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

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 1

USDA Freedom of Information Act Regulations

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: The Department of Agriculture is issuing a final rule revising its regulations implementing the Freedom of Information Act (FOIA). This final rule implements the Electronic Freedom of Information Act Amendments of 1996.

EFFECTIVE DATE: August 28, 2000.

FOR FURTHER INFORMATION CONTACT: Andrea E. Fowler, FOIA Officer, Office of Communications, at (202) 720–8164.

SUPPLEMENTARY INFORMATION: On May 4, 1998 (63 FR 24467), USDA requested public comment on proposed revisions to its regulations at 7 CFR Part 1 implementing the Freedom of Information Act. This revision is necessary to implement the Electronic Freedom of Information Act Amendments of 1996, Public Law 104–231 (E–FOIA).

The proposed rule provided for the expedited processing of certain categories of requesters; proposed ''multitrack'' processing requirements; incorporated new processing deadlines and appeal rights; implemented the E–FOIA provisions requiring agencies to generally provide records in the form or format requested, extended agency regulations to the processing of electronic records, and provides for frequently requested records as a category of reading room records.

Analysis of Public Comments and the Final Rule

USDA received three comment letters in response to the proposed revisions to USDA's FOIA regulations, one from a trade association representing news editors and reporters; one from a trade association representing private citizens; and one from a natural resource community group involved in natural resource issues. The commenters raised several issues regarding the proposed rule, generally seeking clarification of provisions implementing E–FOIA.

Regarding section 1.4(a)(4), one of the trade associations requested that USDA reconsider the provision which allows USDA agencies to decide on a case-by-case basis whether records that have already been subject to several requests should be placed in agency reading rooms. The commenter would like USDA to change this section to cover only records that have not been subject to subsequent FOIA requests instead of records that have been subject to several requests. The regulation tracks the language of the statute. Therefore, USDA believes that this section of the regulation as proposed is appropriate.

Regarding section 1.9(b)(2), the community group and the association of news editors and reporters requested that USDA broaden the circumstances for expedited processing of FOIA requests. USDA believes, as a matter of policy, that expanding the criteria as embodied in the proposed regulation as suggested by the commenters would be counter to even-handed treatment of the public. In essence, the commenters desire that self-selected requesters be placed in line ahead of most members of the requesting public. One specific suggestion to USDA was to include the Department of Justice regulatory provision allowing expedited treatment when a request involves the loss of substantial due process rights. In this connection, USDA points out that one of the primary missions of the Department of Justice is the administration of criminal justice. USDA does not share the administration of criminal justice as one of its primary missions, and believes that the addition of loss of substantial due process rights as a ground for expedited processing is not necessary.

Regarding section 1.9(2)(c) the association of news editors and reporters requested that USDA incorporate a provision similar to that adopted by the Department of Justice and the Federal Deposit Insurance Corporation in their FOIA regulations with regard to the formality of certifications needed to obtain expedited treatment. More specifically, and consistently with E–FOIA, the USDA proposed rule provided that a requester is entitled to expedited treatment only where failure to obtain the records expeditiously could pose an imminent threat to the life or physical safety of a person, or where the requester is a person primarily engaged in disseminating information and there is an urgency to inform the public concerning actual or alleged agency activity. A requester seeking expedited processing must submit a certified statement describing the basis for requesting expedited treatment. The Department of Justice and Federal Deposit Insurance Corporation regulations, however, provide that the formality of certification may be waived as a matter of administrative discretion. The association of news editors and reporters requests that USDA incorporate a similar waiver provision. The certification required by USDA is straightforward and, therefore, we do not expect that it will be burdensome for eligible requesters to submit a certification with their initial requests.

The association of news editors and reporters requested that USDA incorporate language that the denial of a request for expedited processing should be appealable. This language is already included in proposed section 1.9 of the regulations.

Regarding section 1.5, the community group requested that USDA remove the requirement that all requests for records shall be deemed to have been made pursuant to FOIA by changing the word ''shall'' to ''should''; and change the requirement that when a requester wants documents relating to pending litigation that the requester identify the court and its location. We believe that considering all requests for records under FOIA will confer more rights on the requester, and therefore we will keep the word ''shall'' in the language. Also, we believe that identifying the court and its location is part of the requirement to reasonably describe the documents requested.

Regarding section 1.6, the community group requested that USDA remove this section which pertains to aggregating requests, asserting that it violates the due process clause of the constitution.

We do not concur because aggregation of requests is specifically permitted by 5 U.S.C. 552(a)(6)(B)(iv).

Regarding section 1.8, the community group requested that USDA provide a better description of multitrack processing and give examples. USDA does not have a centralized FOIA process in which requests will be processed in a central multitracking process. Each agency within USDA which decides to have a multitracking processing system will provide a description of its system and how it works in its respective agency regulations and directives.

Regarding section 1.19, the community group requested that USDA better describe the term ''promptly available'' as it relates to making records available to any person submitting a FOIA request. The group also wants us to incorporate Attorney General Reno's October 4, 1993, memo on discretionary releases into the regulation. We believe that the term ''promptly available'' clearly indicates that FOIA requests should be processed as soon as reasonably possible, considering the nature of the request, and all the facts and circumstances, including the volume and location of responsive records. We also believe that this section of the USDA regulation reflects the essence of Attorney General Reno's memo to make discretionary releases under FOIA. However, we emphasize that this does not reflect a statement of policy that USDA has specifically incorporated the Attorney General's memorandum of October 4, 1993. USDA is mindful of its obligation under the memorandum, but also is aware that the memorandum, by its terms, specifically disclaims that it extends enforceable procedural rights to requesters.

The community group requested that USDA provide a process for citizens to file a complaint about officials who intentionally violate FOIA. We believe that section 1.14 of the USDA regulations already provides a process for citizens to complain if they believe officials have intentionally violated FOIA. This section allows citizens to appeal a denial of a request for records or denial of a fee waiver to a different level of the agency. Citizens also have the right to judicial review of final appeal denials.

The community group requested that USDA provide for FOIA requests via electronic mail over the Internet. USDA believes that this decision is more appropriately left to its individual program agencies and staff offices. This is so because of decentralization of FOIA processing within USDA and the varying electronic capabilities of the numerous agencies and offices that would be affected.

Finally, upon review, USDA is modifying the language of Section 1.8(c) to accommodate situations where an agency might have several processing tracks, so that the requester will have the opportunity to modify the request to qualify for a faster track rather than the ''fastest'' track, as in the proposed regulation. This approach is more logical than simply providing for modification to qualify for the ''fastest track,'' where there may be several tracks to which the request might be assigned.

Executive Order 12866

Because this rule has been determined to be not significant, the Office of Management and Budget (OMB) did not review it under Executive Order 12866. This rule will not have any economic impact. Under these circumstances, the Secretary has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule. However, the administrative procedures specified must be exhausted prior to any judicial challenge of the application of the provisions of this rule.

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

USDA certifies that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it will not have a significant economic impact on a substantial number of small entities. This rule implements the Freedom of Information Act (5 U.S.C. 552), a statute concerning the release of Federal Government records, and does not economically impact Federal Government relations with the private sector.

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

USDA certifies that this rule does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 7 CFR Part 1

Administrative practice and procedure, Freedom of Information, Privacy.

Accordingly, 7 CFR, part 1, is amended as follows:

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

Authority: 5 U.S.C. 301, unless otherwise noted.

2. Part 1 is amended in subpart A by revising §§ 1.1 through 1.20 and §§ 1.22 through 1.23 and by adding §§ 1.21, 1.24 and 1.25 to read as follows:

PART 1—ADMINISTRATIVE REGULATIONS

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Appendix A—Fee Schedule

Subpart A—Official Records

Authority: 5 U.S.C. 301, 552; 7 U.S.C. 3125a; 31 U.S.C. 9701; and 7 CFR 2.28(b)(7)(viii).

§ 1.1 Purpose and scope.

This subpart establishes policy, procedures, requirements, and responsibilities for administration and coordination of the Freedom of Information Act (''FOIA''), 5 U.S.C. 552, pursuant to which any person may obtain official records. It also provides rules pertaining to the disclosure of records pursuant to compulsory process. This subpart also serves as the implementing regulations (referred to in § 1.3, ''Agency implementing regulations'') for the Office of the Secretary (the immediate offices of the Secretary, Deputy Secretary, Under Secretaries and Assistant Secretaries) and for the Office of Communications. The Office of Communications has the

primary responsibility for implementation of the FOIA in the Department of Agriculture (''USDA'' or ''Department''). The term ''agency'' or ''agencies'' is used throughout this subpart to include both USDA program agencies and staff offices.

§ 1.2 Policy.

(a) Agencies of USDA shall comply with the time limits set forth in the FOIA and in this subpart for responding to and processing requests and appeals for agency records, unless there are unusual circumstances within the meaning of 5 U.S.C. 552(a)(6)(B) and § 1.16(b). An agency shall notify a requester in writing whenever it is unable to respond to or process a request or appeal within the time limits established by the FOIA.

(b) All agencies of the Department shall comply with the fee schedule provided as appendix A to this subpart, with regard to the charging of fees for providing copies of records and related services to requesters.

§ 1.3 Agency implementing regulations.

Each agency of the Department shall promulgate regulations setting forth the following:

(a) The location and hours of operation of the agency office or offices where members of the public may gain access to those materials required by 5 U.S.C. 552(a)(2) and § 1.4 to be made available for public inspection and copying.

(b) Information regarding the publication and distribution (by sale or otherwise) of indexes and supplements to indexes that are maintained in accordance with the requirements of 5 U.S.C. 552(a)(2) and § 1.4(c);

(c) The title and mailing address of the official or officials of the agency authorized to receive requests for records submitted in accordance with § 1.5(a), and to make determinations regarding whether to grant or deny such requests. Authority to make such determinations includes authority to:

(1) Extend the 20 working day administrative deadline for reply pursuant to § 1.16;

(2) Make discretionary releases pursuant to § 1.19(b);

(3) Make determinations regarding the charging of fees pursuant to appendix A to this subpart;

(d) The title and mailing address of the agency official who is authorized to receive appeals submitted in accordance with § 1.14 and to make determinations regarding whether to grant or deny such appeals. Authority to determine appeals includes authority to:

(1) Extend the 20 working day administrative deadline for reply pursuant to § 1.16 (to the extent the maximum extension authorized by § 1.16(c) was not used with regard to the initial request;

(2) Make discretionary releases pursuant to § 1.19(b);

(3) Make determinations regarding the charging of fees pursuant to appendix A to this subpart; and

(e) Other information which would be of concern to a person wishing to request records from that agency in accordance with this subpart.

§ 1.4 Public access to certain materials.

(a) In accordance with 5 U.S.C. 552(a)(2), each agency within the Department shall make the following materials available for public inspection and copying (unless they are promptly published and copies offered for sale):

(1) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(2) Those statements of policy and interpretation which have been adopted by the agency and are not published in the **Federal Register**;

(3) Administrative staff manuals and instructions to staff that affect a member of the public;

(4) Copies of all records, regardless of form or format, which have been released pursuant to a FOIA request under 5 U.S.C. 552(a)(3), and which because of the nature of their subject matter, have become or are likely to become the subject of subsequent requests for substantially the same records. Agencies shall decide on a case by case basis whether records fall into this category, based on the following factors:

(i) Previous experience with similar records;

(ii) The particular characteristics of the records involved, including their nature and the type of information contained in them; and

(iii) The identity and number of requesters and whether there is widespread media, historical, academic, or commercial interest in the records.

(5) A general index of the records referred to in paragraph (a)(4) of this section.

(b) Records encompassed within paragraphs (a)(1) through (a)(5) of this section created on or after November 1, 1996, shall be made available to the public by computer telecommunications or, if computer telecommunications means have not been established by the agency, by other electronic means.

(c) Each agency of the Department shall maintain and make available for public inspection and copying current indexes providing identifying information regarding any matter issued, adopted or promulgated after July 4, 1967, and required by paragraph (a) of this section to be make available or published. Each agency shall publish and make available for distribution copies of such indexes and supplements to such indexes at least quarterly, unless it determines by notice published in the **Federal Register** that publication would be unnecessary and impracticable. After issuance of such notice, each agency shall provide copies of any index upon request at a cost not to exceed the direct cost of duplication.

