of, specialist units on each trading floor on which the committee members work and have experience.

Currently, AESC members evaluate specialists and vote to allocate securities to equity specialist units and to option specialist units, regardless of whether their particular experience is in equities or options. The proposed new committees would consist, in part, of members with experience specific to the type of security to be allocated and in the type of specialists to be evaluated.

Each committee would consist of nine members. Five persons would be members of both new committees: three off-floor persons who conduct a securities business, one Non-Industry Governor, and one Public Governor. One of the Governors would chair both committees. The remainder of the Equity Allocation, Evaluation and Securities Committee would consist of four persons who are active on the equity trading floor as floor brokers or specialists. The remainder of the Option Allocation, Evaluation and Securities Committee would consist of one person who is active on the options trading floor as a floor broker and three persons who are active on the options trading floor as specialists, registered options traders, or floor brokers.

Each new committee would consist of core members, who would serve a three-year term that would be renewable once, and annual members, who would serve a one-year term that would be renewable twice. The core members of the Equity Allocation, Evaluation and Securities Committee would consist of three persons who conduct a public securities business and two persons who are active on the equity trading floor as specialists or floor brokers. The annual members of the Equity Allocation, Evaluation and Securities Committee would consist of two persons who are active on the equity trading floor as specialists or floor brokers, the Public Governor, and the Non-Industry Governor. The core members of the Option Allocation, Evaluation and Securities Committee would consist of three persons who conduct a public securities business, one person who is active on the options trading floor as a floor broker, and one person who is active on the options trading floor as a specialist, registered options trader, or floor broker. The annual members of the Option Allocation, Evaluation and Security Committee would consist of two persons who are active on the options trading floor as specialists, registered options traders, or floor brokers; the Public Governor; and the Non-Industry Governor.[10]

2. Statutory Basis

The Phlx believes the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act.[11] Specifically, the Phlx believes that the proposal would aid in the perfection of the mechanisms of a free and open market and a national market system, and would protect investors and the public interest, by appointing to an appropriate committee individuals who have specific experience and expertise relating either to equities or to options. By so doing, the two new committees would have greater expertise in allocating securities (either equities or options) and evaluating specialists than the single existing committee.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change would impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or with such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing,

[3] *See* Exchange Rule 500.

[4] *See* Exchange Rule 501.

[5] *See* Exchange Rule 508.

[6] *See* Exchange Rule 511(b).

[7] *See* Exchange Rules 511(c) to 511(e) and 515.

[8] *See id.*

[9] *See* Exchange Rules 800 to 899.

[10] The original proposal did not include a description of the core members and the annual members of each of the two new committees. However, the text of the proposed new Exchange rules describes the committees and that description was added to the proposal with the consent of the Phlx. Phone conversation between Richard S. Rudolph, Counsel, Phlx, and Michael Gaw, Attorney, Division of Market Regulation, Commission, on April 11, 2000.

[11] 15 U.S.C. 78f(b)(5).

including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filings will also be available for inspection and copying at the principal office of Phlx. All submissions should refer to File No. SR–Phlx–00–28 and should be submitted by June 20, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–13416 Filed 5–26–00; 8:45 am]

BILLING CODE 8010–01–M

[12] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

In compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, SSA is providing notice of its information collections that require submission to the Office of Management and Budget (OMB). SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

I. The information collections listed below will be submitted to OMB within 60 days from the date of this notice. Therefore, comments and recommendations regarding the information collections would be most useful if received by the Agency within 60 days from the date of this publication. Comments should be directed to the SSA Reports Clearance Officer at the address listed at the end of this publication. You can obtain a copy of the collection instruments by calling the SSA Reports Clearance Officer on (410) 965–4145, or by writing to him at the address listed at the end of this publication.

1. Electronic Death Registration (EDR) Survey—0960–NEW.

Background Information

In January 1997, the report ''Toward an Electronic Death Registration System in the United States: Report of the Steering Committee to Reengineer the Death Registration Process'' was prepared by a task force representing federal agencies (the National Center for Health Statistics and the Social Security Administration) and professional organizations representing funeral directors, physicians, medical examiners, coroners, hospitals, medical records professionals, and vital records and statistics officials (NAPHSIS). The committee examined in detail the feasibility of developing electronic death registration in the United States. The conclusion of the report was that the introduction of automated registration processes in the States is a viable means to resolve several historical and continuing problems in the process of death registration.

Death certificates are used in the United States for administrative and public health purposes. For nearly a century the States have maintained centralized vital records agencies to collect, process and archive death certificates. Death records are universally recognized as the primary source of death information, but registration processes remain labor intensive, employ disparate and limited automated procedures, and require several professionals at different locations to complete each of the more than 2.3 million death certificates registered each year.

Even though each State has laws requiring the registration of death records within a specific time period, a significant number of certificates are not appropriately filed, may contain incorrect or inconsistent entries, or are not finalized until many weeks after the death occurred.

The States and federal agencies understand the shortcomings of death registration methods currently practiced in the United Sates. Now that recent advances in computer and network access technology allow for the practical and efficient development and implementation of automated systems to register death information, several registration areas have independently pioneered electronic death registration methods. These different approaches will serve as the basis for developing standardized EDR attributes, methods and processes in order that the States may successfully implement electronic death registration to satisfy administrative and statistical death information needs.

Information Collection

In support of the EDR project, SSA entered into a contract with the National Association for Public Health Statistics and Information Systems to foster the adoption of a standardized form of EDR throughout the country. As the beginning step in the process, this survey is planned to provide a current picture of the readiness of the States to adopt EDR. This will, in turn, assist SSA to direct available funding anticipated in future years to those States that demonstrate sufficient resources, available technical expertise, and the political will and statutory readiness to implement EDR within the contract timeframe. Respondents to the survey will be officials from States, U.S. Territories and the city of New York with the knowledge and expertise to complete the survey. One survey will be sent to each State and territory and New York City.

Number of Respondents: 55.

Frequency of Response: 1.

Average Burden Per Response: 2 hours.

Estimated Annual Burden: 110 hours.

2. 0960–NEW. Information Collections Conducted by Adolescent Employment Readiness Center (AERC) of Children's Research Institute on behalf of SSA.

Background

Opening Doors to the Future for Adolescents with Special Health Care Needs, Executive Order (E.O.) 13078 dated March 13, 1998, Increasing Employment for Adults with Disabilities, directs that a National Task Force be established to create a coordinated and aggressive national policy to bring adults with disabilities into gainful employment at a rate that is as close as possible to that of the general adult population. E.O. 13078 specifies that the Task Force ''evaluate and, where appropriate, coordinate and collaborate on research and demonstration priorities of Task Force member agencies related to employment of adults with disabilities.'' In conjunction with the Task Force's Committee on Access to Employment and Lifelong Learning, the Subcommittee on Expanding Employment Opportunities for Young People with Disabilities was created.

In acknowledgment of its commitment to serving Supplemental

Security Income (SSI) youth with disabilities, SSA awarded a Cooperative Agreement contract in accordance with E.O. 13078 in September of 1999. The project is designed to teach disabled school-age children, who live in an urban setting, that preparation for employment must begin at an early age to have maximum effect. Health care professionals and service providers from partnering agencies will be trained to prepare and implement 1,000 individualized transition plans for SSI recipients in the District of Columbia, between the ages of 11 and 21. Of those SSI youth with transition plans, 150 will be given direct vocational rehabilitation and follow-up services through the AERC, such as career counseling, interest and ability testing, job-seeking skills training, post-secondary education counseling, parent counseling, and mentor programs.

Information Collection

AERC counselors will collect information from project participants through personal interviews. The data will provide information on the need for and use of comprehensive transition services, the utilization and efficiency of transition services, the cost effectiveness of transition services, and the value of program replication. This will contribute significantly to SSA's knowledge about transitioning youth with disabilities to employment and adult activities. Respondents are disabled school-aged SSI recipients in the Washington, D.C. Metropolitan area identified to participate in the project.

Number of Respondents: 1000.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 500 hours.

3. 0960–NEW. Medical Parking Permit Application. SSA issues medical parking assignments at SSA-owned and leased facilities to individuals who have a medical condition that meets the criteria for medical parking. In order to issue a medical parking permit, SSA must obtain medical evidence from the applicant's physician. SSA uses the information to determine whether the individual qualifies for a medical parking permit and to issue the permit. The respondents are physicians of applicants for medical parking permits.

Physician

Number of Respondents: 144.

Frequency of Response: 1.

Average Burden Per Response: 1 hour.

Estimated Annual Burden: 144 hours.

4. 0960–NEW. Authorization for Source to Release Information to the Social Security Administration (SSA). SSA must obtain sufficient medical evidence to make eligibility determinations for Social Security disability benefits and SSI payments. For SSA to obtain medical evidence, an applicant must authorize his or her medical source(s) to release the information to SSA. The applicant may use one of the forms SSA–827, SSA–827–OP1 or SSA–827–OP2 to provide consent for the release of information. Generally, the State Disability Determination Services completes the form(s), based on information provided by the applicant, and sends the form(s) to the designated medical source(s).

Number of Respondents: 3,853,928.

Frequency of Response (Average per case): 4.

Average Burden Per Response: 3 minutes.

Estimated Annual Burden: 770,786 hours.

II. The information collections listed below have been submitted to OMB for clearance. Written comments and recommendations on the information collections would be most useful if received within 30 days from the date of this publication. Comments should be directed to the SSA Reports Clearance Officer and the OMB Desk Officer at the addresses listed at the end of this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer on (410) 965–4145, or by writing to him.

1. 0960–NEW. Student Statement Regarding School Attendance. The information on Form SSA–1372–TEST is needed to determine whether children of an insured worker are eligible for benefits as a student. SSA will conduct a limited trial of the revised SSA–1372 (Student Statement Regarding School Attendance) designed as SSA–1372–TEST. This limited test will study the efficacy and usability of the new format. Results of the testing will formulate SSA's decision to reject, modify or institute the revised form. The respondents are student claimants for Social Security benefits and their respective schools.

Number of respondents: 2,000.

Number of Response: 1.

Average burden per response: 10.

Estimated Annual Burden: 333.

(SSA Address): Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235, (OMB Address): Office of Management and Budget, OIRA, Attn: Desk Officer for SSA, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, DC 20503.

Dated: May 23, 2000.

Nicholas E. Tagliareni

Director, Center for Publications Management, Social Security Administration.

[FR Doc. 00–13409 Filed 5–26–00; 8:45 am]

BILLING CODE 4190–01–P

DEPARTMENT OF STATE

[Public Notice 3319]

Culturally Significant Objects Imported for Exhibition Determinations: ''Distant Shores: The Odyssey of Rockwell Kent''

AGENCY: United States Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that the objects to be included in the exhibition ''Distant Shores: The Odyssey of Rockwell Kent'' imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with foreign lenders. I also determine that the exhibition or display of the exhibit objects at the Norman Rockwell Museum in Stockbridge, MA, from June 24, 2000 through October 29, 2000, the Appleton Museum of Art in Ocala, FL from November 18, 2000 through January 28, 2001, the Terra Museum of American Art in Chicago, IL from February 24, 2001 through May 20, 2001 and the Anchorage Museum of History and Art in Anchorage, AK from June 17, 2001 through September 23, 2001 is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Jacqueline Caldwell, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/619–6982). The address is U.S. Department of State, SA–44, 301 4th Street, S.W., Room 700, Washington, D.C. 20547–0001.

Dated: May 19, 2000.

William B. Bader,

Assistant Secretary for Educational and Cultural Affairs, United States Department of State.

[FR Doc. 00–13451 Filed 5–26–00; 8:45 am]

BILLING CODE 4710–08–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/D–186]

WTO Consultations Regarding Section 337 of the Tariff Act of 1930

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice that the European Communities (''EC'') has requested consultations with the United States under the Marrakesh Agreement Establishing the World Trade Organization (WTO), regarding section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and the related rules of practice and procedure of the International Trade Commission contained in chapter II of Title 19 of the U.S. Code of Federal Regulations. The EC alleges that section 337 is inconsistent with Article III of the General Agreement on Tariffs and Trade 1994 (''GATT 1994'') and Articles 2 (in conjunction with Article 2 of the Paris Convention), 3, 9 (in conjunction with Article 5 of the Berne Convention), 27, 41, 42, 49, 50, and 51 of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (''TRIPS Agreement''). A first round of consultations with the EC was held on February 28, 2000, in Geneva, Switzerland. The Government of Canada and the Government of Japan participated as third parties. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although the USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before June 30 to be assured of timely consideration by USTR.

ADDRESSES: Comments may be submitted to the Monitoring and Enforcement Unit, Office of the General Counsel, Attn: Section 337 Dispute, Office of the United States Trade Representative, 600 17th Street, NW, Washington, DC 20508, (202) 395–3582.

FOR FURTHER INFORMATION CONTACT: Rhonda K. Schnare, Associate General Counsel, Office of the General Counsel, Office of the United States Trade Representative, 600 17th Street, NW, Washington, DC, (202) 395–3150.

SUPPLEMENTARY INFORMATION: Section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, but in an effort to provide additional opportunity for comment, USTR is providing notice that consultations have been requested by the EC concerning whether section 337 of the Tariff Act of 1930 is inconsistent with the United States' obligations under GATT 1994 and the TRIPS Agreement. The EC has not requested the establishment of a dispute settlement panel. If the EC decides to proceed to a dispute settlement panel, under normal circumatances, the panel, which will hold its meetings in Geneva, Switzerland, would be expected to issue a report detailing its findings and recommendations within six to nine months after it is established.

Major Issues Raised by the European Communities

Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) addresses unfair methods of competition and unfair acts in the importation and sale of products in the United States, the threat or effect of which is to destroy or substantially injure a domestic industry, prevent the establishment of such an industry, or restrain or monopolize trade and commerce in the United States. However, in cases of alleged infringement of a valid and enforcable U.S. patent, registered trademark, copyright, or mask work, there is no injury requirement.

In 1989, a GATT panel established at the request of the EC concluded that section 337 was inconsistent with GATT Article III. Subsequently, section 337 was amended by the URAA to bring it into conformity with the findings of the GATT panel report.

In January 2000, the EC requested consultations with the United States under certain WTO agreements regarding section 337. The EC's consultation request alleged that the amendments to section 337 failed to bring it into compliance with the GATT and that section 337 continues to provide less favorable treatment to imported goods than to domestic goods in violation of GATT Article III. The EC's consultation request also alleged that section 337 is inconsistent with Articles 2 (in conjunction with Article 2 of the Paris Convention), 3, 9 (in conjunction with Article 5 of the Berne Convention), 27, 41, 42, 49, 50, and 51 of the TRIPS Agreement. A first round of consultations with the EC was held in February 2000 in Geneva, Switzerland. The EC has not requested the establishment of a dispute settlement panel, but maintains the right to do so.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Comments must be in English and provided in fifteen copies. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the commenter. Confidential business information must be clearly marked ''BUSINESS CONFIDENTIAL'' in a contrasting color ink at the top of each page of each copy.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' in a contrasting color ink at the top of each page of each copy; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room: Room 101, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508. The public file will include a listing of any comments received by USTR from the public with respect to the proceeding; the U.S. submissions to the panel in the proceeding, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the dispute settlement panel, and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket WTO/D–186, Section 337 Dispute) may be made by calling Brenda Webb, (202) 395–

6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

A. Jane Bradley,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. 00–13419 Filed 5–26–00; 8:45 am]

BILLING CODE 3190–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS–192]

WTO Dispute Settlement Proceeding Regarding United States—Transitional Safeguard Measure on Combed Cotton Yarn from Pakistan

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (''USTR'') is providing notice of Pakistan's request for the establishment of a dispute settlement panel under the Marrakesh Agreement Establishing the World Trade Organization (''WTO''). Pakistan challenges the United States' action of imposing a transitional safeguard on imports of combed cotton yarn from Pakistan. In this dispute, Pakistan alleges that ths safeguard measure is inconsistent with certain ogligations under the WTO Agreement on Textiles and Clothing. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted by July 7, 2000, to be assured of timely consideration by USTR in preparing its first written submission to the panel.