(d) Each agency is responsible for preparing reference material or a guide for requesting records or information from that agency. This guide shall also include an index of all major information systems, and a description of major information and record locator systems.

(e) Each agency shall also prepare a handbook for obtaining information from that agency. The handbook should be a short, simple explanation to the public of what the FOIA is designed to do, and how a member of the public can use it to access government records. The handbook should be available on paper and through electronic means, and it should identify how a requester can access agency Freedom of Information Act annual reports. Similarly, the annual reports should refer to the handbook and how to obtain it.

(f) It is appropriate to make frequently requested records available in accordance with paragraph (a)(4) of this section in situations where public access in a timely manner is important, and it is not intended to apply where there may be a limited number of requests over a short period of time from a few requesters. Agencies may remove a record from this access medium when the appropriate official determines that it is unlikely there will be substantial further requests for that document.

§1.5 Requests for records.

(a) Any person who wishes to inspect or obtain copies of any record of any agency of the Department shall submit a request in writing and address the request to the official designated in regulations promulgated by that agency. The requester may ask for a fee waiver. All such requests for records shall be deemed to have been made pursuant to the Freedom of Information Act, regardless of whether the request specifically mentions the Freedom of Information Act. To facilitate processing of a request, the requester should place the phrase ''FOIA REQUEST'' in capital letters on the front of the envelope or on

the cover sheet of the facsimile transmittal.

(b) A request must reasonably describe the records to enable agency personnel to locate them with reasonable effort. Where possible, a requester should supply specific information regarding dates, titles, names of individuals, names of offices, and names of agencies or other organizations that may help identify the records. If the request relates to a matter in pending litigation, the requester should identify the court and its location.

(c) If an agency determines that a request does not reasonably describe the records, the agency shall inform the requester of this fact and extend the requester an opportunity to clarify the request or to confer promptly with knowledgeable agency personnel to attempt to identify the records the requester is seeking. The ''date of receipt'' in such instances, for purposes of § 1.13, shall be the date of receipt of the amended or clarified request.

(d) If a request for records or a fee waiver made under this subpart is denied, the requester shall have the right to appeal the denial. Requesters also may appeal agency determinations of a requester's status for purposes of fee levels under sec. 5 of appendix A to this subpart. All appeals must be in writing and addressed to the official designated in regulations promulgated by the agency which denied the request. To facilitate processing of an appeal, the requester should place the phrase ''FOIA APPEAL'' in capital letters on the front of the envelope or on the cover sheet of the fax transmittal.

(e) Requests that are not addressed to a specific agency in USDA, or which pertain to more than one USDA agency, or which are sent to the wrong agency of USDA, should be forwarded to the Department's FOIA Officer in the Office of Communications, U.S. Department of Agriculture, Washington, DC 20250.

(f) The Department FOIA Officer will determine which agency or agencies should process the request, and, where necessary, refer the request to the appropriate agency or agencies. The Department FOIA Officer will also notify the requester of the referral and of the name of each agency to which the request has been referred.

(g) A request will be properly received when it is in the possession of the component agency that has responsibility for maintaining the requested records.

(h) Each agency shall develop and maintain a record of all written requests and appeals received in that agency. The record shall include the names of the requester; a brief summary of the information requested; whether the request or appeal was granted, denied, or partially denied; the exemption from mandatory disclosure under 5 U.S.C. 552(b) upon which any denial was based; and the amount of any fees associated with the request or appeal.

§ 1.6 Aggregating requests.

When an agency reasonably believes that a requester, or a group of requesters acting in concert, is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the agency may aggregate any such requests and charge accordingly. One element that may be considered in determining whether such a belief would be reasonable is the brevity of the time period during which the requests have been made.

§ 1.7 Agency response to requests for records.

(a) 5 U.S.C. 552(a)(6)(A)(i) provides that each agency of the Department to which a request for records is submitted in accordance with § 1.5(a) shall inform the requester of its determination concerning that request within 20 working days of its date of receipt (excepting Saturdays, Sundays, and legal public holidays), plus any extension authorized under § 1.16. If the agency determines to grant the request, it shall inform the requester of any conditions surrounding the granting of the request (*e.g.,* payment of fees) and the approximate date upon which the agency will provide the requested records. If the agency grants only a portion of the request, it shall treat the portion not granted as a denial, and make a reasonable effort to estimate the volume of the records denied and provide this estimate to the requester, unless providing such an estimate would harm an interest protected by an exemption of the FOIA. If the agency determines to deny the request in part or in whole, it shall immediately inform the requester of that decision and provide the following:

(1) The reasons for the denial;

(2) The name and title or position of each person responsible for denial of the request;

(3) The requester's right to appeal such denial and the title and address of the official to whom such appeal is to be addressed; and

(4) The requirement that such appeal be made within 45 days of the date of the denial.

(b) If the reason for not fulfilling a request is that the records requested are in the custody of another agency outside USDA, other than in the permanent custody of the National Archives and Records Administration (''NARA''), the agency shall inform the requester of this fact and shall forward the request to that agency or Department for processing in accordance with its regulations. If the records are in the permanent custody of NARA, the agency shall so inform the requester. Information about obtaining access to records at NARA may be obtained through the NARA Archival Information Locator (NAIL) Database at http://www/nara.gov/nara.nail.html, or by calling NARA at (301) 713–6800. If the agency has no knowledge of requested records or if no records exist, the agency shall notify the requester of that fact.

§ 1.8 Multitrack processing.

(a) When an agency has a significant number of requests, the nature of which precludes a determination within 20 working days, the requests may be processed in a multitrack processing system, based on the date of receipt, the amount of work and time involved in processing the request, and whether the request qualifies for expedited processing.

(b) Agencies may establish as many processing tracks as appropriate; processing within each track shall be based on a first-in, first-out concept, and rank-ordered by the date of receipt of the request.

(c) Agencies may provide a requester whose request does not qualify for the fastest track an opportunity to limit the scope of the request in order to qualify for a faster track. This multitrack processing system does not lessen agency responsibility to exercise due diligence in processing requests in the most expeditious manner possible.

(d) Agencies shall process requests in each track on a ''first-in, first-out'' basis, unless there are unusual circumstances as set forth in § 1.16, or the requester is entitled to expedited processing as set forth in § 1.9.

§ 1.9 Expedited processing.

(a) A requester may apply for expedited processing at the time of the initial request for records. Within ten calendar days of its receipt of a request for expedited processing, an agency shall decide whether to grant it, and shall notify the requester of the decision. Once the determination has been made to grant expedited processing, an agency shall process the request as soon as practicable. If a request for expedited processing is denied, the agency shall act expeditiously on any appeal of that decision.

(b) A request or appeal will be taken out of order and given expedited treatment whenever the agency determines that the requester has established either of the following criteria:

(1) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(2) An urgency to inform the public about an actual or alleged federal government activity, if made by an individual primarily engaged in disseminating information. Representatives of the news media would normally qualify as individuals primarily engaged in disseminating information; however, other requesters must demonstrate that their primary activity involves publishing or otherwise disseminating information to the public as a whole, and not just a particular segment or group. ''Urgency'' contemplates that the information has a particular value that will be lost if not disseminated quickly. Ordinarily this means a breaking news story of general public interest. Information of historical interest only or information sought for litigation or commercial activities would not meet the test of urgency, nor would a news media publication or broadcast deadline unrelated to the news breaking nature of the information.

(c) A requester who seeks expedited processing must provide a written statement that the requester has certified to be true and correct to the best of the requester's knowledge, explaining in detail the basis for requesting expedited processing. The agency will not consider the request to have been received unless accompanied by a written, certified statement, and will be under no obligation to consider the request for expedited processing until it receives such a written, certified statement.

(d) the same procedures apply to requests for expedited processing of administrative appeals.

§ 1.10 Search services.

Search services are services of agency personnel—clerical or professional—used in trying to find the records, that are responsive to a request. Search services includes both manual and electronic searches and time spent examining records for the purpose of finding information that is within the scope of the request. Search services also include services to transport personnel to places of record storage, or records to the location of personnel for the purpose of the search, if such services are reasonably necessary.

§ 1.11 Review services.

(a) Review services are services of agency personnel—clerical or professional—in examining records, both paper and electronic, located in response to a request that is for a commercial use (as specified in sec. 6 of appendix A to this subpart) to determine whether any portion of any record located is exempt from mandatory disclosure.

(b) Review services include processing any records for disclosure *e.g.,* doing all that is necessary to redact exempt portions and otherwise prepare records for release.

(c) Review services do not include the time spent resolving general legal or policy issues regarding the application of exemptions.

§ 1.12 Handling information from a private business.

Each USDA agency is responsible for making the final determination with regard to the disclosure or nondisclosure of information in agency records that has been submitted by a business. When, in the course of responding to an FOIA request, an agency cannot readily determine whether the information obtained from a person is privileged or confidential business information, the policy of USDA is to obtain and consider the views of the submitter of the information and to provide the submitter an opportunity to object to any decision to disclose the information. If a request (including a subpoena duces tecum as described in § 1.215) is received in USDA for information that has been submitted by a business, the agency shall:

(a) Provide the business information submitter with prompt notification of a request for that information (unless it is readily determined by the agency that the information requested should not be disclosed or, on the other hand, that the information is not exempt by law from disclosure). Afford business information submitter reasonable time in which to object to the disclosure of any specified portion of the information. The submitter must explain fully all grounds upon which disclosure is opposed. For example, if the submitter maintains that disclosure is likely to cause substantial harm to it competitive position, the submitter must explain item-by-item why disclosure would cause such harm. Information provided by a business submitter pursuant to this paragraph may itself be subject to disclosure under FOIA;

(b) Notify the requester of the need to inform the submitter of a request for submitted business information;

(c) Determine whether the requested records are exempt from disclosure or must be released;

(d) Provide business information submitters with notice of any determination to disclose such records prior to the disclosure date, in order that the matter may be considered for possible judicial intervention; and

(e) Notify business information submitters promptly of all instances in which FOIA requesters bring suit seeking to compel disclosure of submitted information.

§ 1.13 Date of receipt of requests or appeals.

The date of receipt of a request or appeal shall be the date it is received in the agency and office responsible for the administrative processing of FOIA requests or appeals.

§ 1.14 Appeals.

(a) Requesters seeking administrative appeal of a denial of a request for records or denial of a fee waiver must ensure that the appeal is received by the agency within 45 days of the date of the denial letter.

(b) Each agency shall provide for review of appeals by an official different from the official or officials designated to make initial denials.

(c) 5 U.S.C. 552(a)(6)(A)(ii) provides that each agency in the Department to which an appeal of a denial is submitted shall inform the requester of its determination concerning that appeal within 20 working days (excepting Saturdays, Sundays, and legal public holidays), plus any extension authorized by § 1.16, of its date of receipt. If the agency determines to grant the appeal, it shall inform the requester of any conditions surrounding the granting of the request (e.g., payment of fees) and the approximate date upon which compliance will be effected. If the agency grants only a portion of the appeal, it shall treat the portion not granted as a denial. If it determines to deny the appeal either in part or in whole, it shall inform the requester of that decision and of the following:

(1) The reasons for denial;

(2) The name and title or position of each person responsible for denial of the appeal; and

(3) The right to judicial review of the denial in accordance with 5 U.S.C. 552(a)(4).

(d) Each agency, upon a determination that it wishes to deny an appeal, shall send a copy of the records

requested and of all correspondence relating to the request to the Assistant General Counsel, General Law Division, Office of the General Counsel (''Assistant General Counsel''). When the volume of records is so large as to make sending a copy impracticable, the agency shall enclose an informative summary of those records. The agency shall not deny an appeal until it receives concurrence from the Assistant General Counsel

(e) The Assistant General Counsel shall promptly review the matter (including necessary coordination with the agency) and render all necessary assistance to enable the agency to respond to the appeal within the administrative deadline or any extension of the administrative deadline.

§ 1.15 General provisions respecting release of records.

(a) When releasing documents, agencies shall provide the record in any form or format the requester specifies, if the record is readily reproducible in that form of format. Agencies shall make reasonable efforts to maintain their records in forms or formats that are reproducible. In responding to requests for records, agencies shall make reasonable efforts to search for records in electronic form or format, except when such efforts would significantly interfere with the operation of an agency's automated information system. Such determinations shall be made on a case-by-case basis.

(b) In the event a requested record contains some portions that are exempt from mandatory disclosure and others that are not, the official responding to the request shall ensure that all reasonably segregable nonexempt portions are disclosed, and that all exempt portions are identified according to the specific exemption or exemptions which are applicable. The amount of deleted information shall be indicated on the released portion of paper records. Deletions may be marked by use of brackets or darkened areas indicating removal of information, or by any other method that would reasonable demonstrate the extent of the deletion. In the case of electronic deletion, or deletion in audiovisual or microfiche records, if technically feasible, the amount of redacted information shall be indicated at the place in the records, if technically feasible, the amount of redacted information shall be indicated at the place in the record where such deletion was made. This may be done by use of brackets, shaded areas, or some other identifiable technique which will clearly show the limits of the deleted information.

(c) If, in connection with a request or an appeal, a charge is to be made in accordance with sec. 8 of appendix A to this subpart, agencies shall inform the requester of the fee amount and of the basis for the charge. Each agency, in accordance with sec. 8 of appendix A to this subpart, may require payment of the entire fee, or a portion of the fee, before it provides the requested records. An agency shall require full payment of any delinquent fee owed by the requester plus any applicable interest prior to releasing records on a subsequent request or appeal. If a requester refuses to remit payment in advance, an agency may refuse to process the request or appeal with written notice to that effect forwarded to the requester. The ''date of receipt'' appeal for which advance payment has been required shall be the date that payment is received.

(d) In the event compliance with the request or appeal involves inspection of records by the requester rather than providing copies of the records, the agency response shall include the name, mailing address, and telephone number of the person to be contacted to arrange a mutually convenient time for such inspection.

(e) Whenever duplication fees, or search fees for unsuccessful searches (see sec. 4(f) of appendix A to this subpart), are anticipated to exceed $25.00, and the requester has not indicated, in advance, a willingness to pay fees as high as those anticipated, agencies shall notify the requester of the amount of the anticipated fee. If an extensive and therefore costly successful search is anticipated, agencies also should notify requesters of the anticipated fees. The notification shall offer the requester the opportunity to confer with agency personnel to reform the request to meet the requester's needs at a lower fee. In appropriate cases, an advance deposit in accordance with sec. 8 of appendix A to this subpart may be required.

§ 1.16 Extension of administrative deadlines.

(a) In unusual circumstances as specified in this section, when additional time is needed to respond to the initial request or to an appeal, agencies shall acknowledge the request or the appeal in writing within the 20 working day time period, describe the unusual circumstances requiring the delay, and indicate the anticipated date for a substantive response that may not exceed 10 additional working days, except as provided in the following:

(1) In instances in which the agency, with respect to a particular request, has extended the response date by 10 additional working days, if the agency finds that it cannot make a response determination within the additional 10 working day period, the agency shall notify the requester and provide the requester an opportunity to limit the scope of the request to allow the agency to process the request within the extended time limit, or an alternative time frame for processing the request or a modified request.

(2) If the requester refuses to reasonably modify the request or arrange for an alternative time frame for processing the request, the FOIA provides that such refusal shall be considered as a factor in determining whether there are exceptional circumstances that warrant granting additional time for the agency to complete its review of the records, as set forth in 5 U.S.C. 552(a)(6)(C)(iii). The term ''exceptional circumstances'' does not include a delay that results from a predictable agency backlog, unless the agency demonstrates reasonable progress in reducing its backlog of pending requests.

(b) As used in this section, ''unusual circumstances'' that may justify delay are:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another Department or agency having a substantial interest in the determination of the request or among two or more components of agency having substantial subject-matter interest in the request.

Note to paragraph (b): Consultation regarding policy or legal issues between an agency and the Office of the General Counsel, Office of Communications, or the Department of Justice is not a basis for extension under this section.

(c) The 10-day extension authorized by this section may be divided between the initial and appellate reviews, but in no event shall the total extension exceed 10 working days.

(d) Nothing in this section shall preclude the agency and the requester from agreeing to an extension of time. Any such agreement should be confirmed in writing and should specify clearly the total time agreed upon.

§ 1.17 Failure to meet administrative deadlines.

In the event an agency fails to meet the administrative deadlines set forth in §§ 1.7 or 1.14, plus any extension authorized by § 1.16, it shall notify the requester, state the reasons for the delay, and the date by which it expects to dispatch a determination. Although the requester may be deemed to have exhausted his or her administrative remedies under 5 U.S.C. 552(a)(6)(C), the agency shall continue processing the request as expeditiously as possible and dispatch the determination when it is reached in the same manner and form as if it had been reached within the applicable deadline.

§ 1.18 Fee schedule.

Pursuant to § 2.28 of this title, the Chief Financial Officer is delegated authority to promulgate regulations providing for a uniform fee schedule applicable to all agencies of the Department regarding requests for records under this subpart. The regulations providing for a uniform fee schedule are found in appendix A to this subpart.

§ 1.19 Exemptions and discretionary release.

(a) All agency records, except those specifically exempted from mandatory disclosure by one or more provisions of 5 U.S.C. 552(b), shall be made promptly available to any person submitting a request under this subpart.

(b) Agencies are authorized, in their sole discretion, to make discretionary releases when such release is not otherwise specifically prohibited by Executive Order, statute, or regulation.

§ 1.20 Annual report.

(a) Each agency of the Department shall compile the following Freedom of Information Act statistics on a fiscal year basis beginning October 1, 1997, and report the following information to the Office of Communications no later than November 30 following the fiscal year's close:

(1) The number of requests for records received and the number of requests which were processed;

(2) The number of determinations made not to comply with initial requests for records made to it under § 1.5(a), and the reasons for each such determinations;

(3) The number of appeals made by persons under § 1.14(b), the result of such appeals, and the reason for the action upon each appeal that results in a denial of information.

(4) A complete list of all statutes that the agency relies upon to authorize the agency to withhold information under 5 U.S.C. 552(b)(3), a description of whether a court has upheld the decision of the agency to withhold information under each such statute, and a concise description of the scope of any information withheld;

(5) The number of requests for records pending before the agency as of September 30 of the preceding year, and the median number of days that such requests had been pending before the agency as of that date:

(6) The median number of days taken by the agency to process different types of requests;

(7) The total amount of fees collected by the agency for processing requests;

(8) The number of full-time staff of the agency devoted to processing requests for records under this section, and the total amount expended by the agency for processing such requests.

(b) Each agency shall compile the information required by paragraph (a) of this section for the preceding fiscal year into a report and submit this report to the Director of Communications, Office of Communications, no later than November 30 following the fiscal year's close.

(c) The Director of Communications, Office of Communications, shall combine the reports from all the agencies within USDA into a Departmental report, and shall submit to the Attorney General on or before February 1 of each year in accordance with 5 U.S.C. 552(e).

(d) Each agency shall make the report available to the public including by computer telecommunications, or if computer telecommunications means have not been established by the agency, by other electronic means.

§ 1.21 Compilation of new records.

Nothing in 5 U.S.C. 552 or this subpart requires that any agency create a new record in order to fulfill a request for records. However, an agency is required to provide a record in a form or format specified by a requester, if the record is readily reproducible by the agency in the form or format requested. Creation of records may be undertaken voluntarily if the agency determines this action to be in the public interest or the interest of USDA.

§ 1.22 Authentication.

When a request is received for an authenticated copy of a document which the agency determines to make available to the requesting party, the agency shall cause a correct copy to be prepared and sent to the Office of the General Counsel which shall certify the same and cause the seal of the Department to be affixed, except that the Hearing Clerk in the Office of Administrative Law Judges may authenticate copies of documents in the records of the Hearing Clerk and that the Director of the National Appeals Division may authenticate copies of documents in the records of the National Appeals Division.

§ 1.23 Records in formal adjudication proceedings.

Records in formal adjudication proceedings are on file in the Hearing Clerk's office, Office of Administrative Law Judges, U.S. Department of Agriculture, Washington, DC 20250, and shall be made available to the public.

§ 1.24 Preservation of records.

Agencies shall preserve all correspondence relating to the requests it receives under this subpart, and all records processed pursuant to such requests, until such time as the destruction of such correspondence and records is authorized pursuant to Title 44 of the United States Code, and appropriate records disposition authority granted by NARA. Under no circumstances shall records be sent to a Federal Records Center, transferred to the permanent custody of NARA, or destroyed while they are the subject of a pending request, appeal, or civil action under the FOIA.

§ 1.25 Implementing regulations for the Office of the Secretary and the Office of Communications.

(a) For the Office of the Secretary and for the Office of Communications, the regulations required by § 1.3 are as follows:

(1) Records available for public inspection and copying may be obtained in Room 536–A, Jamie L. Whitten Federal Building, USDA, Washington, DC 20250 during the hours of 9 a.m. to 5 p.m. by prior appointment;

(2) Any indexes and supplements which are maintained in accordance with the requirements of 5 U.S.C. 552(a)(2) and § 1.5(b) will also be available in Room 536–A, Jamie L. Whitten Federal Building, USDA, Washington, DC 20250 during the hours of 9 a.m. to 5 p.m.;

(3) The person authorized to receive Freedom of Information Act requests and to determine whether to grant or deny such requests is the FOIA Officer, Office of Communications, USDA, Washington, DC 20250;

(4) The official authorized to receive appeals from denial of FOIA requests and to determine whether to grant or deny such appeals is the Director of Communications, Office of

Communications, USDA, Washington, DC 20250.

(b) The organization and functions of the Office of the Secretary and the Office of Communications is as follows:

(1) The Office of the Secretary provides the overall policy guidance and direction of the activities of the Department of Agriculture. Department-wide policy statements and announcements are made from this office.

(2) The Office of the Secretary consists of the Secretary, Deputy Secretary, Under Secretaries, Assistant Secretaries, and other staff members.

(3) In the absence of the Secretary and the Deputy Secretary, responsibility for the operation of the Department of Agriculture is as delegated at part 2, subpart A, of this title.

(4) The Office of Communications provides policy direction, review, and coordination of public information programs of the Department of Agriculture. The Office of Communications has responsibility for maintaining the flow of information to the mass communications media, various constituency groups, and the general public.

(5) The Office of Communications is headed by the Director of Communications. In the Director's absence, the Office of Communications is headed by the Deputy Director.

Appendix A to Subpart A—Fee Schedule

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Dated: July 18, 2000.

Dan Glickman,

Secretary of Agriculture.

[FR Doc. 00–18767 Filed 7–27–00; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 74

[Docket No. 99C–1455]

Listing of Color Additives for Coloring Sutures; D&C Violet No. 2

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the color additive regulations to provide for the safe use of D&C Violet No. 2 as a color additive in absorbable sutures prepared from homopolymers of glycolide for general surgery. The agency is also revising the nomenclature ''polyglactin 910 (glycolic-lactic acid polyester)'' to the generic nomenclature ''copolymers of 90 percent glycolide and 10 percent L-lactide.'' This action responds to a petition filed by Genzyme Surgical Products Corp.

DATES: This rule is effective August 29, 2000; except as to any provisions that may be stayed by the filing of proper objections. Submit written objections and requests for a hearing by August 28, 2000.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Ellen M. Waldron, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3089.

SUPPLEMENTARY INFORMATION:

I. Introduction

In a notice published in the **Federal Register** of June 3, 1999 (64 FR 29871), FDA announced that a color additive petition (CAP 9C0266) had been filed by Genzyme Surgical Products Corp., 600 Airport Rd., Fall River, MA 02720. The petition proposed to amend the color additive regulations in § 74.3602 *D&C Violet No. 2* (21 CFR 74.3602) to provide for the safe use of D&C Violet No. 2 as a color additive in absorbable sutures prepared from homopolymers of glycolide for general surgery. The petition also proposed that the nomenclature ''polyglactin 910 (glycolic-lactic acid polyester)'' be revised to the generic nomenclature ''copolymers of 90 percent glycolide and 10 percent L-lactide.'' The petition was filed under section 721(d)(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 379e(d)(1)).