ADDRESSES: Comments may be submitted to Sandy McKinzy, Litigation Assistant, Office of Monitoring and Enforcement, Room 122, Attn: Combed Cotton Yarn, Office of the United States Trade Representative, 600 17th Street, NW, Washington, DC, 20508.

FOR FURTHER INFORMATION CONTACT: Demetrios Marantis, Associate General Counsel at (202) 395–3581 or Caroyl Miller, Deputy Chief Textile Negotiator at 395–3026.

SUPPLEMENTARY INFORMATION: Pursuant to section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)), USTR is providing notice that Pakistan has submitted a request for the establishment of a WTO dispute settlement panel to examine the U.S. transitional safeguard measure on imports of combed cotton yard from Pakistan. The WTO Dispute Settlement Body (''DSB'') is expected to establish a panel for this purpose in June 2000.

Major Issues Raised and Legal Basis of the Complaint

Pakistan challenges the transitional safeguard measure the United States imposed on March 17, 1999, on imports of combed cotton yarn from Pakistan. In its request for a panel to examine the measure, Pakistan alleges that the U.S. transitional safeguard measure is inconsistent with Article 2.4 of the WTO Agreement on Textiles and Clothing (''ATC'') and is not justified by Article 6 of the ATC. Pakistan further maintains that the U.S. measure does not meet the requirements for transitional safeguards set out in paragraphs 2, 3, 4, and 7 of Article 6 of the ATC because the United States allegedly:

- Made its determination of serious damage, or actual threat thereof, to its domestic industry producing like and/or directly competitive products, by (a) excluding from its determination a significant proportion of the production of like products by its domestic industry and (b) without taking into account all factors relevant to the state of its domestic industry;
- Failed to demonstrate that the alleged serious damage, or actual threat thereof to the domestic industry was being caused by increased imports;
- Attributed the alleged damage, or actual threat thereof, to its domestic industry solely to imports from Pakistan to the exclusion of imports from other sources, including unrestrained sources;
- Based its determination of serious damage, or actual threat thereof, on a comparison of data for an eight-month period in 1997 and 1998, which is in the view of Pakistan a period too short to determine whether the alleged damage, or actual threat thereof, was serious; and
- Relied on partial and unverified information.

The United States and Pakistan consulted on this issue on February 10 and 11, 1999, but were unable to reach a mutually satisfactory solution to the matter. The WTO Textile Monitoring Body (''TMB'') reviewed the U.S. measure on April 29, 1999, but determined in its report that ''it was not in a position to assess without doubt whether or not serious damage had been caused to the US' industry producing products like and/or directly competitive with combed cotton yarn * * *'' (G/TMB/18). The TMB therefore recommended that the United States rescind the measure. On May 27, 1999, the United States informed the TMB that it was unable to conform to this recommendation. The TMB subsequently reviewed and reaffirmed its recommendation, and in an August 6, 1999, letter to the TMB the United States renewed its determination to retain the temporary safeguard measure. Pakistan considers this matter to be unresolved and that the parties have—through the TMB—satisfied the consultation requirement of Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputers (''DSU''). Accordingly, on April 3, 2000, Pakistan requested the establishment of a dispute settlement panel pursuant to Article 8:10 of the ATC, Article XXIII:2 of the General Agreement on Tariffs and Trade 1994 (''GATT 1994''), and Article 6 of the DSU.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Comments must be in English and provided in fifteen copies to Sandy McKinzy at the address provided above. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitting person. Confidential business information must be clearly marked ''BUSINESS CONFIDENTIAL'' in a contrasting color ink at the top of each page of each copy. Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitting person believes that information or advice may qualify as such, the submitting person—

(1) Must so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' in a contrasting color ink at the top of each page of each copy; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room: Room 101, Office of the United States Trade Representative, 600 17th Street, NW, Washington, DC 20508. The public

file will include a listing of any comments received by USTR from the public with respect to the proceeding; the U.S. submissions to the panel in the proceeding, the submissions, or non-confidential summaries of submissions, to the panel received from other parties in the dispute, as well as the report of the dispute settlement panel, and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket WTO/DS–192, ''Combed Cotton Yarn—Pakistan'') may be made by calling Brenda Webb, (202) 395–6186. The Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

A. Jane Bradley,

Assistant U.S. Trade Representative for Monitoring and Enforcement.

[FR Doc. 00–13427 Filed 5–26–00; 8:45 am]

BILLING CODE 3190–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements filed during the week ending May 19, 2000

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days after the filing of the application

Docket Number: OST–2000–7385.

Date Filed: May 17, 2000.

Parties: Members of the International Air Transport Association.

Subject:

PTC2 EUR 0309 dated 2 May 2000 r1–r17;

PTC2 EUR 0310 dated 2 May 2000 r18;

PTC2 EUR 0311 dated 2 May 2000 r19–r20;

PTC2 EUR 0312 dated 2 May 2000 r21–r22;

Within Europe Resolutions r1–r22;

Minutes—PTC2 EUR 0308 dated 28 April 2000;

Tables—None;

Intended effective date: 15 June, 1 August, 1 September, 1 October 2000.

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 00–13360 Filed 5–26–00; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Meeting

AGENCY: Office of the Secretary, DOT

ACTION: Notice of meeting.

SUMMARY: The US Department of Transportation (DOT) announces a meeting of the DOT Partnership Council (the Council). Notice of this meeting is required under the Federal Advisory Committee Act.

TIME AND PLACE: The Council will meet on Friday, June 16, 2000, at 10 a.m., at the US Department of Transportation, Nassif Building, room 10214, 400 Seventh Street, SW., Washington, DC 20590. The room is located on the 10th floor.

TYPE OF MEETING: These meetings will be open to the public. Seating will be available on a first-come, first-served basis. Handicapped individuals wishing to attend should contact DOT to obtain appropriate accommodations.

POINT OF CONTACT: Jean B. Lenderking, Corporate Human Resource Leadership Division, M–13, US Department of Transportation, Nassif Building, 400 Seventh Street, SW., room 7411, Washington, DC 20590, (202) 366–8085.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to present the draft DOT Labor-Relations Strategic Plan; brief the members on DOT Labor-Management report to OMB/OPM; and welcome the American Federation of State, County and Municipal Employees to membership on the Council.

Public Participation: We invite interested persons and organizations to submit comments. Mail or deliver your comments or recommendations to Ms. Jean Lenderking at the address shown above. Comments should be received by June 5, 2000 in order to be considered at the June 16th meeting.

Issued in Washington, D.C., on May 22, 2000.

For the U.S. Department of Transportation.

John E. Budnik,

Acting Director, Office of Human Resource Management.

[FR Doc. 00–13359 Filed 5–26–00; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2000–19]

Petitions for Exemption: Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before June 19, 2000.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____ 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW, Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Cherie Jack (202) 267–7271 or Vanessa Wilkins (202) 267–8029 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on May 23, 2000.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No: 29986

Petitioner: LifePort, Inc.

Regulations Affected: 14 CFR 25.785(b) and 25.562.

Description of Relief Sought: To permit installation of a medical stretcher for carriage of non-ambulatory persons on a Cessna Citation 560XL airplane.

Docket No.: 29981.

Petitioner: Delta Air Lines, Inc.

Regulations Affected: 14 CFR § 25.857(c), 25.858, 121.314(c).

Description of Relief Sought: To allow Delta Air Lines to operate, until September 20, 2001, nine L–1011 airplanes beyond the cargo compartment modification deadline of March 19, 2001.

Docket No: 29941.

Petitioner: Hawaiian Airlines, Inc.

Regulations Affected: 14 CFR 25.857(c), 25.858, 121.314(c).

Description of Relief Sought: To allow Hawaiian Airlines to operate, until May 15, 2001, one DC10–10 airplane beyond the cargo compartment modification deadline of March 20, 2001.

Docket No: 28257.

Petitioner: Flight Structures.

Regulations Affected: 14 CFR 25.813(b), 25.857(e), 25.785(d), 25.1447(c)(3)(ii).

Description of Relief Sought: To allow carriage of one additional supernumerary increasing the total occupants to 9 on the Airbus Model A300–B4–103, –203 series airplanes.

Docket No: 29923.

Petitioner: Regional Airline Association.

Section of the FAR Affected: 14 CFR paragraphs 2 and 3 of appendix H to part 121.

Description of Relief Sought: To permit RAA–member airline to qualify pilots for initial or upgrade pilot-in-command simulation training and checking when the pilots are not currently serving as second-in-command in airplanes of the same group.

Dispositions of Petitions

Docket No.: 24052.

Petitioner: U.S. Navy Flight Demonstration Squadron a.k.a. The Blue Angels.

Section of the FAR Affected: 14 CFR 91.117(a) and (b), 91.119(c), and 91.303(c), (d), and (e).

Description of Relief Sought/ Disposition: To permit the Blue Angels to conduct demonstration rehearsals involving low-level, high-speed, and acrobatic flight, subject to certain conditions and limitations. *GRANT, 3/15/00, Exemption No. 4504F.*

Docket No.: 28317.

Petitioner: Eagle Canyon Airlines, Inc.

Section of the FAR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit ECA to operate certain Cessna aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *GRANT, 3/15/00, Exemption No. 7147.*

Docket No.: 29903.

Petitioner: Bain Aviation, Inc.

Section of the FAR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit BAI to operate certain Cessna aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *GRANT, 3/15/00, Exemption No. 7146.*

Docket No.: 29952.

Petitioner: Frontier Flying Service, Inc.

Section of the FAR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Frontier to operate certain Cessna aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *GRANT, 3/9/00, Exemption No. 7144.*

Docket No.: 28174.

Petitioner: Air Carriage.

Section of the FAR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Air Carriage to operate certain Cessna aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *GRANT, 3/9/00 Exemption No. 6108A.*

Docket No.: 28787.

Petitioner: Ameriflight, Inc.

Section of the FAR Affected: 14 CFR 61.5(a) and (c) and 91.203(a) and (b).

Description of Relief Sought/ Disposition: To permit Ameriflight to operate temporarily its aircraft without those aircraft's airworthiness and registration certificates onboard (and properly displayed in the case of airworthiness certificates) while obtaining replacements, subject to certain conditions and limitations. This exemption also permits Ameriflight's pilots to operate temporarily Ameriflight's aircraft without those pilots having their pilot and medical certificates in their personal possession, subject to certain conditions and limitations. *GRANT, 3/3/00, Exemption No. 7143.*

[FR Doc. 00–13369 Filed 5–26–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 1040–ES, 1040–ES (NR), and 1040–ES (Espanol)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to 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)). Currently, the IRS is soliciting comments concerning 1040–ES, Estimated Tax for Individuals, 1040–ES (NR), U.S. Estimated Tax for Nonresident Alien Individuals, and 1040–ES (Espanol), Contribuciones Federales Estimadas Del Trabajo Por Cuenta Propia Y Sobre el Empleo De Empleados Domesticos—Puerto Rico.

DATES: Written comments should be received on or before July 31, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: 1040–ES, Estimated Tax for Individuals, 1040–ES (NR), U.S. Estimated Tax for Nonresident Alien Individuals, and 1040–ES (Espanol), Contribuciones Federales Estimadas Del Trabajo Por Cuenta Propia Y Sobre el Empleo De Empleados Domesticos—Puerto Rico.

OMB Number: 1545–0087.

Form Number: 1040–ES, 1040–ES (NR), and 1040–ES (Espanol).

Abstract: Form 1040–ES is used by U.S citizens and resident aliens to make estimated tax payment of income (and self-employment) tax due in excess of

tax withheld. Form 1040–ES(NR) is used by nonresident aliens to pay any income tax due in excess of tax withheld. Form 1040–ES (Espanol) is printed in Spanish for use in Puerto Rico and includes payment vouchers for payment of self-employment tax on a current basis.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Responses: 40,991,991.

Estimated Time Per Response: 2 hours, 19 minutes.

Estimated Total Annual Burden Hours: 94,589,400.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 16, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–13327 Filed 5–26–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1120–IC–DISC, Schedules K and P

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to 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)). Currently, the IRS is soliciting comments concerning Form 1120-IC-DISC, Interest Charge Domestic International Sales Corporation Return, Schedule K (Form 1120–IC–DISC), Shareholder's Statement of IC–DISC Distributions, and Schedule P (Form 1120–IC–DISC), Intercompany Transfer Price or Commission.

DATES: Written comments should be received on or before July 31, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Form 1120–IC–DISC, Interest Charge Domestic International Sales Corporation Return, Schedule K (Form 1120–IC–DISC), Shareholder's Statement of IC–DISC Distributions, and Schedule P (Form 1120–IC–DISC), Intercompany Transfer Price or Commission.

OMB Number: 1545–0938.

Form Numbers: 1120–IC–DISC, Schedules K and P.

Abstract: U.S. corporations that have elected to be an interest charge domestic international sales corporation (IC–DISC) file Form 1120–IC–DISC to report their income and deductions. The IC–DISC is not taxed, but IC–DISC shareholders are taxed on their share of IC–DISC income. IRS uses Form 1120–IC–DISC to check the IC–DISC's computation of income. Schedule K (Form 1120–IC–DISC) is used to report income to shareholders. Schedule P (Form 1120–IC–DISC) is used by the IC–DISC to report its dealings with related suppliers.

Current Actions: Questions 2, 7, and 8 on Form 1120–IC–DISC (Schedule O) were deleted. The three deleted questions are a part of the new Schedule N (Form 1120), Foreign Operations of U.S. Corporations, that corporations will attach to their Form 1120–IC–DISC for the 2000 tax year.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals or households.

Estimated Number of Respondents: 1,200.

Estimated Time Per Respondent: 191 hours, 28 minutes.

Estimated Total Annual Burden Hours: 229,747.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 11, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–13336 Filed 5–26–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1120S, Schedule D, and Schedule K–1

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to 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)). Currently, the IRS is soliciting comments concerning Form 1120S, U.S. Income Tax Return for an S Corporation, Schedule D (Form 1120S), Capital Gains and Losses and Built-In Gains, and Schedule K–1 (Form 1120S), Shareholder's Share of Income, Credits, Deductions, etc.

DATES: Written comments should be received on or before July 31, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Form 1120S, U.S. Income Tax Return for an S

Corporation, Schedule D (Form 1120S), Capital Gains and Losses and Built-In Gains, and Schedule K–1 (Form 1120S), Shareholder's Share of Income, Credits, Deductions, etc.

OMB Number: 1545–0130.

Form Number: Form 1120S, Schedule D, and Schedule K–1.

Abstract: Form 1120S, Schedule D (Form 1120S), and Schedule

K–1 (Form 1120S) are used by an S corporation to figure its tax liability, and income and other tax-related information to pass through to its shareholders. Schedule D is used to report gain or loss from sales or exchanges of capital assets and the computation of tax on certain capital gains imposed by Internal Revenue Code section 1374. Schedule K–1 is used to report to shareholders their share of the corporation's income, deductions, credits, etc.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and farms.

Estimated Number of Respondents: 1,880,000.

Estimated Time Per Respondent: 248 hours, 12 minutes.

Estimated Total Annual Burden Hours: 466,602,460.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 12, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–13337 Filed 5–26–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8613

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to 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)). Currently, the IRS is soliciting comments concerning Form 8613, Return of Excise Tax on Undistributed Income of Regulated Investment Companies.

DATES: Written comments should be received on or before July 31, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Return of Excise Tax on Undistributed Income of Regulated Investment Companies.

OMB Number: 1545–1016.

Form Number: 8613.

Abstract: Form 8613 is used by regulated investment companies to compute and pay the excise tax on undistributed income imposed under Internal Revenue Code section 4982. IRS uses the information to verify that the correct amount of tax has been reported.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business of other for-profit organizations.

Estimated Number of Respondents: 1,500

Estimated Time Per Respondent: 11 hr., 53 min.

Estimated Total Annual Burden Hours: 17,835

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 23, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–13458 Filed 5–26–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0001]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each revision of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to determine a veteran's eligibility, dependency, and income, as appropriate, for compensation and/or pension benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before July 31, 2000.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0001'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Veteran's Application for Compensation and/or Pension, VA Form 21–526.

OMB Control Number: 2900–0001.

Type of Review: Revision of a currently approved collection.

Abstract: This form is used as an original application for veterans to apply for compensation and/or pension benefits.

Affected Public: Individuals or households.

Estimated Annual Burden: 592,500 hours.

Estimated Average Burden Per Respondent: 1 hour and 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 395,000.

Dated: March 17, 2000.

By direction of the Secretary.

Sandra S. McIntyre,

Management Analyst, Information Management Service.

[FR Doc. 00–13396 Filed 5–26–00; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Summary of Precedent Opinions of the General Counsel; Republication

Editorial Note: FR Doc. 00–12867 was originally published in the issue of Tuesday, May 23, 2000. The corrected document is republished in its entirety due to the omission of text.

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of legal interpretations issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. These interpretations are considered precedential by VA and will be followed by VA officials and employees in future claim matters. The summary is published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue.

FOR FURTHER INFORMATION CONTACT: Jane L. Lehman, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–6558.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudictions and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel that must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers

deleted, may be obtained by contacting the VA official named above.

New Precedent Opinions

VAOPGCPREC 01–2000

Question Presented

a. Is the last sentence of 38 CFR 3.272 (h) consistent with 38 U.S.C. 1503(a)(3) in providing that expenses of a veterans' last illness paid by a surviving spouse subsequent to the veteran's death, but prior to the date of entitlement to improved death pension, may not be excluded form countable income for the purpose of determining death pension entitlement?

b. If so: (1) What is the basis for the differing treatment accorded by section 3.272(h) to expenses paid prior to the date of death and those paid after the date of death but before the date of entitlement; and, (2) does Congress' intent is enacting Pub. L. No. 98–369 to limit retroactive payments of pension in the case of claimants who file claims more than 45 days after the date of a veteran's death provide an adequate basis for prohibiting consideration of expenses in determining prospective entitlement for the period following the date of claim?

Held

a. The last sentence of 38 CFR 3.272(h) is inconsistent with 38 U.S.C. 1503(a)(3) in providing that expenses of a veteran's last illness paid by the veteran's surviving spouse subsequent to the veteran's death, but prior to the date of the surviving spouse's entitlement to death pension, may not be deducted from countable income for the purpose of determining entitlement to improved death pension. VA may not rely upon the last sentence of 38 CFR 3.272(h) as a basis for denying a death pension claim or reducing the amount of benefits payable.

b. (1) There is no basis for the differing treatment currently accorded under 38 CFR 3.272(h) for expenses of a veteran's last illness paid prior to the date of a veteran's death and those paid after the date of death but before the date of a surviving spouse's entitlement to death pension.

(2) Congress' intent in enacting Pub. L. No. 98–369 to limit retroactive payments of pension in the case of claimants who file claims more than 45 days after the date of a veteran's death does not provide an adequate basis for prohibiting consideration of expenses of a veteran's last illness in determining prospective entitlement for the period following the date of a claim for improved death pension.

Effective Date: March 28, 2000

VAOPGCPREC 02–2000

Question Presented

May the Department of Veterans Affairs (VA) through rulemaking authorize special monthly compensation under 38 U.S.C. 1114(k) (k-rate SMC) for a service-connected mastectomy?

Held

Section 1114(k) of title 38, United States Code, authorizes a special rate of compensation for the disabilities specified in that provision. Neither section 1114(k) nor VA's general rulemaking authority, 38 U.S.C. 501(a), delegates to VA authority to recognize by rulemaking additional injuries or conditions not specified in section 1114(k) ''for which the special rate of compensation will be paid. By authorizing that rate of compensation for anatomical loss or loss of use of one or more creative organs,'' Congress intended to compensate for loss of a procreative, or reproductive, organ, which does not include the breast. Therefore, VA may not by rulemaking authorize special monthly compensation under section 1114(k) for a service-connected mastectomy.

Effective Date: April 3, 2000

VAOPGCPREC 03–2000

Question Presented

a. When the Department of Veterans Affairs (VA) issues an amendment to a provision of its rating schedule while a claim for an increased rating is pending, what is the proper analysis for determining whether, and to what extent, the pending claim is governed by the prior rating-schedule provision or the revised rating-schedule provision?

b. When the Board of Veterans' Appeals (Board) addresses an increased-rating claim involving a disability for which the rating criteria have changed during the pendency of the appeal, should the Board make separate findings of fact and conclusions of law, and provide reasons or bases in its decision, with respect to application of both the old and the new rating criteria?

c. Where there has been a change in rating criteria during the pendency of an appeal, should all evidence of record be considered when determining whether an increased rating is warranted, or should only the evidence which pre-dates or post-dates the effective date of the change in law be taken into consideration when addressing the rating prior to and after the change in law, respectively?

Held

a. When a provision of the Department of Veterans Affairs (VA) rating schedule is amended while a claim for an increased rating under that provision is pending, the Board should first determine whether the amended regulation is more favorable to the claimant. It may be necessary for the Board to separately apply the pre-amendment and post-amendment version of the regulation to the facts of the case in order to determine which provision is more favorable, unless it is clear from a facial comparison of both versions that one version is more favorable. If the amended regulation is more favorable to the claimant, then the retroactive reach of the regulation is governed by 38 U.S.C. 5110(g), which provides that VA may, if warranted by the facts of the claim, award an increased rating based on a change in law retroactive to, but no earlier than, the effective date of the change. Accordingly, the Board should apply the amended regulation to rate the veteran's disability for periods from and after the effective date of the amendment. The Board should apply the prior version of the regulation to rate the veteran's disability for any period preceding the effective date of the amendment.

b. Pursuant to 38 U.S.C. 7104(d)(1), decisions of the Board of Veterans' Appeals (Board) must contain separate findings, conclusions, and statements of the reasons or bases therefore, with respect to findings and conclusions on issues ''material'' to the Board's decision. Determinations of which version of an amended rating-schedule provision is more favorable to a claimant and rating of a disability using the rating criteria applicable for a particular period are issues material to a claim for an increased rating. Accordingly, the Board would be required to comply with 38 U.S.C. 7104(d)(1) in making those determinations.

c. Pursuant to 38 U.S.C. 7104(a), the Board's decisions must be based on consideration of all evidence and material of record, rather than merely evidence which pre-dates or post-dates a pertinent change to VA's rating schedule. In determining the extent of disability existing prior to a regulatory change, the Board may not simply ignore documents post-dating the regulatory change, since such documents could provide evidence that an increase in disability occurred at an earlier time. Likewise, in determining the level of disability existing subsequent to a regulatory change, the

Board may not simply ignore evidence pre-dating the change, since such evidence may bear upon the level of disability existing subsequently.

Effective Date: April 10, 2000.

VAOPGCPREC 04–2000

Question Presented

A. Do provisions of paragraph 7.21 in Veterans Benefits Administration (VBA) Adjudication Procedure Manual M21–1 (Manual M21–1), Part VI, pertaining to claims involving asbestos-related diseases constitute regulations which are binding on the Department of Veterans Affairs (VA)?

B. Is medical-nexus evidence required to establish a well-grounded claim for service connection for an asbestos-related disease referenced in paragraph 7.21 of VBA Manual M21–1, Part VI, and allegedly due to in-service asbestos exposure?

Held

A. (1) Paragraph 7.21a., b., c., and d.(3) of Veterans Benefits Administration Adjudication Procedure Manual M21–1, Part VI, and the fourth and fifth sentences of paragraph 7.21d.(1) of that manual are not substantive in nature. However, relevant factors discussed in paragraphs 7.21a., b., and c. must be considered and addressed by the Board in assessing the evidence regarding an asbestos-related claim in order to fulfill the Board's obligation under 38 U.S.C. 7104(d)(1) to provide an adequate statement of the reasons and bases for a decision.

(2) The first three sentences of paragraph 7.21d (1) of Veterans Benefits Administration Adjudication Procedure Manual M21–1, Part VI, establish a procedure which, in light of current case law, adjudicators are required to follow in claims involving asbestos-related diseases. However, to the extent that paragraph 7.21d(1) of that manual establishes claim-development procedures, those procedures are only applicable in the case of a well-grounded claim.

(3) Paragraph 7.21d.(2) of Veterans Benefits Administration Adjudication Procedure Manual M21–1, Part VI, should be regarded as substantive. However, that paragraph should not be treated as binding to the extent it may adversely affect a claimant by requiring that a particular asbestos-related disease be rated by analogy to a specified condition, where a rating more favorable to the claimant would be obtained by reference to current rating criteria for the particular disease in VA's rating schedule. Similarly, where the current rating schedule contains no criteria specific to the asbestos-related disease, paragraph 7.21d.(2) should be treated as binding to the extent it would adversely affect a claimant by requiring that asbestos-related disease be rated by analogy to a particular condition, where a rating more favorable to the claimant would be obtained by rating by analogy to another disease pursuant to 38 CFR 4.20.

B. Medical-nexus evidence is required to establish a well-grounded claim for service connection for an asbestos-related disease related disease referenced in paragraph 7.21 of Veterans Benefits Administration Adjudication Procedure Manual M21–1, Part VI, and allegedly due to in-service asbestos exposure.

Effective Date: April 13, 2000.

Withdrawn Precedent Opinion

VAOPGCPREC 13–94

''* * * G.C. Prec. 13–94 [VAOPGCPREC 13–94] held the following:

Service connection may not be established for a disability incurred following the date on which a veteran was discharged from active-duty credit granted by a Board for Correction of Military Records to a date after the date on which injury occurred, because the veteran was not engaged in active service at that time.''

VAOPGCPREC 13–94 was overruled by *Spencer* v. *West*, 2000 WL 266117 (Vet. App., March 13, 2000). Accordingly, VAOPGCPREC 13–94 is hereby withdrawn.

Effective Date: March 13, 2000.

By Direction of the Secretary.

Leigh A. Bradley,

General Counsel.

Editorial Note: FR Doc. 00–12867 was originally published in the issue of Tuesday, May 23, 2000. The corrected document is republished in its entirety due to the omission of text.

[FR Doc. 00–12867 Filed 5–22–00 and 5–26–00; 8:45 am]

BILLING CODE 8320–01–M and 1505–01–D

Corrections

Federal Register

Vol. 65, No. 104

Tuesday, May 30, 2000

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2930

[WO–250–1220–PA–24 1A]

RIN 1004–AD25

Permits for Recreation on Public Lands

Correction

In Proposed rule document 00–12124 beginning on page 31234 in the issue of Tuesday, May 16, 2000, make the following correction:

§2932.11 [Corrected]

On page 31241, in the first column in §2932.11, in paragraph (a), ''§2932.1'' should read ''§2932.12''.

[FR Doc. C0–12124 Filed 5–26–00; 8:45 am]

BILLING CODE 1505–01–D

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 716

Privacy of Consumer Financial Information; Requirements for Insurance

Correction

In rule document 00–12014, beginning on page 31722, in the issue of Thursday, May 18, 2000, make the following correction:

On page 31740, in the first column, the part heading, ''**PART 16**'' should read ''**PART 716**''.

[FR Doc. C0–12014 Filed 5–26–00; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8880]

RIN 1545-AU46

Relief From Disqualification for Plans Accepting Rollovers

Correction

In rule document 00–9815, beginning on page 21312, in the issue of Friday, April 21, 2000, make the following correction:

§ 1.401(a)(31)–1 [Corrected]

On page 21314, in the second column, in § 1.401(a)(31)–1, in paragraph (c) Example 1.(i), in the seventh line. ''700 ½'' should read ''70 ½''.

[FR Doc. C0–9815 Filed 5–26–00; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Tuesday,
May 30, 2000

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 158
Passenger Facility Charges; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 158

[Docket No. FAA–2000–7402; Amendment No. 158–2]

RIN 2120–AH05

Passenger Facility Charges

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends regulations pertaining to passenger facility charges (PFC's) to incorporate administrative and statutory changes in the procedures to establish PFC's based on recent enactments by Congress and records of decision by the FAA. This action is issued as a final rule without prior notice and comment because the changes are administrative and/or required by statute. Also the immediate adoption of these regulations is in the public interest and is necessary for public safety.

DATES: Effective June 29, 2000.

FOR FURTHER INFORMATION CONTACT: Eric Gabler, Office of Airport Planning and Programming, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591; Telephone: (202) 267–3845.

SUPPLEMENTARY INFORMATION:

Final Rule Procedure

This final rule amends 14 CFR part 158 to incorporate administrative and statutory changes to the PFC program. The FAA has determined that this action can be issued as a final rule without prior public notice and comment because the amendments are rules of agency procedure required by statute. Further, the FAA has found prior public notice and comment on this action is contrary to the public interest. The PFC's approved pursuant to this action are needed without delay to provide funds for public safety projects, security projects, and other projects of public benefit.

While this rule is effective 30 days after publication, applications for PFC authority may be submitted immediately. Also, the FAA anticipates issuing guidance to assist public agencies applying for authority to impose PFC's.

Availability of Final Rules

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section of the FedWorld electronic bulletin board service (telephone (703) 321–3339), and/or the Government Printing Office's electronic bulletin board service (telephone (202) 512–1661).

Internet users may access recently published rulemaking documents through the FAA's web page at *http://www.faa.gov/avr/arm/nprm/nprm.htm* or the Government Printing Office's web page at *http://www.access.gpo.gov/nara.*

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW, Washington, DC 20591, or by calling (202) 267–9680. Communications must identify the docket number of this final rule.