II. Regulatory History

The regulatory history of D&C Violet No. 2 was summarized in a final rule published in the **Federal Register** of May 7, 1990 (55 FR 18865). Since the publication of the May 7, 1990, final rule, other uses of D&C Violet No. 2 have been approved by the agency. For example, in a final rule published in the **Federal Register** of June 18, 1999 (64 FR 32803), FDA amended § 74.3602 to list D&C Violet No. 2 as a color additive in absorbable meniscal tacks made from poly(L-lactic acid).

III. Applicability of the Act

With the passage of the Medical Device Amendments of 1976 (Public Law 94–295), Congress mandated the listing of color additives for use in medical devices when the color additive in the device comes into direct contact with the body for a significant period of time (section 721(a) of the act). D&C Violet No. 2 is added to absorbable sutures prepared from homopolymers of glycolide in such a way that at least some of the color additive will come into contact with the body when the sutures are in place. In addition, the sutures are intended to be absorbed by the body, and during the absorption, the color additive will be deposited in body tissue. Thus, the color additive will be in direct contact with the body for a significant period of time. Consequently, the petitioned use of the color additive is subject to the statutory listing requirement.

IV. The Color Additive

D&C Violet No. 2 is principally 1-hydroxy-4-[(4-methylphenyl)amino]-9,10-anthracenedione (CAS Reg. No. 81–48–1). It is manufactured by either condensation of quinizarin with *p*-toluidine or by condensation of 1-hydroxy-halogenoanthroquinone with *p*-toluidine. Because no chemical reaction consumes all the starting materials and yields only the desired product, both the resulting reaction mixture and commercial product will contain residual amounts of the starting materials, including *p*-toluidine. This fact is significant because Weisburger et al. have demonstrated that *p*-toluidine is a carcinogen in the mouse (Ref. 1). Residual amounts of reactants, such as *p*-toluidine, and manufacturing aids are commonly found as impurities in chemical products, including color additives.

V. Determination of Safety

Under the general safety standard of the act (section 721(b)(4)) for color additives, a color additive cannot be approved for a particular use unless a fair evaluation of the data available to FDA establishes that the color additive is safe for that use. FDA's color additive regulations (21 CFR 70.3(i)) define ''safe'' as ''reasonable certainty that no harm will result from the intended use of the color additive.''

The color additives anticancer, or Delaney, clause of the color additive amendments (section 721(b)(5)(B) of the act) provides that no noningested color additive shall be deemed safe and shall be listed if, after tests that are appropriate for evaluating the safety of

the additive for such use, it is found to induce cancer in man or animal. Importantly, however, the Delaney clause applies to the additive itself and not to impurities in the additive. That is, where an additive itself has not been shown to cause cancer, but contains a carcinogenic impurity, the additive is properly evaluated under the general safety standard using risk assessment procedures to determine whether there is reasonable certainty that no harm will result from the intended use of the additive (*Scott* v. *FDA*, 728 F.2d 322 (6th Cir. 1984)).

VI. Safety of The Petitioned Use of The Additive

FDA estimates that the petitioned use of the additive, D&C Violet No. 2, will result in exposure over a 70-year lifetime of 156 nanograms per person per day (ng/p/d) (Ref. 2).

FDA does not ordinarily consider chronic toxicological studies to be necessary to determine the safety of an additive whose use will result in such low exposure levels (Ref. 3), and the agency has not required such testing here. However, the agency has reviewed the available toxicological data on the additive and concludes that the estimated small daily exposure resulting from the proposed use of this additive is safe.

FDA has evaluated the safety of this additive under the general safety standard, considering all available data and using risk assessment procedures to estimate the upper-bound limit of lifetime human risk presented by *p*-toluidine, the carcinogenic chemical that may be present as an impurity in the additive. The risk evaluation of *p*-toluidine has two aspects: (1) Assessment of exposure to the impurity from the proposed use of the additive, and (2) extrapolation of the risk observed in the animal bioassay to the conditions of exposure to humans.

A. p-Toluidine

FDA has estimated the average individual lifetime exposure to *p*-toluidine from the petitioned use of D&C Violet No. 2 in absorbable sutures prepared from homopolymers of glycolide to be no more than 0.3 ng/p/d (Ref. 4). The agency used data from a long-term rodent bioassay on *p*-toluidine conducted by Weisburger et al. (Ref. 1), to estimate the upper-bound limit of lifetime human risk from exposure to this chemical resulting from the proposed use of the additive. The authors reported that the rodent bioassay showed that the test material caused an increased incidence of hepatomas (liver tumors).

Based on the agency's estimate that exposure to *p*-toluidine will not exceed 0.3 ng/p/d, FDA estimates that the upper-bound limit of lifetime human risk from the petitioned use of the subject additive is 2×10^{-11} or 2 in 100 billion (Ref. 4). Because of the numerous conservative assumptions used in calculating the exposure estimate, the actual lifetime-averaged individual exposure to *p*-toluidine is likely to be substantially less than the estimated exposure, and therefore, the probable lifetime human risk would be less than the upper-bound limit of lifetime human risk. Thus, the agency concludes that there is reasonable certainty that no harm from exposure to *p*-toluidine would result from the proposed use of the additive.

B. Specifications

The agency has also considered whether specifications are necessary to control the amount of *p*-toluidine present as an impurity in D&C Violet No. 2. The additive is currently produced as a certified color additive for use in externally applied drugs and cosmetics, in sutures, in meniscal tacks, and in contact lenses in accordance with 21 CFR part 80. Based upon the low level of exposure to *p*-toluidine that results under the current specifications for D&C Violet No. 2 in § 74.1602 (21 CFR 74.1602), the agency concludes that the specifications listed in § 74.1602 are adequate to ensure the safe use of this color additive and to control the amount of *p*-toluidine that may exist as an impurity in the color additive when used in absorbable sutures prepared from homopolymers of glycolide.

VII. Conclusions

FDA has evaluated the data and information in the petition and other relevant material. Based on this information the agency concludes that: (1) The proposed use of D&C Violet No. 2, at a level not to exceed 0.2 percent by weight of the suture material, for coloring absorbable sutures prepared from homopolymers of glycolide for general surgery is safe; and (2) the color additive will achieve its intended coloring effect, and thus, is suitable for this use. Further, FDA has carefully considered the proposal to revise the nomenclature ''polyglactin 910 (glycolic-lactic acid polyester),'' which is currently listed in § 74.3602(b)(2)(i). The agency concludes that the nomenclature, which is a trade name, should be revised to the generic nomenclature ''copolymers of 90 percent glycolide and 10 percent L-lactide.'' Finally, the agency concludes that the color additive regulations in § 74.3602 should be amended as set forth below.

VIII. Inspection of Documents

In accordance with § 71.15 (21 CFR 71.15), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in § 71.15, the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

IX. Environmental Impact

The agency has previously considered the environmental effects of this rule as announced in the notice of filing for CAP 9C0266 (64 FR 29871, June 3, 1999). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

X. Paperwork Reduction Act of 1995

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

XI. Objections

Any person who will be adversely affected by this regulation may at any time file with the Dockets Management Branch (address above) written objections by August 28, 2000. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents are to be submitted and are to be identified with the docket number found in brackets in the heading of this

document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. FDA will publish notice of the objections that the agency has received or lack thereof in the **Federal Register**.

XII. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Weisburger, E. K. et al., ''Testing of Twenty-one Environmental Aromatic Amines or Derivatives for Long-Term Toxicology or Carcinogenicity,'' *Journal of Environmental Pathology and Toxicology*, 2:325–356, 1978.

2. Memorandum from the Division of Product Manufacture and Use, Chemistry Review Team (FDA), to the Division of Petition Control (FDA), concerning ''CAP 9C0266 (MATS M2.0 & 2.1): Genzyme Surgical Products Corp. (Submission of March 18, 1999, facsimile dated April 9, 1999, and amendment of April 29, 1999). Request for the Listing of D&C Violet No. 2 in Glycolide Homopolymer Absorbable Sutures for General Surgery,'' dated June 18, 1999.

3. Kokoski, C. J., ''Regulatory Food Additive Toxicology,'' *Chemical Safety Regulation and Compliance*, edited by F. Homburger and J. K. Marquis, published by S. Karger, New York, NY, pp. 24–33, 1985.

4. Memorandum from Division of Petition Control (FDA), to Executive Secretary, Quantitative Risk Assessment Committee (FDA), concerning ''Estimation of the Upper-Bound Lifetime Risk From *p*-Toluidine in D&C Violet No. 2 When Used as a Color Additive for Sutures Used in General Surgery: CAP 9C0266,'' dated July 21, 1999.

List of Subjects in 21 CFR Part 74

Color additives, Cosmetics, Drugs, Foods, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 74 is amended as follows:

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR part 74 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e.

2. Section 74.3602 is amended by revising paragraph (b)(2)(i) and by adding paragraph (b)(2)(vi) to read as follows:

§ 74.3602 D&C Violet No. 2.

* * * * *

(b) * * *

(2) * * *

(i) At a level not to exceed 0.2 percent by weight of the suture material for coloring copolymers of 90 percent glycolide and 10 percent L-lactide synthetic absorbable sutures for use in general and ophthalmic surgery; and

* * * * *

(vi) At a level not to exceed 0.2 percent by weight of the suture material for coloring absorbable sutures prepared from homopolymers of glycolide for use in general surgery.

* * * * *

Dated: July 20, 2000.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 00–19047 Filed 7–27–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1313

[Docket No. NHTSA–00–7476]

RIN 2127–AH42

Incentive Grants for Alcohol-Impaired Driving Prevention Programs

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This document announces that the amendments to the regulations that were published in an interim final rule to reflect changes made to the Section 410 program by the Transportation Equity Act for the 21st Century (TEA–21) will remain in effect with minor changes. Under the final rule, States have two alternative means for qualifying for a Section 410 basic grant.

States may qualify for a ''programmatic basic grant'' if they submit materials demonstrating that they meet five out of seven grant criteria. Alternatively, States may qualify for a ''performance basic grant'' by submitting data demonstrating that the State has successively reduced the percentage of alcohol-impaired fatally injured drivers in the State over a three-year period. States that qualify under both sets of requirements may receive both programmatic and performance basic grants. In addition, States that are eligible for one or both of the basic grants may qualify also for a supplemental grant.

This final rule establishes the criteria States must meet and the procedures they must follow to qualify for Section 410 incentive grants, beginning in FY 2000. This final rule also modifies some features of the interim regulations that relate to the graduated driver's licensing system criterion and the young adult drinking and driving program criterion.

DATES: This final rule becomes effective on July 28, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Glenn Karr, Office of State and Community Services, NSC–10, National Highway Traffic Safety Administration, 400 Seventh Street S.W., Washington, DC 20590 telephone (202) 366–2121; or Mr. Christopher A. Cook, Office of Chief Counsel, NCC–30, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, DC 20590, telephone (202) 366–1834.

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I. Background

The Section 410 program was created by the Drunk Driving Prevention Act of 1988 and codified in 23 U.S.C. 410. As originally conceived, States could qualify for basic and supplemental grants under the Section 410 program if they met certain criteria. To qualify for a basic grant, States had to provide for an expedited driver's license suspension or revocation system and a self-sustaining drunk driving prevention program. To qualify for a supplemental grant, States had to be eligible for a basic grant and provide for a mandatory blood alcohol testing program, an underage drinking program, an open

container and consumption program, or a suspension of registration and return of license plate program.

A number of technical corrections contained in the 1991 Appropriations Act for the Department of Transportation and Related Agencies, enacted on January 12, 1990, led to changes in the basic grant requirements, but did not add any new criteria to the program.

A number of modifications were made to the Section 410 program in 1991 by the enactment of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). In addition to modifying award amounts and procedures, ISTEA changed the criteria that States were required to meet to qualify for basic and supplemental grant funds. To qualify for a basic grant under the amended program, States were required to provide for four out of the following five criteria: an expedited administrative driver's license suspension or revocation system; a *per se* law at 0.10 BAC (during the first three fiscal years in which a basic grant was received based on this criterion and a *per se* law at 0.08 BAC in each subsequent fiscal year); a statewide program for stopping motor vehicles; a self-sustaining drunk driving prevention program; and a minimum drinking age prevention program.