Persons interested in being placed on the mailing list for future rulemaking documents should request from the above office a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

The PFC program was established by the Aviation Safety and Capacity Expansion Act of 1990. The Act was enacted on November 5, 1990 and is codified at 49 U.S.C. 40117. On May 29, 1991, the Department of Transportation adopted new regulations to establish the PFC program, under which the FAA Administrator, under authority delegated by the Secretary of Transportation, could authorize a public agency to impose a PFC of $1, $2, or $3 per enplaned passenger at a commercial service airport the public agency controls. The proceeds from such PFC's are to be used to finance FAA-approved eligible airport-related projects that preserve or enhance safety, security, or capacity of the national airport system; reduce noise from an airport that is part of such system; or furnish opportunities for enhanced competition between or among air carriers. The rule, which added a new part 158, became effective on June 28, 1991. As of March 1, 2000, 825 PFC applications had been approved or partially approved for 314 airport locations, with all but one airport location collecting at the $3 PFC level.

On April 5, 2000, President Clinton signed into law the ''Wendell H. Ford Aviation Investment and Reform Act for the 21st Century'' (AIR 21). This law made several modifications to the PFC program, including allowing a public agency to apply to the FAA to increase the PFC level that it may charge to $4 or $4.50.

These changes, as well as those administrative and statutory changes required by the Federal Aviation Administration Authorization Act of 1994 (1994 Act), the Federal Aviation Reauthorization Act of 1996 (1996 Act), and the recodification of the Federal Aviation Act of 1958 are adopted in part 158 by this action.

Section-by-Section Analysis

Subpart A—General

Section 158.3 Definitions

The following definitions are added or revised:

Allowable cost. Prior to April 5, 2000, allowable cost was defined to include only those costs incurred on or after November 5, 1990. AIR 21 expands this definition to include costs of terminal development referred to in § 158.15(b)(3) but incurred after August 1, 1986, provided the development is at an airport smaller than a medium hub airport and the total passenger boardings at that airport declined by at least 16 percent between calendar year 1989 and calendar year 1997.

Commercial service airport. This section is amended by removing the citation ''49 U.S.C. app. 2202(17).''

Covered airport. Before PFC's are approved for collection, AIR 21 requires a ''covered airport'' to file a competition plan. AIR 21 defines ''covered airport'' as a medium or large hub airport at which one or two air carriers control more than 50 percent of the passenger boardings.

Frequent flier award coupon. The 1994 Act prohibits collection of a PFC from a passenger who obtained the ticket for air transportation with a frequent flier award coupon. Frequent flier award coupon means a zero-fare award of air transportation provided by an air carrier to a passenger in exchange for accumulated travel mileage credits in a customer loyalty program, but does not include the redemption of accumulated credits for additional or upgraded service on trips for which the passenger has paid a published fare. ''Two-for-the-price-of-one'' and similar marketing programs, and air transportation purchased for the passenger by other parties are not included in the definition. Since 1994, the FAA has incorporated the definition of frequent flier award coupon in its individual PFC records of decision.

Medium or large hub airport. Since the enactment of the PFC program, there have been additional conditions on approval of PFC's at commercial service airports if the airports have more than 0.25 percent of the total number of passenger boardings at all such airports

in the U.S. for the prior calendar year. The FAA consistently has referred to such an airport with more than 0.25 percent and up to 1 percent of the total number of passenger boardings to be a ''medium hub'' airport, and an airport with more than 1 percent of the total number of passenger boardings to be a ''large hub'' airport. The FAA is replacing references to an airport with more than 0.25 percent of commercial service enplanements in the regulation with the term ''medium or large hub.''

Nonrevenue passenger. The 1994 Act prohibits collection of a PFC from a nonrevenue passenger. Nonrevenue passenger means a passenger receiving air transportation from an air carrier for which remuneration is not received by the air carrier. Air carrier employees or others receiving air transportation, for which token service charges are levied are considered nonrevenue passengers. Infants for whom a token fare is charged also are considered nonrevenue passengers. Since 1994, the FAA has incorporated the definition of nonrevenue passenger in its individual PFC records of decision.

Public agency. This definition has been expanded to allow a private sponsor of an airport participating in the Pilot Program for Private Airport Ownership to apply for PFC authority under the terms and conditions that apply to a public agency. The Pilot Program on Private Ownership of Airports was established by Congress in 1996 and directs the FAA to allow program participants to apply for PFC authority.

Section 158.5 Authority To Impose PFC's

The FAA is amending this section to include PFC levels of $4 and $4.50, as authorized by AIR 21, in addition to the pre-existing levels of $1, $2, and $3.

Section 158.7 Exclusivity of Authority

AIR 21 clarifies and strengthens the independent status of a public agency's PFC authority relative to State or other political subdivisions. This section is amended in accordance with the specific terms of AIR 21.

Section 158.9 Limitations

The following statutory limitations are added to the previously-listed prohibitions: (1) Collection of a PFC from nonrevenue passengers; (2) collection of a PFC from a passenger who obtained the ticket for air transportation with a frequent flier award coupon; (3) imposition of a fee on passengers on flights, including flight segments, between 2 or more points in Hawaii; or (4) imposition of a fee on passengers on an aircraft having a seating capacity of less than 60 passengers in Alaska.

Section 158.11 Public Agency Request Not To Require Collection of PFC's by a Class of Air Carriers or Foreign Air Carriers or for Service to Isolated Communities

This section is amended to include new provisions of AIR 21 that allow a public agency to request that certain classes or categories of air transportation not collect the PFC. These provisions include passengers enplaned on a flight to an airport receiving scheduled passenger service and having fewer than 2,500 passenger boardings each year; and to an airport in a community that has a population of less than 10,000 and is not connected by a land highway or vehicular way to the land-connected National Highway System within a State. The public agency may request any or all of these exclusions.

Section 158.15 Project Eligibility at PFC Levels of $1, $2, or $3

This section is revised to explicitly include the 1994 statutory requirement that all proposed projects be adequately justified to receive PFC funding—a standard the FAA has been applying since the implementation of part 158 in 1991 in PFC records of decision. Also, AIR 21 makes other revisions necessary in this section. AIR 21 creates a special category of project eligibility for terminal development work associated with construction of gates and related areas if the project will enable additional air service by an air carrier with less than 50 percent of annual passenger boardings at an airport.

Section 158.17 Project Eligibility at PFC Levels of $4 or $4.50

Section 158.17 is added to provide eligibility requirements for PFC's at the $4 or $4.50 level. Applicants requesting authority to impose PFC's at the $4 or $4.50 level must meet these eligibility requirements in addition to those in section § 158.15.

AIR 21 allows a project to be funded at a $4 or $4.50 PFC level if the project cannot be paid for from funds reasonably expected to be available through programs referred to in 49 U.S.C. 48103 (the Airport Improvement Program (AIP)).

Section 158.17 also incorporates the statutory provision that conditions funding of a surface transportation or terminal project at the $4 or $4.50 level on a finding that the public agency has made adequate provision for financing the airside needs of the airport, including runways, taxiways, aprons, and aircraft gates. The FAA will use financial and planning data, information in the PFC application, and information on funding availability under AIP, to determine eligibility.

Also, AIR 21 establishes an additional requirement for projects at medium and large hub airports. In particular, a project for a medium or large airport is eligible for PFC funding at levels of $4 or $4.50, only if the project will make a significant contribution to: improving air safety and security; increasing competition among air carriers; reducing current or anticipated congestion; or reducing the impact of aviation noise on people living near the airport.

The FAA will develop specific criteria for the ''significant contribution'' requirement through individual PFC records of decision. As with prior records of decision, the FAA will consider all relevant factors, including but not limited to the following in assessing whether the significant contribution requirement has been met:

Safety and security—Does the project advance airport security and/or safety? Projects that address security and safety requirements of 14 CFR part 107 and part 139, respectively, are usually given highest priority for AIP discretionary funds.

Capacity—Does the project support or is it part of a capacity project to which the FAA has allocated Federal resources or that would qualify for such resources? For example, is the project included in an AIP letter of intent or does it satisfy the FAA's benefit-cost criteria for large AIP discretionary investments? Has the project been identified in an FAA Airport Capacity Enhancement Plan? Does the project alleviate a constraint on airport growth or service?

Noise—Does the project affect the noise-impacted areas around the airport? Historically, projects addressing noisier areas than projects that would address less noisy areas, all other factors being equal, have been given higher priority for AIP discretionary grants.

Competition—Does the project mitigate or remove barriers to increased airline competition at the airport (*e.g.,* cause an increase in common use gates at a gate-constrained airport)? Has the project been identified as an essential component in the airport's competition plan or other similar documents submitted to the FAA?

Section 158.19 Requirement for Competition Plans

A new section has been added to implement a requirement to develop a competition plan. Under AIR 21, no

public agency controlling a covered airport, defined as a medium or large hub airport at which one or two air carriers account for more than 50 percent of the passenger boardings, may impose a PFC unless the public agency has submitted a competition plan to the FAA. AIR 21 requires that each plan meet statutory requirements and that the plan must be reviewed periodically to ensure successful implementation. The requirement to develop a plan does not apply to PFC authority in effect before April 5, 2000.

Covered airports are required to submit competition plans to receive new AIP grants in FY 2001 and thereafter. Because there are more covered airports under the AIP than there are participating in the PFC program, and because AIP grants are issued on an annual basis, instructions for such plans are provided under the AIP. Such plans prepared for AIP may be used for PFC projects.

Subpart B—Application and Approval

Section 158.23 Consultation With Air Carriers and Foreign Air Carriers

The requirement under § 158.23(a)(2) that a public agency consult with its air carriers and foreign air carriers on ''the PFC level'' is amended to read ''the PFC level for each project. * * *'' The FAA anticipates that PFC applications may include several projects qualifying at different PFC levels, depending on the contribution of each project.

Section 158.25 Applications

This section is amended to allow for processing competition plans required by § 158.19 and determination of the PFC level for each project required in revised § 158.23.

Section 158.29 The Administrator's Decision

Section 158.29 is amended to require all projects approved for collection of PFC's to meet the requirements of § 158.15. In addition, projects approved for collection of a PFC at a level of more than $3 must meet the requirements of § 158.17. Previously, paragraphs (a)(1)(ii), (a)(1)(iii), (b)(1)(ii) and (b)(1)(iii) referenced separate components of § 158.15.

Under the 1994 Act, the FAA is prohibited from approving a PFC application if an airport is not in compliance with 49 U.S.C. 47107(b) governing the use of airport revenues. The FAA includes a determination that the public agency has not been found in violation of 49 U.S.C. 47107(b) in its PFC records of decision. Section 158.29 is amended to reflect this requirement.

A new paragraph is added to § 158.29 to acknowledge that, if applicable, the public agency must submit a competition plan.

Section 158.29 also is amended to require the Administrator to specify a PFC level ''for the application,'' and total approved PFC revenue ''including the amounts approved at $3 and less, $4, and/or $4.50.'' The FAA anticipates that PFC applications may include various projects, some qualifying at a level of $3 or less, and others at $4 or $4.50. The public has the opportunity to comment on the PFC levels for these projects in the notice and comment process provided in § 158.27(e)

Section 158.31 Duration of Authority To Impose a PFC After Project Implementation

Section 158.31 is amended to remove the words ''section of 9304(c) or 9703 of the Airport Noise and Capacity Act of 1990 (Pub. L. 101–508, Title IX, subtitle D.''

Section 158.37 Amendment of Approved PFC

Section 158.37(b) is amended to reflect the new requirements of §§ 158.17 and 158.19 to obtain authority to increase a previously approved PFC level to $4 or $4.50.

Subpart C—Collection, Handling, and Remittance of PFC's

Section 158.45 Collection of PFC's on Tickets Issued in the U.S.

AIR 21 adds several new classes of passengers from whom a PFC may not be collected and this section is revised accordingly.

Section 158.49 Handling of PFC's

The 1996 Act included a provision clarifying that PFC's held by air carriers after collection constitute a trust fund held for the beneficial interest of public agencies. Section 158.49 is amended in accordance with the specific terms of this provision.

Subpart D—Reporting, Recordkeeping and Audits

Section 158.63 Reporting Requirements: Public Agency

Section 158.63 is amended to require the public agency to indicate the PFC level the FAA approved for each project as authorized by AIR 21. In addition, the phrase ''medium or large hub airports'' replaces the phrase ''airports enplaning 0.25 percent or more of the total annual enplanements in the U.S. for the prior calendar year as determined by the Administrator'' (see discussion pertaining to new definitions in § 158.3).

Subpart F—Reduction in Airport Improvement Program Apportionment

Section 158.93 Public Agencies Subject to Reduction

Section 158.93 is amended to substitute the phrase ''medium or large hub'' in place of ''enplanes 0.25 percent or more of the total annual enplanements in the U.S.'' (see discussion pertaining to new definitions in § 158.3).

Section 158.95 Implementation of Reduction

This section is amended to reflect AIR 21 requirement that the effective date of AIP apportionment reduction is changed to ''the first fiscal year following the year in which the collection of the fee imposed under § 40117 is begun.'' Also, AIR 21 establishes separate reduction levels for airports depending on the level of PFC imposed. Specifically, in the case of a PFC level of $3 or less, the reduction is maintained at the previous level of 50 percent of the projected revenues from the PFC in the fiscal year but not more than 50 percent of the amount of AIP formula monies that otherwise would be apportioned. However, in the case of a PFC level of more than $3, the reduction is set at 75 percent of the projected revenues from the PFC in the fiscal year but not more than 75 percent of the amount of AIP formula monies that otherwise would be apportioned. Section 158.95 is amended to reflect these statutory provisions. This means, in the case of an airport raising its PFC level from $3 to more than $3, the higher reduction of apportionments would take place in the first fiscal year following the year in which the collection of the PFC level of more than $3 is begun.

Section 158.97 Special Rule for Transitioning Airports

AIR 21 provides that certain small hub airports transitioning to medium hub airport status are protected through FY 2003 against a loss in combined year-to-year AIP apportionment and PFC revenues caused by entitlement reductions under 49 U.S.C. 47114(f) (the amended § 158.95). Accordingly, a new section § 158.97 is added in accordance with this statutory requirement. This provision applies to FY 2000 through FY 2003.

Regulatory Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that

each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Trade Agreement Act of 1979 directs agencies to assess the effect of regulatory changes on international trade. Fourth, Public Law 104–4 requires federal agencies to assess the impact of any federal mandates on state, local, tribal governments, and the private sector. In conducting these analyses, the FAA has determined this final rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and, therefore, is not subject to review by the Office of Management and Budget. This final rule is not considered significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11034, February 26, 1979). This final rule would not have a significant impact on a substantial number of small entities. In addition, this rule would not constitute a barrier to international trade. Finally, the FAA has determined that the proposal would not impose a federal mandate on state, local, or tribal governments, or the private sector of $100 million per year.