States eligible for basic grants could qualify also for supplemental grants if they provided for one or more of the following: a *per se* law at 0.02 BAC for persons under age 21; an open container and consumption law; a suspension of registration and return of license plate program; a mandatory blood alcohol concentration testing program; a drugged driving prevention program; a *per se* law at 0.08 BAC (during the first three fiscal years in which a basic grant was received); and a video equipment program.

In 1992, the Section 410 program was modified again. The Department of Transportation and Related Agencies Appropriations Act for FY 1993, which was signed into law on October 6, 1992, essentially repealed the modifications to Section 410 relating to award amounts and procedures that were enacted by ISTEA. The Act also added a sixth basic grant criterion, and provided that to be eligible for a basic grant, a State must meet five out of the six basic grant criteria. The new criterion required States to show that they impose certain mandatory sentences on repeat offenders.

The National Highway System Designation Act of 1995 led to further amendments to the Section 410 program. The criterion for a statewide program for stopping motor vehicles was modified to accommodate States in which roadblocks were unconstitutional. In addition, the *per se* law at 0.02 BAC for persons under age 21 requirement was eliminated as a supplemental grant criterion, and became instead a basic grant criterion (thereby increasing the total number of basic grant criteria from six to seven). With this change, States could qualify for a basic grant by meeting five out of seven criteria.

On June 9, 1998, the Transportation Equity Act for the 21st Century (TEA–21) was enacted into law (P.L. 105–178). Section 2004 of TEA–21 contained a new set of amendments to 23 U.S.C. 410. These amendments modified both the grant amounts to be awarded and the criteria that States must meet to qualify for both basic and supplemental grant funds under the Section 410 program.

The TEA–21 amendments, which took effect in FY 1999, establish two separate basic grants, plus six supplemental grant criteria. The statute provides that the amount of each basic grant shall equal up to 25 percent of the amount apportioned to the qualifying State for fiscal year 1997 under 23 U.S.C. 402, and that up to 10 percent of the amounts available to carry out the Section 410 program shall be available for making Section 410 supplemental grants.

Under the TEA–21 amendments, a State can qualify for one of the basic grants (named a ''Programmatic Basic Grant'' in the interim regulation) by demonstrating that the State meets five out of the following seven criteria: An administrative driver's license suspension or revocation system; an underage drinking prevention program; a statewide traffic enforcement program; a graduated driver's licensing system; a program to target drivers with high BAC; a program to reduce drinking and driving among young adults (between the ages of 21 and 34); and a BAC testing program. A State can qualify for the other basic grant (named a ''Performance Basic Grant'' in the interim regulation) by demonstrating that the percentage of fatally injured drivers in the State with a blood alcohol concentration (BAC) of 0.10 or more has decreased in each of the three most recent calendar years for which statistics are available and that the percentage of fatally injured drivers with a BAC of 0.10 or more in the State has been lower than the average percentage for all States in each of the same three calendar years.

To qualify for supplemental grant funds under Section 410, as amended by TEA–21, a State must receive a Programmatic and/or a Performance Basic Grant, and must provide for one or more of the following six criteria: a video equipment program; a self-sustaining drunk driving prevention program; a program to reduce driving with a suspended driver's license; a passive alcohol sensor program; an effective DWI tracking system; or other innovative programs to reduce traffic safety problems that result from individuals who drive while under the influence of alcohol or controlled substances. A detailed discussion of the criteria described above is contained in the interim final rule.

II. Administrative Issues

A. Qualification Requirements

Under the interim final rule, the agency's Section 410 implementing regulation continues to outline, in the qualification requirements section, 23 CFR 1313.4(a), certain procedural steps that must be followed when States wish to apply for a grant under this program.

State applications must be received by the agency no later than August 1 of the fiscal year in which the States are applying for funds. The application must contain certifications stating that: (1) The State has an alcohol-impaired driving prevention program that meets the grant requirements; (2) it will use funds awarded only for the implementation and enforcement of alcohol-impaired driving prevention programs; (3) it will administer the funds in accordance with relevant regulations and OMB Circulars; and (4) the State will maintain its aggregate expenditures from all other sources for its alcohol-impaired driving prevention programs at or above the average level of such expenditures in fiscal years 1996 and 1997. The regulation provides that either State or Federal fiscal year may be used.

Consistent with current procedures being followed in other highway safety grant programs being administered by NHTSA, once a State has been informed that it is eligible for a grant, the State must include documentation in the State's Highway Safety Plan, prepared under Section 402, that indicates how it intends to use the grant funds. The documentation must include a Program Cost Summary (HS Form 217) obligating the Section 410 funds to alcohol-impaired driving prevention programs.

Upon receipt and subsequent approval of a State's application, NHTSA will award grant funds to the State and will authorize the State to incur costs after receipt of an HS Form 217. Vouchers must be submitted to the appropriate NHTSA Regional

Administrator and reimbursement will be made to States for authorized expenditures. The funding guidelines applicable to the Section 402 Highway Safety Program will be used to determine reimbursable expenditures under the Section 410 program.

B. Limitation on Grants

Under the Section 410 program, as amended by TEA–21, States are eligible to receive Section 410 grants for up to six fiscal years, beginning in FY 1998. A total of $219.5 million is authorized for the program over a six-year period. Specifically, TEA–21 authorized $34.5 million for FY 1998, $35 million for FY 1999, $36 million for FY 2000, $36 million for FY 2001, $38 million for FY 2002 and $40 million for FY 2003.

TEA–21 created two separate basic grants, which were designated in the agency's interim final rule as programmatic and performance basic grants. Beginning in FY 1999, a State that qualifies for either a programmatic or a performance basic grant shall receive grant funds in an amount equal to 25 percent of the State's Section 402 apportionment for FY 1997, subject to the availability of funds. However, States are at liberty to apply for both basic grants. A State that qualifies for both basic grants shall receive basic grant funds in an amount equal to 50 percent of the State's FY 1997 Section 402 apportionment, subject to the availability of funds.

Section 410, as amended by TEA–21, limits the funds that will be available each fiscal year for supplemental grants to 10 percent of the funding for the entire Section 410 program for that fiscal year. TEA–21 does not specify how each State's supplemental grant is to be calculated.

The interim final rule provided that supplemental grants will be calculated by multiplying the number of supplemental grant criteria a State meets by five percent of the State's Section 402 apportionment for FY 1997. This is the maximum supplemental grant funding the State may receive, subject to the ten percent cap and availability of funds. We received no comments in response to the interim rule regarding this issue. The agency continues to believe that such a calculation takes into account, in an appropriate way, the size of the State in terms of population and highway mileage (in accordance with the formula used under Section 402) and the accomplishments the State has demonstrated in its alcohol-impaired driving prevention program. This final rule makes no changes to this aspect of the interim regulation.

States continue to be required to match the grant funds they receive. Under the matching requirements, the Federal share may not exceed 75 percent of the cost of the program adopted under Section 410 in the first and second fiscal year the State receives funds, 50 percent in the third and fourth fiscal year the State receives funds and 25 percent in the fifth and sixth fiscal year. For those States that received Section 410 grants in FY 1998, that year will be considered the State's first fiscal year for matching purposes.

The agency will continue to accept a ''soft'' match in Section 410's administration. By this, NHTSA means the State's share may be satisfied by the use of either allowable costs incurred by the State or the value of in-kind contributions applicable to the period to which the matching requirement applies. A State could not, however, use any Federal funds, such as its Section 402 funds or Department of Justice funds, to satisfy the matching requirements. In addition, a State can use each non-Federal expenditure only once for matching purposes.

C. Award Procedures

As the agency explained in the interim final rule, the release of the full grant amounts under Section 410 shall be subject to the availability of funding for that fiscal year.

If there are expected to be insufficient funds to award full grant amounts to all eligible States in any fiscal year, NHTSA stated in the interim final rule that it may release less than the full grant amounts upon initial approval of the State's application and documentation, and the remainder of the full grant amounts up to the State's proportionate share of available funds, before the end of that fiscal year.

However, based on the agency's experience administering this grant program in fiscal year 1999, as well as the other grant programs that were authorized under TEA–21, NHTSA has determined that it is not necessary to release funds in two stages. Accordingly, beginning in FY 2000, all Section 410 funds will be released at the same time. Since applications for Section 410 funds are due each fiscal year by August 1, the funds will be awarded near the end of each fiscal year (no later than September 30).

If there are insufficient funds to award the full grant amounts to all eligible States in any fiscal year, NHTSA will award each State its proportionate share of available funds. As stated in the interim final rule, project approval, and the contractual obligation of the Federal government to provide grant funds, shall be limited to the amount of funds released.

As explained in the interim final rule, if any funds remain available under 23 U.S.C. Sections 405, 410 and 411 at the end of a fiscal year, the Secretary may transfer these funds to the amounts made available under any other of these programs to ensure, to the maximum extent possible, that each State receives the maximum incentive funding for which it is eligible.

III. Interim Final Rule

These regulations were published in an interim final rule on December 29, 1998 (63 FR 71688). The interim regulations became effective on January 28, 1999, and grants were awarded under the provisions of the interim regulations in FY 1999. Thirty-four States submitted grant applications under the interim regulations in FY 1999. Thirty-two States received a total of $33,250,000 in both basic and supplemental Section 410 grants in FY 1999 under the interim final rule. Of the thirty-two States that received grants, a total of thirty States qualified for a grant under the programmatic basic criterion and, of these thirty States, three States qualified for both a programmatic basic grant and a performance basic grant. In addition, two States qualified for a performance basic grant only.

IV. Written Comments

In the interim final rule published on December 29, 1998, the agency requested written comments on the changes to the regulations. The agency stated that all comments submitted would be considered by the agency and that, following the close of the comment period, the agency would publish a document in the **Federal Register** responding to the comments and, if appropriate, would make further amendments to the provisions of Part 1313.

A. Comments Received

The agency received submissions from eight commenters in response to the interim final rule. The commenters included the National Association of Governors' Highway Safety Representatives (NAGHSR) and seven State representatives. K. Craig Allred, Director of the Utah Highway Safety Office, commented in his capacity as the Chair of the National Association of Governors' Highway Safety Representatives (NAGHSR). The State comments were submitted by Kirk Brown, Secretary of the Illinois Department of Transportation (Illinois); Ronald D. Lipps, Highway Safety Coordinator, Maryland State Highway

Administration (Maryland); Betty J. Mercer, Division Director of the Office of Highway Safety Planning, Michigan Department of State Police (Michigan); Dawn Olson, Program Manager, North Dakota Department of Transportation, Drivers License and Traffic Safety (North Dakota); Troy E. Costales, Governor's Highway Safety Representative and the Transportation Safety Division Manager of the Oregon Department of Transportation (Oregon); John M. Moffat, Governor's Highway Safety Representative and Director of the Washington Traffic Safety Commission (Washington); and Charles H. Thompson, Secretary of the Wisconsin Department of Transportation (Wisconsin).

B. General Comments

In general, the comments in response to the interim final rule were very positive. Washington recommended that the ''rule be adopted as written'' and complimented the agency ''on a clearly written rule.'' NAGHSR supported the interim regulations and stated that it ''believes that they are consistent with statutory intent.''

Many sections of the interim rule generated no comments. For example, no comments were received regarding § 1313.1 Scope, § 1313.2 Purpose, § 1313.3 Definitions, § 1313.4 General Requirements and § 1313.8 Award Procedures. We also received no comments regarding § 1313.7, which contained the requirements for a supplemental grant. These sections of the interim rule have been adopted in this final rule without change.

One commenter (the State of Oregon) noted that ''the level of detail for some of the requirements was extensive'' and the interim rule included what the commenter considered ''excessive detail'' that was ''prescriptive, leaving little flexibility for some States.'' We note, however, that Oregon objected to only two particular criteria, the graduated driver's licensing system and the program for drivers with high BAC. The State indicated that it considered all of the other established criteria to be acceptable.