Benefit-Cost Analysis

This final rule amends part 158 to be consistent with current statutes governing the PFC program. These new statutory provisions will enable airport authorities to increase the PFC in order to collect more funds for enhancing the safety, security and capacity of their facilities; reducing noise in nearby communities; and enhancing airline competition to the benefit of air travelers. The FAA estimates that up to $750 million annually in PFC funds will be made available to airports to make these improvements. As a result of the higher percentage of returned AIP apportioned funds attributable to these higher PFC collections, an additional $72 million in AIP funding could be available to small airports by FY 2002. Under the provisions of the statute, this amount would be almost doubled through FY 2003 if AIP funds are appropriated at $3.2 billion or more. Some air travelers will incur a small increase (1–2 percent) in the cost of their ticket to obtain these benefits although over the long run these passengers will receive compensating benefits from improved infrastructure financed with the higher PFC funds. These costs reflect the voluntary action of airports and are not required either by statute or the current amendment to the rule. The costs of implementing the mandated changes in the PFC program application and administrative procedures are costs attributable to the statute and are not costs of this rule.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires the FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact their local FAA official. Internet users can find additional information on SBREFA on the FAA's web page at *http://www.faa.gov/avr/arm/sbrefa.htm* and may send electronic inquiries to the following Internet address: *9-AWA-SBREFA@faa.gov.*

Paperwork Reduction Act

Information collection requirements in the amendment to part 158 previously have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), and have been assigned OMB Control Number 2120–0557. Some relatively minor requirements for information collections are associated with this amendment, and these are required by AIR 21. The additional paperwork submission requirements will not become mandatory until FAA provides for notice and comment, and the changes are submitted to OMB for review and approval.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA determined that there are no ICAO Standards and Recommended Practices that correspond to these regulations.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis (RFA) as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 act provides that the head of the agency may so certify and an RFA is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

All costs are fully recoverable through the PFC, if approved. Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Federal Aviation Administration certifies that this rule will not have a significant impact on a substantial number of small entities.

International Trade

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. In addition, consistent with the Administration's belief in the general superiority and desirability of free trade, it is the policy of the Administration to remove or diminish, to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods and services to foreign countries and barriers affecting the import of foreign goods and services into the United States.

In accordance with the above statute and policy, the FAA has assessed the potential affect of this final rule and has determined that it will impose the same costs on domestic and international entities for comparable services and thus has a neutral trade impact.

Executive Order 13132, Federalism

The FAA has analyzed this action under the principles and criteria of Executive Order 13132, Federalism. We

determined that this action 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, we determined that this action does not have federalism implications.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (the Act) codified in 2 U.S.C. 1501–1571, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule 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 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed ''significant intergovernmental mandate.'' A ''significant intergovernmental mandate'' under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of $100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

This final rule does not contain a Federal intergovernmental or private sector mandate that exceeds $100 million a year. While PFC collections are likely to increase by at least $100 million per year, the cause of that impact is not the rule but the statute that permits the increase in the maximum PFC level. The increase will be triggered by the decisions of individual public agencies to seek the increase and not by any action of the federal government. If a project meets the statutory criteria for approval, the FAA must approve the project. Moreover, any increase costs associated with obtaining approval to impose the higher fee are fully recoverable through PFC funding.

Environmental Analysis

The FAA concludes that issuance of this final rule is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. The potential environmental effects of any project funded with PFC revenues are already addressed under § 158.29(b)(1)(iv), which requires all applicable requirements pertaining to the National Environmental Policy Act of 1969 (NEPA) to be satisfied before the Administrator may approve the project to use PFC funds. A copy of this assessment has been placed in the docket.

Energy Impact

The energy impact of the notice has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Pub. L. 94–163, as amended (43 U.S.C. 6362) and FAA Order 1053.1. It has been determined that the rule is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 14 CFR Part 158

Air carriers, Airports, Passenger facility charge, Public agencies, Reporting and recordkeeping requirements.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 158 of Title 14 of the Code of Federal Regulations as follows:

PART 158—PASSENGER FACILITY CHARGES (PFC'S)

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

Authority: 49 U.S.C. 106(g), 40116–40117, 47106, 47111, 47114–47116, 47524, 47526.

2. Revise § 158.1 to read as follows:

§ 158.1 Applicability.

This part applies to passenger facility charges (PFC's) as may be approved by the Administrator of the Federal Aviation Administration (FAA) and imposed by a public agency that controls a commercial service airport. This part also describes the procedures for reducing funds to a large or medium hub airport that imposes a PFC.

3. Amend § 158.3 as follows:

a. Amend the definition of *Allowable cost* by adding a new sentence at the end of the definition.

b. Revise the definitions of *Commercial service airport* and *Public agency;*

c. Add definitions of *Covered airport, Frequent flyer award coupon, Medium or large hub airport,* and *Nonrevenue passenger,* in alphabetical order. The revisions and additions read as follows:

§ 158.3 Definitions.

* * * * *

Allowable cost * * * Costs of terminal development incurred after August 1, 1986, at an airport that did not have more than .25 percent of the total annual passenger boardings in the U.S. in the most recent calendar year for which data is available and at which total passenger boardings declined by at least 16 percent between calendar year 1989 and calendar year 1997 are allowable.

* * * * *

Commercial service airport means a public airport that annually enplanes 2,500 or more passengers and receives scheduled passenger service of aircraft.

Covered airport means a medium or large hub airport at which one or two air carriers control more than 50 percent of passenger boardings.

* * * * *

Frequent flier award coupon means a zero-fare award of air transportation that an air carrier or foreign air carrier provides to a passenger in exchange for accumulated travel mileage credits in a customer loyalty program, whether or not the term ''frequent flier'' is used in the definition of that program. The definition of ''frequent flier award coupon'' does not extend to redemption of accumulated credits for awards of additional or upgraded service on trips for which the passenger has paid a published fare, ''two-for-the-price-of-one'' and similar marketing programs, or to air transportation purchased for a passenger by other parties.

* * * * *

Medium or large hub airport means a commercial service airport that has more than 0.25 percent of the total number of passenger boardings at all such airports in the U.S. for the prior calendar year, as determined by the Administrator.

Nonrevenue passenger means a passenger receiving air transportation from an air carrier or foreign air carrier for which remuneration is not received by the air carrier or foreign air carrier as defined under Department of Transportation Regulations or as otherwise determined by the Administrator. Air carrier employees or others receiving air transportation against whom token service charges are levied are considered nonrevenue passengers. Infants for whom a token fare is charged are also considered nonrevenue passengers.

* * * * *

Public agency means a State or any agency of one or more States; a municipality or other political subdivision of a State; an authority created by Federal, State or local law; a tax-supported organization; an Indian tribe or pueblo that controls a commercial service airport; or for the purposes of this part, a private sponsor of an airport approved to participate in the Pilot Program on Private Ownership of Airports.

* * * * *

4. Amend § 158.5 by revising the first sentence to read as follows:

§ 158.5 Authority to impose PFC's.

Subject to the provisions of this part, the Administrator may grant authority to a public agency that controls a commercial service airport to impose a PFC of $1, $2, $3, $4, or $4.50 on passengers enplaned at such an airport.

* * *

5. Amend § 158.7 by revising paragraph (a) to read as follows:

§ 158.7 Exclusivity of authority.

(a) A State, political subdivision of a State, or authority of a State or political subdivision that is not the eligible public agency may not tax, regulate, prohibit, or otherwise attempt to control in any manner the imposition or collection of a PFC or the use of PFC revenue.

* * * * *

6. Amend § 158.9 by revising paragraph (a) to read as follows:

§ 158.9 Limitations.

(a) No public agency may impose a PFC on any passenger—

(1) For more than 2 boardings on a one-way trip or in each direction of a round trip;

(2) On any flight to an eligible point on an air carrier that receives essential air service compensation on that route. The Administrator makes available a list of carriers and eligible routes determined by the Department of Transportation for which PFC's may not be imposed under this section;

(3) Who is a nonrevenue passenger or obtained the ticket for air transportation with a frequent flier award coupon;

(4) On flights, including flight segments, between 2 or more points in Hawaii; or

(5) In Alaska aboard an aircraft having a certificated seating capacity of less than 60 passengers.

* * * * *

7. Revise § 158.11 to read as follows:

§ 158.11 Public agency request not to require collection of PFC's by a class of air carriers or foreign air carriers or for service to isolated communities.

(a) Subject to the requirements of this part, a public agency may request that collection of PFC's not be required for—

(1) Passengers enplaned by any class of air carrier or foreign air carrier if the number of passengers enplaned by the carriers in the class constitutes not more than one percent of the total number of passengers enplaned annually at the airport at which the fee is imposed; or

(2) Passengers enplaned on a flight to an airport—

(i) That has fewer than 2,500 passenger boardings each year and receives scheduled passenger service; or

(ii) In a community that has a population of less than 10,000 and is not connected by a land highway or vehicular way to the land-connected National Highway System within a State.

(b) The public agency may request this exclusion authority under paragraph (a)(1) or (a)(2) of this section or both.

8. Amend § 158.15 by revising the section heading, by revising paragraphs (b) introductory text and (b)(1) through (b)(5), by adding a new sentence to the end of paragraph (b)(6), and by adding new paragraph (c) to read as follows:

§ 158.15 Project eligibility at PFC levels of $1, $2, or $3.

* * * * *

(b) Eligible projects are any of the following projects—

(1) Airport development eligible under subchapter I of chapter 471 of 49 U.S.C.;

(2) Airport planning eligible under subchapter I of chapter 471 of 49 U.S.C.;

(3) Terminal development as described in 49 U.S.C. 47110(d);

(4) Airport noise compatibility planning as described in 49 U.S.C. 47505;

(5) Noise compatibility measures eligible for Federal assistance under 49 U.S.C. 47504, without regard to whether the measures have been approved pursuant to 49 U.S.C. 47504; or

(6) * * * In the case of a project required to enable additional air service by an air carrier with less than 50 percent of the annual passenger boardings at an airport, a project for constructing gates and related areas may include structural foundations and floor systems, exterior building walls and load-bearing interior columns or walls, windows, door, and roof systems, building utilities (including heating, air conditioning, ventilation, plumbing, and electrical service), and aircraft fueling facilities adjacent to the gate.

(c) An eligible project must be adequately justified to qualify for PFC funding.

9. Add § 158.17 to subpart A to read as follows:

§ 158.17 Project eligibility at PFC levels of $4 or $4.50.

(a) A project for any airport is eligible for PFC funding at levels of $4 or $4.50 if—

(1) The project meets the eligibility requirements of § 158.15;

(2) The project costs requested for collection at $4 or $4.50 cannot be paid for from funds reasonably expected to be available for the programs referred to in 49 U.S.C. 48103; and

(3) In the case of a surface transportation or terminal project, the public agency has made adequate provision for financing the airside needs of the airport, including runways, taxiways, aprons, and aircraft gates.

(b) In addition, a project for a medium or large airport is only eligible for PFC funding at levels of $4 or $4.50 if the project will make a significant contribution to improving air safety and security, increasing competition among air carriers, reducing current or anticipated congestion, or reducing the impact of aviation noise on people living near the airport.

10. Add § 158.19 to subpart A to read as follows:

§ 158.19 Requirement for competition plans.

(a) Beginning in fiscal year 2001, no public agency may impose a PFC with respect to a covered airport unless the public agency has submitted a written competition plan. This requirement does not apply to PFC authority approved prior to April 5, 2000.

(b) The Administrator will review any plan submitted under paragraph (a) of this section to ensure that it meets the requirements of 49 U.S.C. 47106(f) and periodically will review its implementation to ensure that each covered airport successfully implements its plan.

11. Amend § 158.23 by revising paragraph (a)(2) to read as follows:

§ 158.23 Consultation with air carriers and foreign air carriers.

(a) * * *

(2) The PFC level for each project, the proposed charge effective date, the estimated charge expiration date, and the estimated total PFC revenue;

* * * * *

12. Amend § 158.25 by revising paragraphs (b)(7) and (b)(8) to read as follows:

§ 158.25 Applications.

* * * * *

(b) * * *

(7) The project justification, including the extent to which the project achieves one or more of the objectives set forth in § 158.15(a) and (if a PFC level above $3 is requested) the requirements of § 158.17. In addition—

(i) For any project for terminal development, including gates and related areas, the public agency shall discuss any existing conditions that limit competition between and among air carriers and foreign air carriers at the airport, any initiatives it proposes to foster opportunities for enhanced competition between and among such carriers, and the expected results of such initiatives; or

(ii) For any terminal development project at a covered airport, the public agency shall submit a competition plan in accordance with § 158.19.

(8) The charge to be imposed for each project.

* * * * *

13. Amend § 158.29 by revising paragraphs (a)(1)(ii), (a)(1)(iii), (a)(1)(v), (a)(1)(vi), (a)(2), (b)(1)(ii), (b)(1)(iii), (b)(1)(iv) and (b)(2) and by adding paragraphs (a)(1)(vii) and (a)(1)(viii) to read as follows:

§ 158.29 The Administrator's decision.

(a) * * *

(1) * * *

(ii) The project will achieve the objectives and criteria set forth in § 158.15;

(iii) If a PFC level above $3 is being approved, the project meets the criteria set forth in § 158.17;

* * * * *

(v) The public agency has not been found to be in violation of 49 U.S.C. 47524 and 47526;

(vi) The public agency has not been found to be in violation of 49 U.S.C. 47107(b) governing the use of airport revenue;

(vii) If the public agency has not applied for authority to use PFC revenue, a finding that there are alternative uses of the PFC revenue to ensure that such revenue will be used on approved projects; and

(viii) If applicable, the public agency has submitted a competition plan in accordance with § 158.19.

(2) The Administrator notifies the public agency in writing of the decision on the application. The notification will list the projects and alternative uses that may qualify for PFC financing under § 158.15, and (if a PFC level above $3 is being approved) § 158.17, PFC level, total approved PFC revenue including the amounts approved at $3 and less, $4, and/or $4.50, duration of authority to impose and earliest permissible charge effective date.

(b) * * *

(1) * * *

(ii) The project will achieve the objectives and criteria set forth in § 158.15;

(iii) If a PFC level above $3 is being approved, the project meets the criteria set forth in § 158.17; and

(iv) All applicable requirements pertaining to the ALP for the airport, airspace studies for the project, and the National Environmental Policy Act of 1969 (NEPA), have been satisfied.

(2) The Administrator notifies the public agency in writing of the decision on the application. The notification will list the approved projects, PFC level, total approved PFC revenue, total approved for collection, including the amounts approved at $3 and less, $4, and/or $4.50, and any limit on the duration of authority to impose a PFC as prescribed under § 158.33.

* * * * *

§ 158.31 [Amended]

14. In § 158.31(d), remove the words ''section 9304(e) or 9703 of the Airport Noise and Capacity Act of 1990 (Pub. L. 101–508, Title IX, subtitle D)'' and add, in their place, the words ''49 U.S.C. 47524 and 47526''.

15. Amend § 158.37 by revising paragraph (b)(1) and adding three sentences at the end of paragraph (b)(2) to read as follows:

§ 158.37 Amendment of approved PFC.

* * * * *

(b) * * *

(1) With the exception of a change in PFC level to more than $3 or an amendment of a PFC that is subject to a competition plan under § 158.19, in the event of no carrier disagreement with a change proposed under this paragraph (b), the public agency may institute the proposed amendment unless, within 30 days after providing the notification required under this paragraph (b), it is notified otherwise by the Administrator.

(i) If a PFC level of more than $3 is requested, the Administrator notifies the public agency that the conditions of § 158.17 have been met before the higher level can be instituted.

(ii) If a PFC amendment that is subject to the competition plan requirement is submitted, the Administrator notifies the public agency that the plan satisfies the requirements of § 158.19.

(iii) The public agency shall notify the carriers of the effective date of any change to the approved PFC resulting from the amendment, subject to the limitation that the effective date of any new charge shall be no earlier than the first day of a month which is at least 60 days from the time the public agency notifies the carriers.

(2) * * * If a PFC level of more than $3 is requested, the Administrator must find that the conditions of § 158.17, and § 158.19 if applicable, have been met before that PFC level can be instituted. If the amendment is approved, the Administrator advises the public agency and notification to the carriers will be as provided under paragraph (b)(1) of this section. The notification to the carrier includes any findings required by § 158.17 or § 158.19.

16. Amend § 158.45 by revising paragraph (d) to read as follows:

§ 158.45 Collection of PFC's on tickets issued in the U.S.

* * * * *

(d) In addition to the restriction in paragraph (c) of this section, issuing carriers and their agents shall not collect PFC's from a passenger covered by any of the other limitations described in § 158.9(a).

* * * * *

17. Amend § 158.49 by revising paragraph (b) to read as follows:

§ 158.49 Handling of PFC's.

* * * * *

(b) PFC revenue must be accounted for separately by collecting carriers, but the revenue may be commingled with the carrier's other sources of revenue. The PFC revenues that are held by an air carrier or an agent of the carrier after collection of a PFC constitute a trust fund that is held by the air carrier or agent for the beneficial interest of the public agency imposing the PFC. Such carrier or agent holds neither legal nor equitable interest in the PFC revenues except for any handling fee or retention of interest collected on unremitted proceeds as authorized in § 158.53.

* * * * *

18. Amend § 158.63 by revising paragraphs (a) and (c) to read as follows:

§ 158.63 Reporting requirements: Public agency.

(a) The public agency shall provide quarterly reports to carriers collecting PFC's for the public agency with a copy to the appropriate FAA Airports office. The quarterly report shall include PFC revenue received from collecting carriers, interest earned, and expenditures for the quarter; cumulative PFC revenue received, interest earned, expenditures, and the amount

committed for use on currently approved projects, including the quarter; the PFC level for each project; and the current project schedule.

* * * * *

(c) For medium or large hub airports, the public agency must provide the FAA, by August 1 of each year, an estimate of PFC revenue to be collected for each such airport in the ensuing fiscal year.

§§ 158.71, 158.81, and 158.83 [Amended]

19. Remove the words ''section 1113(e) of the Federal Aviation Act'' and add, in their place, the words ''49 U.S.C. 40117'' in the following places:

a. § 158.71(a) and (b);

b. § 158.81; and

c. § 158.83.

§ 158.87 [Amended]

20. In § 158.87, in paragraph (a) remove the words ''section 507 of the AAIA of 1982, 49 U.S.C. App. 2206'' and add, in their place, the words ''49 U.S.C. 47114''; and, in paragraph (c) remove the words ''49 U.S.C. App. 2218'' and add, in their place, the words ''49 U.S.C. 47111(d)''.

§ 158.93 [Amended]

21. In § 158.93 introductory text, remove the words ''section 507(a)(1) of the Airport and Airway Improvement Act of 1982'' and add, in their place, the words ''49 U.S.C. 47114''.

22. Section 158.95 is amended by revising paragraphs (a) and (b) to read as follows:

§ 158.95 Implementation of reduction.

(a) A reduction in apportioned funds will not take effect until the first fiscal year following the year in which the collection of the PFC is begun and will be applied in each succeeding fiscal year in which the public agency imposes the PFC.

(b) The reduction in apportioned funds is calculated at the beginning of each fiscal year and shall be an amount equal to—

(1) In the case of a fee of $3 or less, 50 percent of the projected revenues from the fee in the fiscal year but not by more than 50 percent of the amount that otherwise would be apportioned under this section; and

(2) In the case of a fee of more than $3, 75 percent of the projected revenues from the fee in the fiscal year but not by more than 75 percent of the amount that otherwise would be apportioned under this section.

* * * * *

23. Add § 158.97 to subpart F to read as follows:

§ 158.97 Special rule for transitioning airports.

(a) Beginning with the fiscal year following the first calendar year in which an airport has more than .25 percent of the total number of boardings in the U.S., the sum of the amount that would be apportioned under 49 U.S.C. 47114 to the public agency controlling that airport in a fiscal year, after application of § 158.95, and the projected PFC revenues to be collected in such fiscal year, shall not be less than the sum of the apportionment to such airport for the preceding fiscal year and the PFC revenues collected in the preceding fiscal year.

(b) Paragraph (a) of this section shall apply for fiscal years 2000 through 2003.

Appendix A to Part 158 [Amended]

24. In Appendix A to part 158, in paragraph A.2 remove the words ''the Aviation Safety and Capacity Expansion Act of 1990'' and add, in their place, the words ''49 U.S.C. 40117''; and in paragraph B.12 remove the words ''sections 9304 and 9307 of the Airport Noise and Capacity Act of 1990'' and add, in their place, the words ''49 U.S.C. 47524 and 47526''.

Issued in Washington, DC, May 23, 2000.

Jane F. Garvey,

Administrator.

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May 30, 2000

Part III

Department of Education

[CFDA No. 84.214A]

Migrant Education Even Start Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2000; Notice

DEPARTMENT OF EDUCATION

[CFDA No. 84.214A]

Migrant Education Even Start Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2000

AGENCY: Department of Education.

Note to Applicants

This notice is a complete application package. Together with the statute authorizing the program and the Education Department General Administrative Regulations, the notice contains all of the information, application forms, and instructions needed to apply for a grant under this competition.

Purpose of Program

The Migrant Education Even Start (MEES) program is designed to help break the cycle of poverty and improve the literacy of participating migrant families by integrating early childhood education, adult literacy or adult basic education (including English language training, as appropriate), and parenting education into a unified family literacy program.

Eligible Applicants

While any entity is eligible to apply for a grant under the MEES program, the Secretary specifically invites applications from State educational agencies (SEAs) that administer migrant education programs; local educational agencies (LEAs) that have a high percentage of migrant students; and non-profit community-based organizations that work with migrant families.

Deadlines and Awards

Deadline for Transmittal of Applications: July 14, 2000.

Deadline for Intergovernmental Review: September 12, 2000.

Available Funds: For FY 2000, approximately $3,600,000 is available for new grants under this program.

Estimated Range of Awards: $75,000–$300,000.

Estimated Average Size of Awards: $200,000.

Estimated Number of Awards: 16–18.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 48 months.

Applicable Regulations

(a) The Education Department General Administrative Regulations as follows:

(1) 34 CFR Part 74 (Administration of Grants and Agreements with Institutions of Higher Education, Hospitals, and Nonprofit Organizations).

(2) 34 CFR Part 75 (Direct Grant Programs).

(3) 34 CFR Part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) 34 CFR Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(6) 34 CFR Part 81 (General Education Provisions Act—Enforcement).

(7) 34 CFR Part 82 (New Restrictions on Lobbying).

(8) 34 CFR Part 85 (Governmentwide Debarment and Suspension (Non-procurement)) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(9) 34 CFR Part 97 (Protection of Human Subjects).

(10) 34 CFR Part 98 (Student Rights in Research, Experimental Programs, and Testing).

(11) 34 CFR Part 99 (Family Educational Rights and Privacy).

(b) The definitions of a migratory child, a migratory agricultural worker and a migratory fisher contained in 34 CFR 200.40.

Description of Program

Under the authority of section 1202(a)(1)(A) of the Elementary and Secondary Education Act, as amended (ESEA), the Assistant Secretary for Elementary and Secondary Education (Assistant Secretary) awards grants to eligible applicants under the MEES program for projects that—

(1) Improve the educational opportunities of migrant families by integrating early childhood education, adult literacy or adult basic education (including English language training, as appropriate), and parenting education into a unified program of family literacy services.

Note: The term ''family literacy services'' is defined in ESEA section 1202(e) as services provided to participants on a voluntary basis that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family, and that integrate all of the following activities:

(A) Interactive literacy activities between parents and their children.

(B) Training for parents regarding how to be the primary teacher for their children and full partners in the education of their children.

(C) Parent literacy training that leads to economic self-sufficiency.

(D) An age-appropriate education to prepare children for success in school and life experiences.

(2) Implement cooperative activities that build on existing community resources to create a new range of services to migrant families.

(3) Promote school readiness, early reading acquisition, adult literacy and lifelong learning, and parent involvement and participation in their child's education.

(4) Where possible, use research-based strategies for developing literacy and reading proficiency and, where applicable, second language acquisition.

(5) Assist children and adults from migrant families to achieve challenging State content standards and challenging State student performance standards.

Program Requirements

(a) Eligible Participants

Eligible MEES participants consist of migratory children and their parents as defined in 34 CFR 200.30 and 200.40 who also meet the following conditions specified in section 1206(a) of the ESEA:

(1) The parent or parents—

(i) Are eligible for participation in an adult basic education program under the Adult Education Act and Family Literacy Act; or

(ii) Are within the State's compulsory school attendance age range, so long as a local educational agency provides (or ensures the availability of) the basic education component required under this part; and

(2) The child or children must be younger than eight years of age.

Note: Family members of eligible participants described in paragraphs (a)(1) and (a)(2) may also participate in MEES activities. These participants include siblings, grandparents, and other family members as long as one or more eligible children and their parents or guardian participate in the core services. In addition, section 1206(b) of the ESEA permits families to remain eligible for MEES services until all family members become ineligible to participate. For example, in the case of a family in which the parent or parents lose eligibility because of their educational advancement, the parent or parents can still participate in MEES activities until all children in the family reach age eight. If all children in the family have reached the age of eight, the family continues to be eligible for Even Start services for two more years (until the youngest participating child turns ten) or until the parents are no longer eligible for adult basic education under the Adult Education and Family Literacy Act, whichever occurs first. In addition, the Department interprets 34 CFR 200.30 together with section 1206(b) of ESEA to mean that MEES

services can continue to be provided to a parent or child who is no longer migratory, provided that the family has at least one parent or child who is a migratory worker or migratory child as these terms are defined under 34 CFR 200.40.

(b) Required Program Elements

Any MEES project must, at a minimum, incorporate the following program elements specified in section 1205 of the ESEA:

• Identification and recruitment of migrant families most in need of MEES services, as indicated by a low level of income, a low level of adult literacy or English language proficiency of the eligible parent or parents, and other need-related indicators. (**Note:** MEES program services may be provided in communities where migratory families have resided for extended periods of time. 34 CFR 200.30 and 200.40 make children eligible for MEES services up to three years after they make a move that makes the children eligible for the Migrant Education Program (MEP). However, in developing and using their need-related indicators to identify and recruit those migrant families most in need of MEES program services, the Secretary believes that the most effective MEES projects are likely to focus on families that are highly mobile or who have only recently moved to the communities that those projects serve. In this regard, the MEP statute (section 1304(d) of the ESEA) provides that migrant students whose education has been interrupted and who are at most risk of failing must be given a priority in services that the program offers. While this MEP priority is not an explicit requirement of the MEES program, one would assume, because of the purpose of the MEES program, that the highly mobile families whose children receive a priority under the MEP also have the greatest need for MEES services.)

• Screening and preparation of parents, including teenage parents, to enable these parents to participate fully in program activities and services, including testing, referral to counseling, other developmental and support services, and related services.

• High-quality, intensive instructional programs that promote adult literacy and empower parents to support the educational growth of their children, developmentally appropriate early childhood educational services, and preparation of children for success in the regular school programs.

• A design for service delivery that accommodates the participants' work schedules and other responsibilities, including the provision of support services, when such services are unavailable from other sources, necessary for participation in project activities, such as—

Scheduling and locating of services to allow joint participation by parents and children;

Child care for the period that parents are involved in the project activities.

• Transportation for the purpose of enabling parents and their children to participate in project activities.

• Special training of staff, including child care staff, to develop the skills necessary to work with parents and young children in the full range of instructional services offered through the Even Start Family Literacy program.

• Providing and monitoring integrated instructional services to participating parents and children through home-based activities.

• Operation on a year-round basis, including the provision of some program services, instructional or enrichment, during the summer months.

• Appropriate coordination with other programs funded under the ESEA, any relevant programs under the Adult Education and Family Literacy Act, the Individuals with Disabilities Education Act, the Workforce Investment (Employment Training) Act, Head Start, volunteer literacy programs, and other relevant programs. (**Note:** In addition, to promote strong community collaboration, sections 1202(e) and 1207(a) of the ESEA require applicants for grants under the basic Even Start Family Literacy program administered by SEAs to be partnerships composed of (1) a local educational agency (LEA), and (2) a non-profit community-based organization, a public agency other than an LEA, an institution of higher education, or a public or private nonprofit organization of demonstrated quality other than an LEA. While these provisions are not requirements of the MEES program, the Secretary believes that the most effective MEES projects are also likely to contain strong, on-going collaborative relationships among these kinds of local entities.)

• Ensure that the project will serve families most in need of MEES family literacy services.

• An independent local evaluation. (**Note:** The Secretary encourages projects to use local evaluators for MEES projects who understand the family literacy model, are able to work with the project as a partner in designing the evaluation, and will help the project use its evaluation results in an on-going way for continuous program improvement.)

(c) Federal and Local Funding

A MEES project's funding is comprised of both a Federal portion of funds (Federal share) and a portion contributed by the eligible applicant (local share). However, the Federal share of the program may not exceed—

• 90 percent of the total cost of the project in the first year;

• 80 percent in the second year;

• 70 percent in the third year;

• 60 percent in the fourth year;

• 50 percent in the fifth, sixth, seventh, and eighth years; and

• 35 percent in any following year.

The local share of the MEES project may be provided in cash or in kind and may be obtained from any source, including other Federal programs funded under the ESEA. Indirect costs are not an allowable cost either for the Federal share or the matching portion of a MEES project.

Invitational Priority

The Secretary is especially interested in receiving applications that include a plan demonstrating that grant activities will focus on one or more approaches described in this section. However, an application that meets one of more of these invitational priorities does not receive competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Coordination across SEAs and local school districts is at the heart of migrant education's purpose: To mitigate disruptions in the education of qualifying migrant students. Short-term MEES seasonal projects can provide intensity of services to migratory families, but those projects may not be of sufficient duration to demonstrate long-term gains for students or to increase the level of economic self-sufficiency of migrant parents, and may be another disruption in completing the family's educational goals.

Therefore, to promote opportunities for continuous learning by migrant families, the Secretary is particularly interested in receiving applications that propose to include one or more of the following activities—

• Coordinate continuing family literacy services across State and local school district boundaries to meet the needs of highly mobile migrant agricultural families.

• Coordinate their activities with State and local endeavors to improve family literacy services; promote early reading proficiency, employ Federal Work-Study tutoring programs; create partnerships for family involvement in education; or other initiatives that foster early school success.

• Support the unique needs of single parent migrant families whose needs for child care and instructional services do not align with traditional schedules for educational and family support services.

• Build networks with agricultural employers to coordinate and integrate resources that support English literacy for migrant agricultural families with limited English proficiency needs.