Most comments related to the requirements that States must meet to qualify for a programmatic grant based on the administrative license suspension or revocation system, underage drinking prevention program, statewide traffic enforcement program, graduated driver licensing system, program for drivers with high BAC and young adult drinking and driving program criteria. Comments were received also regarding the requirements that States must meet to qualify for a performance grant. These comments and the agency's responses thereto are discussed in greater detail below. Also discussed below are certain changes that the agency decided to make in this final rule regarding issues that were raised while the agency reviewed State applications for Section 410 funds during FY 1999, the first year that the Section 410 program operated under the interim regulations.

C. Comments Regarding the Grant Criteria

1. Administrative License Suspension or Revocation System

TEA–21 provides that, to qualify for a grant based on this criterion, a State must demonstrate:

> An administrative driver's license suspension or revocation system for individuals who operate motor vehicles while under the influence of alcohol that requires that—
>
> (i) In the case of an individual who, * * * is determined on the basis of a chemical test to have been operating a motor vehicle while under the influence of alcohol or is determined to have refused to submit to such a test as proposed by a law enforcement officer, the State agency responsible for administering drivers' licenses, upon receipt of the report of the law enforcement officer—
>
> (I) Shall suspend the driver's license of such individual for a period of not less than 90 days if such individual is a first offender in such 5-year period; and
>
> (II) Shall suspend the driver's license of such individual for a period of not less than 1 year, or revoke such license, if such individual is a repeat offender in such 5-year period; and
>
> (ii) The suspension and revocation referred to * * * shall take effect not later than 30 days after the day on which the individual refused to submit to a chemical test or received notice of having been determined to be driving under the influence of alcohol, in accordance with the procedures of the State.

With regard to the requirement under this criterion that the driver's license of repeat offenders must be suspended or revoked for a period of not less than one year, the interim final rule requires that States must impose a ''hard'' one-year suspension term (*i.e.,* that *all* driving privileges of repeat offenders must be suspended or revoked for at least one year) on any offender who fails or refuses to submit to a chemical test more than once within a five-year period.

Mr. Allred of Utah, commenting for NAGHSR, strongly objected to this one-year hard suspension requirement. He asserted that ''a one-year hard suspension would be very problematic, particularly for rural residents who have no other means of transportation'' and he urged instead that ''the regulatory language allow for a short (*e.g.* 60- or 90-day) hard suspension period followed by a period in which the driver is allowed to drive with a restricted license.''

As the agency explained in the preamble to its Section 410 interim final rule, a license suspension system has been a basic grant criterion under the Section 410 program since the program's inception in 1988, and a one-year hard suspension period has always been an element of this criterion.

Prior to the enactment of TEA–21, this criterion contained a number of detailed procedural requirements, and TEA–21 streamlined this criterion by eliminating some of these requirements. Only selected elements were retained, but the one-year suspension period was one of those elements. TEA–21 continued to require that first offenders must be subject to a 90-day suspension or revocation, that repeat offenders must be subject to a one-year suspension or revocation, and that suspensions or revocations must take effect within 30 days after the offender refuses to submit to a chemical test or receives notice of having failed the test.

The agency has always interpreted this criterion to require that the one-year suspension be served as a ''hard'' suspension of all of the offender's driving privileges, and there is nothing in the legislative history of TEA–21 that would suggest that Congress intended that this interpretation should change. In fact, the provisions of the TEA–21 Restoration Act reinforce the agency's interpretation.

In July 1998, two months after the enactment of TEA–21, Congress passed the TEA–21 Restoration Act to restore provisions that were agreed to by the conferees to TEA–21, but inadvertently were not included in the TEA–21 conference report.

The TEA–21 Restoration Act created the Section 164 Repeat Intoxicated Driver Transfer Program, under which States are required to establish certain minimum penalties for repeat offenders. Any State that doesn't establish these minimum penalties by October 1, 2000, will be subject to a transfer of funds. Section 164 establishes four minimum penalties for repeat offenders, one of which is ''the suspension of all driving privileges * * * for not less than one year.''

Since Congress had established a minimum one-year hard suspension for repeat offenders as a condition for States to avoid the transfer of funds under the TEA–21 Restoration Act, the agency concluded that the Section 410 criterion, which would help a State

qualify for an incentive grant, should not require anything less.

In addition, the agency provided significant flexibility to the States in the interim final rule by allowing them to qualify under this criterion as either Law States or Data States. Law States can demonstrate compliance with this criterion by submitting copies of their conforming laws. If a State's laws do not conform with one or more elements of this criterion, the State can qualify instead as a Data State. Data States can demonstrate compliance by submitting copies of their laws, and data demonstrating compliance with the elements not specifically provided for in their laws.

Regarding Mr. Allred's suggestion that the one-year requirement will be problematic, particularly in rural areas, the agency notes that, in FY 1999, thirty States qualified for programmatic basic grants and that, of these, fifteen States complied with the administrative license suspension or revocation system criterion, including such States as Iowa, New Hampshire, Oregon, Utah and Vermont.

For the reasons discussed above, this portion of the interim regulation has been adopted without change.

2. Underage Drinking Prevention Program

TEA–21 provides that, to qualify for a grant based on this criterion, a State must demonstrate:

> An effective system * * * for preventing operators of motor vehicles under age 21 from obtaining alcoholic beverages and for preventing persons from making alcoholic beverages available to individuals under age 21. Such system may include the issuance of drivers' licenses to individuals under age 21 that are easily distinguishable in appearance from drivers' licenses issued to individuals age 21 or older and the issuance of drivers' licenses that are tamper resistant.

As explained in the interim final rule, this criterion is almost identical to the minimum drinking age prevention program criterion contained in Section 410 prior to the enactment of TEA–21, except that TEA–21 added two elements to the criterion. Under TEA–21, the system must not only prevent drivers under the age of 21 from obtaining alcoholic beverages. It must also take steps that prevent persons of any age from making alcoholic beverages available to those who are under 21. In other words, the system must target young drinkers and also providers. In addition, the interim final rule indicated that States must demonstrate both that driver's licenses that are issued to individuals under the age of 21 are distinguishable from those issued to individuals over 21 years of age, and that they are tamper resistant.

Mr. Allred of Utah, commenting on behalf of NAGHSR, submitted the only comment regarding this criterion. He objected to the requirement that licenses must be made ''tamper resistant.'' He stated that TEA–21 uses the ''state adoption of a special tamper-resistant underage license * * * [only] as an example of an underage program,'' and he asserted that TEA–21 ''leaves open the option that a state may satisfy this criteria in other ways.''

The agency agrees that TEA–21 did not require the agency to include a requirement in its implementing regulation that States must adopt tamper resistant underage licenses. The statute requires only that States must have an ''effective [underage drinking prevention] system.'' However, Congress clearly authorized the agency to define what it considered to be an ''effective system'' and suggested that such a system might include the issuance of easily distinguishable and tamper-resistant licenses.

Because the prevention of underage drinking hinges on the ability of alcohol providers to properly identify those who are underage, NHTSA believes that the issuance of easily distinguishable and tamper resistant driver's licenses is a critical element to an effective underage drinking prevention system. Easily distinguishable licenses help providers determine whether people are representing themselves to be over the age of 21, and tamper resistant features help prevent people who are under 21 from misrepresenting their age.

In addition, the interim regulations provided a tremendous amount of flexibility to the States regarding the manner in which they may meet this requirement. While the agency urged States, in the interim final rule, to consider incorporating as many of the security features as possible into their driver's licenses to prevent underage drivers from altering existing licenses or from obtaining or producing counterfeits, the interim regulations provided that States need only adopt one security feature to meet this element of the criterion, from a broad list of possible choices. The list was included as Appendix A to the interim final rule, and it included, for example, ghost images, holograms, security laminate or a State seal or signature which overlaps the individual's photograph or information.

The agency is unaware of any State in this country that does not already use at least one of the security features listed in Appendix A to the interim final rule, and we are unaware of any State that was unable to qualify for a Section 410 grant because of its inability to meet this condition.

All thirty States that received Section 410 programmatic basic grants in FY 1999 submitted driver's licenses that met this criterion. For all of these reasons, the agency has adopted this portion of the interim regulation without change.

3. Statewide Traffic Enforcement Program

TEA–21 provides that, to qualify for a grant based on this criterion, a State must demonstrate:

> A statewide program for stopping motor vehicles on a nondiscriminatory, lawful basis for the purpose of determining whether the operators of such motor vehicles are driving while under the influence of alcohol; or a statewide special traffic enforcement program for impaired driving that emphasizes publicity for the program.

The interim final rule provides that a State may qualify for a grant based on this criterion by having either a Statewide program for stopping motor vehicles or a Statewide special traffic enforcement program (STEP) for impaired driving that emphasizes publicity regarding the program.

Mr. Allred of Utah, writing for NAGHSR, submitted the only comment regarding this criterion. Mr. Allred expressed concern that States would be required, under the interim regulations, to conduct ''statewide programs for stopping vehicles'' to qualify under this criterion. He requested that ''NHTSA * * * allow states that are constitutionally prohibited from implementing sobriety checkpoints to be eligible if they implement saturation patrols or similar enforcement programs.'' Mr. Allred stated, ''This was a successful approach in the previous 410 program, and we believe that it should be continued.''

The agency wishes to clarify that States are not required to conduct sobriety checkpoint programs in order the qualify under this criterion. As we stated in the interim final rule, States may qualify by conducting *either* roadblock or checkpoint programs *or* STEP programs that meet certain conditions.

As we explained in the interim final rule, initially, under the Section 410 program, only roadblock or checkpoint programs were considered acceptable under this criterion, but the criterion was expanded later to permit, in certain cases, other intensive and highly publicized traffic enforcement techniques.

TEA–21 and the interim regulations continue to provide this flexibility and,

in addition, they provide additional flexibility regarding the elements States must meet to comply with this criterion.

The interim final rule explained that, to qualify for a grant based on this criterion, the State's program for stopping motor vehicles or its STEP must be conducted on a statewide basis; stops must be made or STEPs must be conducted not less than monthly; stops must be made or STEPs must be conducted by both State and local law enforcement agencies; and effective public information efforts must be conducted to inform the public about these enforcement efforts. Saturation patrol programs that contain all of the components of a STEP can qualify as a STEP under this criterion.

Therefore, the agency believes that no changes are needed to address Mr. Allred's concerns. Accordingly, this portion of the interim regulation has been adopted without change.

4. Graduated Driver's Licensing System

TEA–21 provides that, to qualify for a grant based on this criterion, a State must demonstrate:

> A 3-stage graduated licensing system for young drivers that includes nighttime driving restrictions during the first 2 stages, requires all vehicle occupants to be properly restrained, and makes it unlawful for a person under age 21 to operate a motor vehicle with a blood alcohol concentration of 0.02 percent or greater.

The interim final rule described, in further detail, the elements that must make up this three-stage system. Specifically, the interim final rule provided that, to qualify under this criterion, States must have a three-stage program that includes a learner's permit stage (Stage I), an intermediate (or restricted) license stage (Stage II) and a final stage, under which the driver receives an unrestricted license (Stage III).

The interim regulations also established the qualifications that applicants must meet to receive a permit or license at each stage, and the conditions that permit and license holders must follow during each stage.

In particular, the interim regulations provided that an applicant must pass vision and knowledge tests, including tests about the rules of the road, signs and signals to qualify for a Stage I learner's permit; an applicant must successfully comply with the conditions of the Stage I learner's permit for not less than three months and pass a driving skills test to qualify for a Stage II intermediate driver's license; and an applicant must successfully comply with the conditions of the Stage I learner's permit and the Stage II intermediate driver's license for a combined period of not less than one year to qualify for a Stage III driver's license.

The interim regulations provided also that drivers must be subject to the following conditions during Stages I and II: drivers under the age of 21 must not operate a motor vehicle with a BAC of .02 or greater; drivers must not operate a motor vehicle while any occupant in the vehicle is not properly restrained in accordance with State or local law; drivers must remain crash and conviction free; and drivers must abide by certain driving restrictions.

In particular, Stage I learner's permit holders may not operate a motor vehicle at any time unless they are accompanied by a licensed driver who is 21 years of age or older and Stage II intermediate driver's license holders may not operate a motor vehicle during some period of time between the hours of 10 p.m. and 6 a.m., as specified by the State, unless they are accompanied by a licensed driver who is 21 years of age or older or are covered by a State-approved exception.