Selection Criteria

The Secretary uses the following selection criteria to evaluate applications for grants under this competition.

(1) The maximum score for all of these criteria is 100 points.

(2) The maximum score for each criterion is indicated in parentheses.

(a) Meeting the Purposes of the Authorizing Statute (5 Points)

The Secretary reviews each application to determine how well the project will—

(1) Improve the educational opportunities of migrant families by integrating early childhood education, adult literacy or adult basic education (including English language training, as appropriate), and parenting education into a unified family literacy program.

(2) Be implemented through cooperative projects that build on existing community resources to create a new range of services to migrant families.

(3) Promote the achievement of family literacy goals (particularly the goals that address school readiness, student achievement, adult literacy, and parent involvement and participation in their child's early education) through research-based reading and English-language acquisition practices that meet the diverse needs of the migrant community of learners.

(4) Assist children and adults from migrant families to achieve the challenging State content standards and challenging State student performance standards.

(b) Need for Project (20 Points)

The Secretary considers the need for the proposed project. In determining the need for the proposed project, the Secretary considers the following factors:

(1) The magnitude of the need for the services to be provided or the activities to be carried out by the proposed project.

(2) The extent to which the proposed project will focus on serving or otherwise addressing the needs of disadvantaged individuals (*i.e.,* eligible migrant agricultural or fishing families).

(3) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

Note: Applicants are free to address criterion (b) in any way that they wish. However, given the purpose of the MEES program, the Secretary believes that high-quality applications will likely include a discussion of the following key elements:

(i) How the project would be located in an area or areas with high percentages or large numbers of migratory children and their parents, guardians, or primary caretakers in need of MEES services.

(ii) How the project will address the lack of existing comprehensive family literacy services for the migrant population.

(iii) How community resources will be used to benefit project participants both during the participants' period of eligibility for migrant education services, and in the event that participating families lose their eligibility for MEES services during the project period.

(iv) How the project will integrate child development, adult literacy, and parenting activities.

(v) How the project will assist migrant children and adults to achieve the State content standards and student performance standards.

In addition, some migrant families may settle in a community during their enrollment and therefore cease to meet the eligibility requirements outlined in the Program Requirements section of this notice; therefore, the Secretary also believes that high-quality applications will likely include a plan for ensuring that these families have ongoing access to family literacy services when their enrollment can no longer be supported with basic MEP or MEES program funds. In this regard, an applicant might, for example, consider providing a succinct description of how the project will fill any gaps in services, or how it will connect families with existing resources or services as they settle in the community.

(c) Quality of the Project Design (20 Points)

The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(1) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

(2) The extent to which the project is designed to build capacity and yield results that will extend beyond the period of Federal financial assistance.

(3) The extent to which the proposed project will establish linkages with other appropriate agencies and organizations providing services to the target population.

Note: Applicants are free to address criterion (c) in any way that they wish. However, the Secretary believes that, in designing their project, high-quality applications likely will address each of the required program elements in section 1205 of the ESEA and listed in the Program Requirements section of this notice. In this regard, the Secretary believes that a high-quality application likely would explain how its proposed design addresses each one of those requirements in order to fully meet the needs of its target population. For example, given the mobility of the migrant population to be served by the MEES program, the Secretary believes that high-quality applications will likely include strategies that support family education plans whether or not families are resident in a community throughout a given project year or its continuation years.

In addressing the requirement that projects conduct family literacy services year-round, the Secretary acknowledges that migrant families may reside in communities for varying lengths of time. Therefore, the Secretary interprets the requirement that projects operate on a year-round basis to mean that project activities must be conducted not only throughout the period in which participating migrant families reside in the project area, as well as times when alternative activities or services, or both, are offered. The Secretary strongly encourages applicants to explore ways to maintain contact and continue to monitor the progress of highly mobile families whether or not they are resident in the applicant's community.

Examples of strategies that address the requirement for year-round operations and ongoing family participation when families do not reside in the project area may include distance learning; capacity building and partnership efforts with sending and receiving States and school districts; self-paced learning packages; and other materials, technologies, and activities that make year-round literacy services viable and family-friendly for migrant workers.

(d) Quality of Project Services (20 Points)

The Secretary considers the quality of the services to be provided by the proposed project. In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. In addition, the Secretary considers the following factors:

(1) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services.

(2) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice.

(3) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services.

(4) The extent to which the services provided by the proposed project are focused on those with the greatest needs.

(5) The likelihood that the services to be provided by the proposed project will lead to improvements in the achievement of students as measured against rigorous academic standards.

(e) *Adequacy of Resources* (15 Points)

The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(1) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project.

(2) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(3) The potential for continued support of the project after Federal funding ends, including, as appropriate, the demonstrated commitment of appropriate entities to such support.

(4) The extent to which costs are reasonable in relation to the number of persons to be served and the anticipated results and benefits.

(f) Quality of the Project Evaluation. (20 Points)

The Secretary considers the quality of the evaluation to be conducted of the proposed project.

In determining the quality of the evaluation, the Secretary considers the following factors:

(1) The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies.

(2) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

(3) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(4) The extent to which methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(5) The extent to which the evaluation will provide guidance about effective strategies suitable for replication or testing in other settings.

Note: Applicants are free to address criterion (f) in any way they wish. However, Section 1205(10)of the ESEA requires applicants must conduct an independent evaluation of their project. In addition, they must participate in the national Even Start data collection effort. Given these two requirements, the Secretary believes that high-quality applications are likely to address this criterion by explaining how the project will conduct an ongoing, independent, local evaluation to ensure that the quality of the proposed family literacy services are validated and improved over the course of the four-year project period.

In addition, the Secretary believes that high-quality applicants would likely bear in mind the following information in considering how they intend to report the effectiveness of their project. Funded projects are required to complete an annual performance report on their progress in meeting the approved objectives of their grant to ensure continued funding. These reports and other evaluation information provide local projects, the Department, and the Congress with objective data about the activities and services provided by the project, the participants served, the retention rates of those participants, and the success of the families in the project. The Department has also developed a set of performance indicators for the Even Start Family Literacy Program in accordance with the Government Performance and Results Act (GPRA) that relate to participant outcomes and project management. These indicators are appended to this application package. The Secretary encourages applicants to refer to these indicators when developing their evaluation plans, as the Department uses these indicators in reporting to the Congress on the overall effectiveness of the program.

The following items are not part of the program's selection criteria, but provide additional information for applicants.

National Evaluation

The Department is conducting a national evaluation of Even Start Family Literacy projects. MEES program grantees must cooperate with the Department's efforts by adopting an evaluation plan that is consistent with the national evaluation (as well as with the grantee's responsibilities under section 1205(10) of the ESEA and 34 CFR 74.51, 75.118, 75.253, and 80.40).

The Secretary suggests that each applicant budget for evaluation activities as follows: in addition to the costs of planning and conducting an independent local evaluation, a project with an estimated budget of up to $120,000 should designate $5,000 for this purpose; and a project with an estimated cost of over $120,000 should designate $10,000 for these activities. These funds will be used for expenditures related to the collection and entry of data required for the Department's national evaluation. The Secretary also recommends that applicants budget for the cost of travel to Washington, DC and three nights' lodging for the project director and project evaluator, for their participation in annual technical assistance/evaluation meetings.

Government Performance Results Act: Even Start Performance Indicators

Even Start Family Literacy Program Performance Plan: Objectives and Indicators

Objective 1. The literacy of participating families will improve.

1.1 Adult literacy achievement. Increasing percentages of Even Start adults will achieve significant learning gains on measures of math and reading skills.

1.2 Adult educational attainment. Increasing percentages of adult secondary education Even Start participants will obtain their high school diploma or equivalent.

1.3 Children's language development and reading readiness.

Increasing percentages of Even Start children will achieve significant gains on measures of language development and reading readiness.

1.4 Parenting skills. Increasing percentages of parents will show significant improvement on measures of parenting skills, home environment, and expectations for their children.

Objective 2. Even Start projects will reach their target population of families who are most in need of services.

2.1 Recruitment of most in need. The projects will continue to recruit low-income, disadvantaged families with low literacy levels.

Objective 3. Local Even Start projects will provide high-quality, comprehensive instructional and support services to all families in a cost-effective manner.

3.1 Service hours. Increasing percentages of projects will offer at least 60 hours of adult education per month, at least 20 hours of parenting education per month, and at least 65 hours of early childhood education per month.

3.2 Participation, retention and continuity. Projects will increasingly improve retention and continuity of services.

Information by Project and Budget Periods

Under 34 CFR 75.112 and 75.117, an eligible applicant must propose a project period, and provide budgetary information for each budget period of that proposed project period. The Secretary requires that the budgetary information include an amount for all key project components with an accompanying breakdown of any subcomponents, along with a written justification for all requested amounts. (A form for reporting this information is contained in the appendix of this notice.)

Section 75.112(b) also requires that an applicant describe how and when, in each budget period of the project, it plans to meet each objective of the project.

(**Note:** The Department will use this information, in conjunction with the grantee's annual performance report required under 34 CFR 75.118(a), to determine whether a continuation award for the subsequent budget year should be made. Under 34 CFR 75.253, a grantee can receive a continuation award only if it demonstrates that it either has made substantial progress toward meeting the objectives of the approved project, or has received the Assistant Secretary's approval of changes in the project to enable it to meet the objectives in the succeeding budget periods.)

As indicated in the **Note** to the selection criterion (f) (Quality of project evaluation), each project must conduct an independent local evaluation. In budgeting for the cost of this independent local evaluation, you may wish to contact potential local evaluators, such as researchers or teachers at local community colleges or universities, to ascertain a typical hourly rate.

Intergovernmental Review of Federal Programs

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR Part 79.

One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive Order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

If you are an applicant, you must contact the appropriate State Single Point of Contact (SPOC) to find out about, and to comply with, the State's process under Executive Order 12372. If you propose to perform activities in more than one State, you should immediately contact the SPOC for each of those States and follow the procedure established in each State under the Executive order. You may view the latest official SPOC list on the Web site of the Office of Management and Budget at the following address: http://www.whitehouse.gov/omb/grants

In States that have not established a process or chosen a program for review, State, area-wide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a SPOC and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372—CFDA# 84.214A, U.S. Department of Education, Room 7E200, 400 Maryland Avenue, SW., Washington, DC 20202–0125.

We will determine proof of mailing 34 CFR 75.102 (Deadline date for applications). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, D.C. time) on the date indicated in this notice.

Note: Please note that the above address is not the same address as the one to which the applicant submits its completed application. Do not send applications to the above address.

Application Instructions and Forms

The appendix to this application is divided into three parts plus a statement regarding estimated public reporting burden and various assurances and certifications. These parts and additional materials are organized in the same manner that the submitted application should be organized. The parts and additional materials are as follows:

Part I: Application for Federal Assistance (Standard Form 424) and instructions.

Part II: Budget Information—Non-Construction Programs (ED Form No. 524) and instructions.

Part III: Application Narrative.

Additional Materials:

- Estimated Public Reporting Burden.
- Assurances—Non-Construction Programs (Standard Form 424B).
- Certifications regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013, 12/98).
- Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED 80–0014, 9/90) and instructions. (**Note:** ED 80–0014 is intended for the use of grantees and should not be transmitted to the Department.)
- Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions; and Disclosure of Lobbying Activities Continuation Sheet (Standard Form LLL–A).

You may submit information on a photocopy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an original signature. No grant may be awarded unless a completed application form has been received.

Individuals with disabilities may obtain this document in an alternative format (*e.g.,* Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT.** However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

For Further Information Contact

DonnaMarie Marlow, U.S. Department of Education, Office of Elementary and Secondary Education, Office of Migrant Education, 400 Maryland Avenue, SW., Room 3E313, Washington, DC 20202–6135. Telephone: (202) 260–1164. The program contact may also be reached via e-mail at donnamarie_marlow@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.

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, an applicant must—

(1) Mail the original and two copies of the application on or before the deadline date to: U. S. Department of Education, Application Control Center, Attention: (CFDA #84.214A), Washington, DC 20202–4725.

(2) Hand deliver the original and two copies of the application by 4:30 p.m.

(Washington, DC time) on the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA# 84.214A), Room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC 20202.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9494.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and suffix letter, if any—of the competition under which the application is being submitted.

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 portable document format (pdf) on the World Wide Web 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 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

Program Authority: 20 U.S.C. 6362(a)(1)(A).

Dated: May 24, 2000.

Michael Cohen,

Assistant Secretary for Elementary and Secondary Education.

Instructions for Part III—Application Narrative

Before preparing the Application Narrative, an applicant should read carefully the description of the program and the selection criteria the Secretary uses to evaluate applications.

The narrative should encompass each function or activity for which funds are being requested and should—

1. Begin with an Abstract; that is, a summary of the proposed project.

2. Describe the proposed project in light of each of the selection criteria in the order in which the criteria are listed in this application package. (**Note:** While applicants can address the criteria in any way that is reasonable, given the required emphasis of any MEES project on an integrated program of early childhood education, adult literacy or adult basic education, and parenting education, the Secretary believes that a reasonable plan of operation would likely address how the proposed project will provide high-quality instruction in these three areas that, with interactive literacy activities between parents and children (PACT), is integrated into a unified family literacy program. Moreover, consistent with 34 CFR 75.112(b), which requires that the application describe how and when, in each budget period, the applicant plans to meet each project objective, the Secretary believes that applicants would want particularly to describe each goal in terms of measurable objectives, specific activities that are proposed to meet each objective, time lines associated with these activities, the resources believed to be needed to achieve each objective, and how each objective will be evaluated.)

3. Provide the following information in response to the attached **NOTICE TO ALL APPLICANTS**: (1) A reference to the portion of the application in which the applicant has described the steps that the applicant proposes to take to remove barriers to equitable access to, and equitable participation in, project activities; or (2) a separate statement that includes this information.

4. Include any other pertinent information that might assist the Secretary in reviewing the application.

Page Limit: The application narrative (Part III of the application) is where the applicant addresses the selection criteria reviewers use to evaluate your application. The recommended page limit for this application is 50 pages (appendices excepted), using the following standards:

- A page is 8.5″ x 11″, on 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 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.

Instruction for Estimated Public Reporting Burden

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 1810–0541. (Expiration date: 04/30/2003). The time required to complete this information collection is estimated to average 60 hours per response including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: US Department of Education, Washington, DC 20202–4651. If you have comments or concerns regarding the status of your individual submission of this form, write directly to: Office of Migrant Education, US Department of Education, 400 Maryland Avenue, SW, Washington, DC 20202–6135.

(Information collection approved under OMB control number 1810—0541. Expiration date: 04/30/2003.)

BILLING CODE 4000–01–U

OMB Control No. 1801-0004 (Exp. 8/31/2001)

NOTICE TO ALL APPLICANTS

The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provision is Section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Pub. L. 103-382).

To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new grant awards under this program. **ALL APPLICANTS FOR NEW AWARDS MUST INCLUDE INFORMATION IN THEIR APPLICATIONS TO ADDRESS THIS NEW PROVISION IN ORDER TO RECEIVE FUNDING UNDER THIS PROGRAM.**

(If this program is a State-formula grant program, a State needs to provide this description only for projects or activities that it carries out with funds reserved for State-level uses. In addition, local school districts or other eligible applicants that apply to the State for funding need to provide this description in their applications to the State for funding. The State would be responsible for ensuring that the school district or other local entity has submitted a sufficient section 427 statement as described below.)

What Does This Provision Require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its Federally-assisted program for students, teachers, and other program beneficiaries with special needs. This provision allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation: gender, race, national origin, color, disability, or age. Based on local circumstances, you should determine whether these or other barriers may prevent your students, teachers, etc. from such access or participation in, the Federally-funded project or activity. The description in your application of steps to be taken to overcome these barriers need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information may be provided in a single narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

What are Examples of How an Applicant Might Satisfy the Requirement of This Provision?

The following examples may help illustrate how an applicant may comply with Section 427.

(1) An applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.

(2) An applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in braille for students who are blind.

(3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it intends to conduct "outreach" efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

Estimated Burden Statement for GEPA Requirements

The time required to complete this information collection is estimated to vary from 1 to 3 hours per response, with an average of 1.5 hours, including the time to review instructions, search existing data resources, gather and maintain the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, DC 20202-4651.

Application for Federal Education Assistance

Note: If available, please provide application package on diskette and specify the file format.

U.S. Department of Education

Form Approved
OMB No. 1875-0106
Exp. 06/30/2001

Applicant Information

1. Name and Address
Legal Name:
Address:
City State County ZIP Code + 4

Organizational Unit

2. Applicant's D-U-N-S Number
3. Applicant's T-I-N
4. Catalog of Federal Domestic Assistance #: 8 4 2 1 4 A → Title: Migrant Education Even Start Program
5. Project Director:
Address:
City State ZIP Code + 4
Tel. #: ( ) - Fax #: ( ) -
E-Mail Address:

6. Is the applicant delinquent on any Federal debt? ☐ Yes ☐ No
(If "Yes," attach an explanation.)

7. Type of Applicant *(Enter appropriate letter in the box.)*

A State	H Independent School District
B County	I Public College or University
C Municipal	J Private, Non-Profit College or University
D Township	K Indian Tribe
E Interstate	L Individual
F Intermunicipal	M Private, Profit-Making Organization
G Special District	N Other *(Specify)*:

8. Novice Applicant ☐ Yes ☐ No

Application Information

9. Type of Submission:

—PreApplication	*—Application*
☐ Construction	☐ Construction
☐ Non-Construction	☐ Non-Construction

10. Is application subject to review by Executive Order 12372 process?
☐ Yes *(Date made available to the Executive Order 12372 process for review):* ___/___/___
☐ No *(If "No," check appropriate box below.)*
☐ Program is not covered by E.O. 12372.
☐ Program has not been selected by State for review.

11. Proposed Project Dates: Start Date: ___/___/___ End Date: ___/___/___

12. Are any research activities involving human subjects planned at any time during the proposed project period? ☐ Yes ☐ No
a. If "Yes," Exemption(s) #: OR b. Assurance of Compliance #:
c. IRB approval date: ☐ Full IRB or ☐ Expedited Review

13. Descriptive Title of Applicant's Project:

Estimated Funding

14a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

Authorized Representative Information

15. To the best of my knowledge and belief, all data in this preapplication/application are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

a. Typed Name of Authorized Representative
b. Title
c. Tel. #: ( ) - Fax #: ( ) -
d. E-Mail Address:
e. Signature of Authorized Representative Date: ___/___/___

REV. 11/12/99 ED 424

Instructions for ED 424

1. **Legal Name and Address.** Enter the legal name of applicant and the name of the primary organizational unit which will undertake the assistance activity.

2. **D-U-N-S Number.** Enter the applicant's D-U-N-S Number. If your organization does not have a D-U-N-S Number, you can obtain the number by calling 1-800-333-0505or by completing a D-U-N-S Number Request Form. The form can be obtained via the Internet at the following URL: **http://www.dnb.com/dbis/aboutdb/intlduns.htm.**

3. **Tax Identification Number.** Enter the tax identification number as assigned by the Internal Revenue Service.

4. **Catalog of Federal Domestic Assistance (CFDA) Number.** Enter the CFDA number and title of the program under which assistance is requested.

5. **Project Director.** Name, address, telephone and fax numbers, and e-mail address of the person to be contacted on matters involving this application.

6. **Federal Debt Delinquency.** Check **"Yes"** if the applicant's organization is delinquent on any Federal debt. (This question refers to the applicant's organization and not to the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.) Otherwise, check **"No."**

7. **Type of Applicant.** Enter the appropriate letter in the box provided.

8. **Novice Applicant.** Check **"Yes"** only if assistance is being requested under a program that gives special consideration to novice applicants and you meet the program requirements for novice applicants. By checking "Yes" the applicant certifies that it meets the novice applicant requirements specified by ED. Otherwise, check **"No."**

9. **Type of Submission.** Self-explanatory.

10. **Executive Order 12372.** Check **"Yes"** if the application is subject to review by Executive Order 12372. Also, please enter the month, date, and four (4) digit year (e.g., 12/12/2000). Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. Otherwise, check **"No."**

11. **Proposed Project Dates.** Please enter the month, date, and four (4) digit year (e.g., 12/12/2000).

12. **Human Subjects.** Check "Yes" **or** "No". If research activities involving human subjects are **not** planned **at any time** during the proposed project period, check **"No." The remaining parts of item 12 are then not applicable.**

    If research activities involving human subjects, whether or not exempt from Federal regulations for the protection of human subjects, **are** planned **at any time** during the proposed project period, either at the applicant organization or at any other performance site or collaborating institution, check **"Yes."** If **all** the research activities are designated to be exempt under the regulations, enter, in item 12a, the exemption number(s) corresponding to one or more of the six exemption categories listed in **"Protection of Human Subjects in Research"** attached to this form. Provide sufficient information in the application to allow a determination that the designated exemptions in item 12a, are appropriate. **Provide this narrative information in an "Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page. Skip the remaining parts of item 12.**

    If **some or all** of the planned research activities involving human subjects are covered (nonexempt), skip item 12a and continue with the remaining parts of item 12, as noted below. In addition, follow the instructionsin **"Protection of Human Subjects in Research"** attached to this form to prepare the six-point narrative about the nonexempt activities. **Provide this six-point narrative in an "Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

    If the applicant organization has an approved Multiple Project Assurance of Compliance on file with the Grants Policy and Oversight Staff (GPOS), U.S. Department of Education, or with the Office for Protection from Research Risks (OPRR), National Institutes of Health, U.S. Department of Health and Human Services, that covers the specific activity, enter the Assurance number in item 12b and the date of approval by the Institutional Review Board (IRB) of the proposed activities in item 12c. This date must be no earlier than one year before the receipt date for which the application is submitted and must include the four (4) digit year (e.g., 2000). Check the type of IRB review in the appropriate box. An IRB may use the expedited review procedure if it complies with the requirements of 34 CFR 97.110. If the IRB review is delayed beyond the submission of the application, enter **"Pending"** in item 12c. If your application is recommended/selected for funding, a follow-up certification of IRB approval from an official signing for the applicant organization must be sent to and received by the designated ED official within 30 days after a specific formal request from the designated ED official. **If the applicant organization does not have** on file with GPOS or OPRR **an approved Assurance of Compliance** that covers the proposed research activity, enter **"None"** in item 12b and skip 12c. In this case, the applicant organization, by the signature on the application, is declaring that it will comply with 34 CFR 97 within 30 days after a specific formal request from the designated ED official for the Assurance(s) and IRB certifications.

13. **Project Title.** Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

14. **Estimated Funding.** Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate **only** the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 14.

15. **Certification.** To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office.

    Be sure to enter the telephone and fax number and e-mail address of the authorized representative. Also, in item 15e, please enter the month, date, and four (4) digit year (e.g., 12/12/2000) in the date signed field.

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1875-0106**. The time required to complete this information collection is estimated to average between 15 and 45 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, D.C. 20202-4651. **If you have comments or concerns regarding the status of your individual submission of this form write directly to:** Joyce I. Mays, Application Control Center, U.S. Department of Education, 7th and D Streets, S.W. ROB-3, Room 3633, Washington, D.C. 20202-4725.

PROTECTION OF HUMAN SUBJECTS IN RESEARCH (Attachment to ED 424)

I. Instructions to Applicants about the Narrative Information that Must be Provided if Research Activities Involving Human Subjects are Planned

If you marked item 12 on the application "Yes" and designated exemptions in 12a, **(all research activities are exempt),** provide sufficient information in the application to allow a determination that the designated exemptions are appropriate. Research involving human subjects that is exempt from the regulations is discussed under **II.B. "Exemptions,"** below. The Narrative must be succinct. **Provide this information in an "Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

If you marked "Yes" to item 12 on the face page, and designated no exemptions from the regulations **(some or all of the research activities are nonexempt),** address the following six points for each nonexempt activity. In addition, if research involving human subjects will take place at collaborating site(s) or other performance site(s), provide this information before discussing the six points. Although no specific page limitation applies to this section of the application, be succinct. Provide the six-point narrative and discussion of other performance sites in an **"Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

(1) Provide a detailed description of the proposed involvement of human subjects. Describe the characteristics of the subject population, including their anticipated number, age range, and health status. Identify the criteria for inclusion or exclusion of any subpopulation. Explain the rationale for the involvement of special classes of subjects, such as children, children with disabilities, adults with disabilities, persons with mental disabilities, pregnant women, prisoners, institutionalized individuals, or others who are likely to be vulnerable.

(2) Identify the sources of research material obtained from individually identifiable living human subjects in the form of specimens, records, or data. Indicate whether the material or data will be obtained specifically for research purposes or whether use will be made of existing specimens, records, or data.

(3) Describe plans for the recruitment of subjects and the consent procedures to be followed. Include the circumstances under which consent will be sought and obtained, who will seek it, the nature of the information to be provided to prospective subjects, and the method of documenting consent. State if the Institutional Review Board (IRB) has authorized a modification or waiver of the elements of consent or the requirement for documentation of consent.

(4) Describe potential risks (physical, psychological, social, legal, or other) and assess their likelihood and seriousness. Where appropriate, describe alternative treatments and procedures that might be advantageous to the subjects.

(5) Describe the procedures for protecting against or minimizing potential risks, including risks to confidentiality, and assess their likely effectiveness. Where appropriate, discuss provisions for ensuring necessary medical or professional intervention in the event of adverse effects to the subjects. Also, where appropriate, describe the provisions for monitoring the data collected to ensure the safety of the subjects.

(6) Discuss why the risks to subjects are reasonable in relation to the anticipated benefits to subjects and in relation to the importance of the knowledge that may reasonably be expected to result.

II. Information on Research Activities Involving Human Subjects

A. Definitions.

A research activity involves human subjects if the activity is research, as defined in the Department's regulations, and the research activity will involve use of human subjects, as defined in the regulations.

—Is it a research activity?

The ED Regulations for the Protection of Human Subjects, Title 34, Code of Federal Regulations, Part 97, define research as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge." *If an activity follows a deliberate plan whose purpose is to develop or contribute to generalizable knowledge, such as an exploratory study or the collection of data to test a hypothesis, it is research.* Activities which meet this definition constitute research whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities.

—Is it a human subject?

The regulations define human subject as "a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information." *(1) If an activity involves obtaining information about a living person by manipulating that person or that person's environment, as might occur when a new instructional technique is tested, or by communicating or interacting with the individual, as occurs with surveys and interviews, the definition of human subject is met. (2) If an activity involves obtaining private information about a living person in such a way that the information can be linked to that individual (the identity of the subject is or may be readily determined by the investigator or associated with the information), the definition of human subject is met.* [Private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a school health record).]

B. Exemptions.

Research activities in which the only involvement of human subjects will be in one or more of the following six categories of ***exemptions*** are not covered by the regulations:

(1) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (a) research on regular and special education instructional strategies, or (b) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: (a) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (b) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation. ***If the subjects are children, this exemption applies only to research involving educational tests or observations of public behavior when the investigator(s) do not participate in the activities being observed.*** [Children are defined as persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law or jurisdiction in which the research will be conducted.]

(3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior that is not exempt under section (2) above, if the human subjects are elected or appointed public officials or candidates for public office; or federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

(4) Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or otherwise examine: (a) public benefit or service programs; (b) procedures for obtaining benefits or services under those programs; (c) possible changes in or alternatives to those programs or procedures; or (d) possible changes in methods or levels of payment for benefits or services under those programs.

(6) Taste and food quality evaluation and consumer acceptance studies, (a) if wholesome foods without additives are consumed or (b) if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S Department of Agriculture.

Copies of the Department of Education's Regulations for the Protection of Human Subjects, 34 CFR Part 97 and other pertinent materials on the protection of human subjects in research are available from the Grants Policy and Oversight Staff (GPOS) Office of the Chief Financial and Chief Information Officer, U.S. Department of Education, Washington, D.C., telephone: (202) 708-8263, and on the U.S. Department of Education's Protection of Human Subjects in Research Web Site at http://ocfo.ed.gov/humansub.htm.

U.S. DEPARTMENT OF EDUCATION

BUDGET INFORMATION

NON-CONSTRUCTION PROGRAMS

OMB Control Number: 1890-0004

Expiration Date: 02/28/2003

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED Form No. 524

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED Form No. 524

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary
U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B - Budget Summary
Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e): For each project year for which matching funds or other contributions are provided, show the total

Lines 1-11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information
Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.

2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.

3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.

4. Provide other explanations or comments you deem necessary.

OMB Approval No. 0348-0040

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

Standard Form 424B (Rev. 7-97) Back

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address. city, county, state, zip code)

_____

_____

_____

Check [ ] if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE
(GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion — Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," " person," "primary covered transaction," " principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV.12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: **Congressional District**, *if known*:	 **Congressional District**, *if known*:
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	**9. Award Amount**, *if known*: $
10. a. Name and Address of Lobbying Registrant (*if individual, last name, first name, MI*):	**b. Individuals Performing Services** (*including address if different from No. 10a*) (*last name, first name, MI*):
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less that $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____
Federal Use Only:	Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

[FR Doc. 00–13429 Filed 5–26–00; 8:45 am]
BILLING CODE 4000–01–C

Reader Aids

Federal Register

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Tuesday, May 30, 2000

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  - National Exchange Carrier Association, Inc.; Board of Directors; changes; published 5-30-00

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  - Retransmission consent violations; enforcement procedures; published 2-29-00

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Risk-based capital:

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

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H.R. 2412/P.L. 106–203

To designate the Federal building and United States courthouse located at 1300 South Harrison Street in Fort Wayne, Indiana, as the ''E. Ross Adair Federal Building and United States Courthouse''. (May 22, 2000; 114 Stat. 310)

S. 2370/P.L. 106–204

To designate the Federal building located at 500 Pearl Street in New York City, New York, as the ''Daniel Patrick Moynihan United States Courthouse''. (May 23, 2000; 114 Stat. 311)

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period April 1, 1999, through April 1, 2000. The CFR volume issued as of April 1, 1999 should be retained.

[7] No amendments to this volume were promulgated during the period April 1, 1998, through April 1, 1999. The CFR volume issued as of April 1, 1998, should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 1998, through July 1, 1999. The CFR volume issued as of July 1, 1998, should be retained.