In addition, the interim regulations provided that the State's Stage I learner's permit, Stage II intermediate license and Stage III full driver's license all must be distinguishable from each other.

Since the graduated driver's licensing criterion was the most detailed criterion under the Section 410 basic programmatic grant, it is not surprising that it generated the most comments. Comments were received regarding this criterion from Mr. Allred of Utah for NAGHSR and from the States of Illinois, Maryland, Oregon and Wisconsin. We note that each of these five States qualified in FY 1999 for a Section 410 programmatic basic grant, and that Maryland qualified, in part, based on its GDL law. In fact, a total of eight States qualified for Section 410 programmatic basic grants in FY 1999 based, in part, on the GDL criterion.

The specific comments that were submitted and the agency's responses to these comments are discussed in detail below.

a. Successful Compliance with Earlier Stages: As stated above, the interim regulations provided that, to qualify for a Stage II license, an applicant must have ''successfully complied'' with the conditions of the Stage I learner's permit for not less than three months and, to qualify for a Stage III license, an applicant must have ''successfully complied'' with the conditions of the Stage I learner's permit and the Stage II intermediate driver's license for a combined period of one year.

The agency received comments regarding this requirement from Illinois and Maryland. Both of these comments suggest that an applicant's non-compliance during one stage should not necessarily prevent an applicant from moving to the next stage. Illinois recommended, for example, that ''Minor convictions can be tolerated while penalties [should be] assigned to serious convictions.''

Similarly, Maryland recommended that applicants should not be prevented from moving from one stage to the next based on their non-compliance with the State's occupant protection laws. Maryland recommended instead that ''the final rule should simply and unambiguously state that novice drivers in Stages I and II of a graduated licensing program * * * must comply with the State's occupant protection laws or face the prescribed State sanctions.'' According to Maryland, ''Any additional requirement * * * will be counterproductive to the extent it prevents States from receiving grants [to support impaired driving programs].'' This issue was raised also by other States when the agency was reviewing their applications for FY 1999 Section 410 funds.

Originally, the agency interpreted the phrase ''successfully complied'' to mean that, if an applicant violated any of the conditions of the earlier stages (including the conditions regarding zero tolerance, proper restraints and driving restrictions), the applicant could not proceed to the next stage.

Following a detailed review of a number of State GDL laws, however, the agency came to realize that current State laws, including those that have been held out as models by advocates of GDL legislation, do not apply such harsh consequences. If the agency were to insist that GDL laws must provide that any violation of a condition in Stage I or II would prohibit an applicant from proceeding to the next stage, it is our belief that few, if any, of the GDL laws currently in effect would qualify under this criterion. We do not believe this is the outcome that Congress intended.

Accordingly, we now consider the requirement that applicants must have ''successfully complied'' with the conditions of the previous stages to mean instead that, if an applicant fails to meet a condition of an earlier stage, the applicant must be subject to the consequences that are established by the State or local law.

The consequences may vary. For example, the consequence for a violation of the State's zero tolerance law may be a 30-day suspension of the driver's permit or license, but it need

not result in a full revocation. The consequence for a violation of the driving restrictions could be a requirement that the driver attend an education program. The consequence for a violation of the proper restraint requirement may be a fine or points on the driver's permit or license.

Therefore, the regulations have been amended to clarify that ''successfully complied'' means that the applicant either has not violated any of the conditions of the previous stage(s) or, if the applicant has violated a condition of the previous stage(s), that the applicant has been subject to the consequences that are prescribed by State or local law for this violation.

b. Crash and Conviction Free Requirement: As stated above, the interim regulations provided that a driver must remain crash and conviction free during Stages I and II. The term ''conviction free'' was defined in the interim regulations to mean ''that the individual, during the term of the permit or license, has not been charged with and subsequently convicted of any offense under State or local law relating to the use or operation of a motor vehicle.'' The term ''crash free'' was defined to mean ''that the individual, during the term of the permit or license, has not been determined to be the party at fault in any police reportable motor vehicle crash.''

The agency received comments regarding this element of the criterion from Illinois, Maryland and Wisconsin.

Illinois asserted in its comments that, because young drivers in Illinois ''are licensed under our graduated licensing system for a time period of 60–72 months, we believe requiring them to be crash and conviction free for a period of 5–6 years is unreasonable.'' The agency notes that the interim regulations provided that drivers must comply with the crash and conviction free requirement only during Stages I and II. They provided also that eligible drivers could move from Stage I to Stage II after a period of only three months, and that eligible drivers could move from Stages I and II to Stage III after a combined period of only one year. Accordingly, under the interim regulations, a State could meet this requirement by providing for a minimum crash and conviction free period of only one year.

However, the agency recognizes that the interim regulations could have been interpreted to require that drivers must remain crash and conviction free during the entire length of Stages I and II if those stages lasted longer than one year. Accordingly, the regulations have been amended to clarify that drivers must comply with this condition for a period of only three months during Stage I and for a combined period of only one year during Stages I and II, even if those stages last for a longer period of time.

Illinois also expressed opposition to the requirement that drivers must remain crash free. While the interim regulations limited this requirement by defining ''crash free'' to mean ''that the individual * * * has not been determined to be the party at fault in any police reportable motor vehicle crash,'' Illinois explained that, ''in Illinois we do not assign blame in crashes, so we do not have a basis for determining that a driver is crash free.'' Similar comments were received from other States.

Maryland explained that ''it is the policy/practice of some law enforcement agencies to report all parties in a collision to be at fault and to charge all parties with a traffic violation [and] leave it up to the courts to determine guilt/fault.'' Because this is the practice in the State, Maryland asserted that ''it would be patently unfair to prohibit a novice driver from progressing from one stage to the next because the driver was involved in [a crash] even if that driver is not ultimately determined to be at fault.''

Wisconsin asserted that there are ''States whose crash data systems do not capture the investigating officer's 'at fault' determination.'' To resolve this issue, Wisconsin suggested that these States ''should be allowed to use a surrogate indicator of fault,'' such as the issuance of a traffic citation. Maryland recommended instead that the crash free requirement be eliminated altogether in the final rule.

The agency has considered these comments carefully and has come to realize that the requirements that drivers must remain both crash and conviction free are, to a large extent, redundant. If a motor vehicle crash is ''police reportable [or reported]'' and the party is found to be ''at fault,'' that party generally will be charged with a violation of some offense, which then would be considered to be a ''conviction.'' Moreover, the agency now realizes that it would be extremely difficult, if not impossible, for States to determine independently whether an applicant had been involved in a crash and found to be at fault on any basis other than based on moving violations or other convictions.

For all of these reasons, the agency has decided to simplify this element of the GDL criterion. We have removed from the regulations the requirement that applicants must remain crash free, and we have removed the definition of the term ''crash free'' because it no longer applies. Accordingly, to demonstrate compliance with this element, States now need only show that their laws require that applicants remain conviction free.

In addition, to provide States with additional flexibility and to avoid the imposition of unreasonable restrictions, we have provided that it is up to each State to determine which convictions will adversely affect a driver's progression in the GDL program. Accordingly, the regulations now provide that, to qualify under this element of the GDL criterion, States must require that applicants remain free of convictions that relate to the use or operation of a motor vehicle, to the extent required by State law, for a minimum of three months during Stage I, before moving to Stage II, and for a combined minimum period of one year during Stages I and II, before moving to Stage III.

c. Driving Restrictions: As stated above, the interim regulations provided that Stage I learner's permit holders may not operate a motor vehicle at any time unless they are accompanied by a licensed driver who is 21 years of age or older and Stage II intermediate driver's license holders may not operate a motor vehicle during some period of time between the hours of 10:00 p.m. and 6:00 a.m., as specified by the State, unless they are accompanied by a licensed driver who is 21 years of age or older or are covered by a State-approved exception.

The agency received comments regarding this element of the GDL criterion from Maryland and Wisconsin.

Maryland's GDL system is unusual, because most of its features cover novice drivers of all ages, not just novice drivers who are underage. However, the nighttime driving restrictions in Maryland's GDL system apply only to novice drivers who are under the age of 18. In its comments, Maryland asserts that ''it is inappropriate and largely impractical to restrict adult novice drivers in Stage II from driving alone at any hour of the night.'' Accordingly, Maryland recommends that the nighttime driving restrictions should apply only to minors.

As explained in the agency's interim final rule, ''the interim regulation provides that the GDL must cover 'young drivers,' but it does not define this term.'' In the interim final rule, the agency deferred to the States to determine the age of drivers that should be covered by their GDL systems. In response to Maryland's comment, the agency would like to clarify that a State may elect to apply some features of its GDL to adult drivers, and not be

compelled then to apply all of its GDL features to such drivers.

Wisconsin objected to the requirement that the driver who must accompany Stage I permit or Stage II license holders must be 21 years of age or older and also suggested that certain exceptions should be permitted to the driving restriction requirement.

Specifically, Wisconsin recommended ''that the minimum age limit for accompanying riders should be 18'' because ''18 is the age of majority and the age by which most drivers have completed the first two stages of the [State's GDL system] * * *'' Wisconsin urged the agency to establish a minimum age of 18 also because ''some teens are married and have spouses age 18–20 years old.'' Wisconsin also recommended that ''there should be exceptions to the GDL accompaniment rule for drivers operating on Stage II probationary licenses if they are serving as volunteer drivers in community-based 'teen safe ride' programs.''

The requirement that GDL drivers must be accompanied by drivers over the age of 21 at all times during Stage I and during certain night-time hours during Stage II is designed to ensure that young novice drivers receive adult supervision during critical periods of time while they are being exposed to increased levels of risk as drivers. The agency does not believe most 18-year-olds have the experience or the maturity to provide this adult supervision.

In fact, research indicates that, not only are teenage drivers more likely than other drivers to be involved in motor vehicle crashes, but their risk of exposure increases significantly when they drive at night with other teens in their vehicles. As stated in the NHTSA and National Safety Council publication ''Saving Teenage Lives: The Call for Graduated Driver Licensing,'' two-thirds of all teenagers who die as passengers in motor vehicle crashes are, at the time of the crash, in vehicles that are driven by other teenagers.

For these reasons, NHTSA has decided not to lower the minimum age of persons who must accompany GDL drivers during Stages I and II.

With regard to Wisconsin's request that the agency permit certain exceptions to this requirement, we note that NHTSA has allowed some limited exceptions under the interim regulations. While the agency does not encourage the States to adopt these exceptions, NHTSA has permitted them under the interim regulations. These exceptions include permitting a parent, a guardian, a custodian or a driver's education instructor to accompany a GDL driver during Stage II, even if such person is not 21 years of age. We have also permitted Wisconsin's teen safe ride exception to the Stage II night-time driving restriction.

For the reasons discussed above, this portion of the interim regulation has been adopted without change.

d. Distinguishable Licenses: The interim final regulations require that ''the Stage I learning permit must be distinguishable from [the] Stage II and III driver's licenses.''

The agency received comments regarding this element of the GDL criterion from Oregon and NAGHSR.

Oregon commented that requiring three distinguishable permits/licenses is overly prohibitive. According to Oregon, ''the fiscal impact for many states to establish and maintain such a system is considerable. Given the relatively quick turnaround time involved in the issuance of three distinct permits/licenses, the regulatory function would require additional FTE to ensure issuance and compliance, computer software upgrades to support system functions, and acquiring and maintaining the permit/ license product supplies and equipment.''

Mr. Allred of Utah echoed these sentiments on NAGHSR's behalf. In particular, he urged that States should not be required ''to have specially marked licenses'' because it would be ''both onerous and costly.'' Mr. Allred noted that ''law enforcement officials may be able to electronically access licensing data and determine at what stage a driver is in the State's graduated licensing system regardless of markings on a driver's license.''

NHTSA agrees with these comments. Since the central feature of a GDL system is the establishment of three separate driver licensing stages, with a different set of conditions under which drivers may operate a vehicle during each stage, the agency believes it is essential that, when law enforcement officers examine a driver's license (or permit), that they be able to determine the stage to which that the driver is currently assigned. However, the agency recognizes that there may be more than one way for States to demonstrate compliance with this condition, and the interim regulations did not specify the ways in which States could demonstrate their compliance with this element of the GDL criterion.

Accordingly, the regulations have been revised to clarify that States can demonstrate compliance with this element in one of three ways. If a State's law specifically provides that the State's Stage I permit and the State's Stage II and Stage III licenses must be distinguishable from each other, the State can demonstrate compliance by submitting a copy of the law.

If a State's law is not explicit in this regard, the State can demonstrate compliance instead by submitting sample permits and licenses, which contain visual features that would enable a law enforcement officer to distinguish between the three documents at a traffic stop. Alternatively, if the State's permit and licenses do not contain a visual feature that would enable a law enforcement officer to determine at a traffic stop whether the driver is in Stage I, II or III, but the State has a system in place that would enable an officer to make this determination in some other way, the State can demonstrate compliance by describing the State's system.

The agency has decided to revise the interim regulation to clarify these alternatives.

5. Program for Drivers with High BAC

TEA–21 provides that, to qualify for a grant based on this criterion, a State must demonstrate:

> Programs to target individuals with high blood alcohol concentrations who operate a motor vehicle. Such programs may include implementation of a system of graduated penalties and assessment of individuals convicted of driving under the influence of alcohol.

The interim final rule provides that, to qualify for a grant based on this criterion, States must have a system for imposing enhanced penalties on those drivers who have been convicted of operating a motor vehicle while under the influence of alcohol and determined to have a high BAC. The agency explained, in the interim final rule, that the enhanced penalties must be either more severe or more numerous than those applicable to persons who have been convicted of operating a motor vehicle while under the influence of alcohol, but were not determined to have a high BAC.

Regarding what constitutes a ''high BAC,'' the interim final rule explained that the threshold level at which high BAC sanctions must begin to apply may be at any level above the ''standard'' BAC level at which sanctions for non-commercial drivers begin to apply, but it must begin at or below 0.20 BAC. For example, if the standard BAC level in a State is 0.08, then the State may begin to impose enhanced sanctions on offenders determined to have a BAC of 0.09 or greater, or the State could choose to begin imposing such sanctions on offenders with a BAC of 0.12 and above. If the State does not begin to impose such sanctions, however, until offenders are determined to be at 0.21 BAC or

greater, the State system will not comply.

The agency received comments regarding this criterion from Oregon, Maryland and Wisconsin.

Oregon asserted in its comments that ''research indicates that impairment begins at BAC levels below .08 BAC,'' and that ''impairment at any level above the per se legal limit should be the focus of'' the criteria for receiving a basic grant under Section 410. For these reasons, Oregon expressed its view that the high BAC criterion ''negates what research has determined to be the real issue'' and the State urged the agency to make this criterion a supplemental, rather than a basic, grant requirement.

While the agency agrees that impairment begins far below these ''high BAC'' levels, NHTSA acknowledges also that drivers with highly elevated BACs are at far greater risk than other drivers of being involved in alcohol-related crashes, which cause fatal and serious injuries. As stated in the interim final rule, according to the Fatality Analysis Reporting System (FARS), 30 percent of persons killed in motor vehicle crashes in 1997 were in crashes that involved a driver or non-occupant with a BAC of 0.10 or greater. In addition, NHTSA estimates that more than half of all drinking drivers involved in fatal crashes have a BAC that exceeds 0.15 percent.

In addition, NHTSA believes that traditional impaired driving countermeasures frequently are not effective with high BAC drivers. Accordingly, the agency believes there is value to developing remedies that target this specific group of drivers.

Finally, we note that the high BAC program was established as a basic grant criterion by Congress. Accordingly, the agency is not at liberty to change it to a supplemental grant criterion, in the absence of an amendment to the underlying legislation.

In its comments on the interim regulations, Maryland objected to the requirement that the high BAC sanctions must begin to apply at a level ''above the standard BAC level.'' According to Maryland, ''a number of States have adopted bi-level or multilevel impaired driving offenses'' and Maryland asserted that ''there is no rationale for the [agency] to consider [the lower offenses in those States] to be anything but the 'standard' impaired driving offense.'' Maryland urged the agency to revise the interim regulations ''to provide that any statutory level above the lowest BAC defining an impaired driving offense be considered a high BAC * * * deemed to satisfy this criterion.''

With regard to States with bi-level or multilevel impaired driving provisions, the agency considers a number of factors to determine which level is the State's ''standard BAC level.'' These factors include the treatment of the offense, its relation to other offenses in the State and the sanctions and other consequences that result when persons violate these offenses.

The agency believes that the ''standard BAC level'' in all States is currently either 0.08 or 0.10. NHTSA is aware that some States have established offenses for non-commercial drivers at lower BAC levels (such as 0.05), but we consider these offenses to be ''less-serious'' (and frequently, ''lesser-included'') offenses, not the standard BAC offenses in those States. The agency is aware of ten States that have high BAC programs. In these States, enhanced or additional penalties begin to apply at levels ranging from 0.15 to 0.20 BAC.

Wisconsin's comments relate to the enhanced penalties that must be imposed. Wisconsin explains, ''our statutes do not specify the penalties for varying BAC levels,'' but they ''require the chief judge of each of the state's ten judicial administrative districts to adopt sentencing guidelines for all municipal and circuit court judges to follow * * * [which] take the BAC level into account as an aggravating factor.'' Wisconsin asserts that this ''linkage'' between sentencing and BAC level ''should be accepted as satisfying the graduated penalties criterion.''

The interim regulations provided the States with a tremendous amount of flexibility regarding the types of enhanced penalties they must establish. According to the interim final rule, the penalties could include longer terms of license suspension, increased fines, additional or extended sentences of confinement, vehicle sanctions, or mandatory assessment and treatment. The States were provided flexibility also regarding the manner in which to establish these sanctions. For example, the sanctions could be established by statute, regulation or other means (such as binding policy directive). However, consistent with the application of other criteria under the Section 410 program, the sanctions must be mandatory. Therefore, to qualify for a grant based on this criterion, it is not sufficient for a State to establish only guidelines.

For the reasons discussed above, this portion of the interim regulation has been adopted without change.

6. Young Adult Drinking and Driving Program

TEA–21 provides that, to qualify for a grant based on this criterion, a State must demonstrate:

> Programs to reduce driving while under the influence of alcohol by individuals age 21 through 34. Such programs may include awareness campaigns; traffic safety partnerships with employers, colleges, and the hospitality industry; assessments of first time offenders; and incorporation of treatment into judicial sentencing.

The interim final rule provided that, to qualify under this criterion, States must meet two requirements. First, they must demonstrate that they have in place a Statewide public information and awareness campaign aimed at persons between the ages of 21 and 34. Second, they must demonstrate that they have in place certain partnership activities that seek to promote prevention. Specifically, the interim regulations provided that States must be engaged in one of four different types of partnership activities to qualify in the first fiscal year a State receives a grant based on this criterion, and that States must be engaged in all four types of partnership activities to qualify for a grant based on this criterion in subsequent years.

The four types of partnership activities include activities involving the participation of: employers; colleges or universities; the hospitality industry; and appropriate State officials that will encourage the assessment and incorporation of treatment as appropriate in judicial sentencing for young adult drivers.

The agency received comments regarding this criterion from North Dakota and Mr. Allred of Utah for NAGHSR.

In its comments, North Dakota stated that it ''agrees with the type of partnerships defined.'' However, North Dakota asserted that ''developing and maintaining all four partnerships'' by the second fiscal year, in order to qualify for funding, ''is excessive.'' North Dakota suggested instead that States ''be allowed to select and maintain two partnerships along with the public awareness campaign and report documented proven results.''

Mr. Allred voiced similar objections to the interim requirement, but suggested an alternative solution. He recommended the adoption of a ''gradual approach,'' under which States would be ''required to have programs involving one group the first year and all four groups by the fourth year.''

The agency has decided to accept NAGHSR's recommendation. To qualify

for a grant based on this criterion, a State must have in place a Statewide public information and awareness campaign, plus one or more of the partnership activities described in the regulations. To qualify in the first fiscal year a State receives a grant based on this criterion, the State must have at least one of the partnership activities in place; to qualify in the second fiscal year, the State must have at least two such activities in place; the State must have at least three partnership activities in place to qualify in the third year; and all four must be in place, to qualify in the fourth or in subsequent years. The regulations have been revised accordingly.

7. Testing for BAC

TEA–21 provides that, to qualify for a grant based on this criterion, a State must demonstrate:

> An effective system for increasing the rate of testing of the blood alcohol concentrations of motor vehicle drivers involved in fatal accidents and, in fiscal year 2001 and each fiscal year thereafter, a rate of such testing that is equal to or greater than the national average.

The interim final rule provided that States could qualify for a grant under this criterion in FY 1999 and FY 2000 in one of three ways: based on a law; based on data or by agreeing to conduct a symposium or workshop designed to increase the percentage of BAC testing for drivers involved in fatal motor vehicle crashes. As provided in the interim final rule, States could qualify for a grant under this criterion in FY 2001 and in each fiscal year thereafter, based only on data.

To qualify in any fiscal year based on data, the interim final rule explained that the data must show that the State's percentage of BAC testing among drivers involved in fatal motor vehicle crashes is equal to or exceeds the national average, as determined under the most recently available FARS data as of the first day of the fiscal year for which grant funds are being sought. The agency received no comments regarding this criterion.

During the administration of the Section 410 program in FY 1999, however, the agency noted that ''the most recently available FARS data'' that were available on ''the first day of [that] fiscal year'' were not yet finalized and, by the end of the fiscal year, the data for many States had changed.

The agency believes that it should not use preliminary data to make funding decisions if finalized data can be used instead. We note that, as stated previously in today's final rule, beginning in FY 2000, NHTSA will no longer release Section 410 funds in two stages, and the funds will be released near the end of the fiscal year (by September 30). Since the FARS data that are available on the first day of a fiscal year generally are finalized in the spring of that fiscal year, the regulation has been changed to provide that, beginning in FY 2000, these final data will be used.

Since Section 410 applications are due by August 1 of each fiscal year, the regulation has been changed to provide that the data to be used are the ''most recently available final FARS data as of August 1 of the fiscal year.'' However, as noted above, these final FARS data generally are available prior to August 1. To assist States in their preparation of Section 410 applications, the agency will provide States with the final data as soon as they are available.

8. Performance Grant Criterion

Under TEA–21, to qualify for a performance basic grant, a State must demonstrate each of the following:

> (A) The percentage of fatally injured drivers with 0.10 percent or greater blood alcohol concentration in the State has decreased in each of the 3 most recent calendar years for which statistics for determining such percentages are available; and
>
> (B) The percentage of fatally injured drivers with 0.10 percent or greater blood alcohol concentration in the State has been lower than the average percentage for all States in each of the [3 most recent] calendar years [for which statistics for determining such percentages are available].

The interim final rule adopted these two conditions and established two methods for calculating the percentages described above.

The interim rule explained that, each calendar year, NHTSA will calculate the percentage of fatally injured drivers with a BAC of 0.10 percent or greater for each State and the average percentage for all States for each of the three most recent calendar years for which the data are available as of the first day of the fiscal year for which grant funds are being sought. These calculations will be made using data contained in the Fatality Analysis Reporting System (FARS), and NHTSA's method for estimating alcohol involvement (as developed and published by Klein, 1986). The agency then will verify the actual percentages.

The interim rule explained further that, any State with a percentage of BAC testing among fatally injured drivers of 85 percent or greater in the three most recent calendar years for which FARS data are available as of the first day of the fiscal year for which grant funds are being sought, as determined by the FARS data, may perform its own calculations. The State would calculate the percentage of fatally injured drivers with a BAC of 0.10 percent or greater in that State for these three calendar years, using only data for drivers with a known BAC.

The interim final rule indicated that a State would demonstrate compliance with this criterion by submitting its calculations and a statement certifying that the State meets the requirements, based on the State's calculation of the percentage of fatally injured drivers with such a BAC in the State and NHTSA's calculation of this percentage in all States. NHTSA indicated that it will verify the actual percentages submitted using FARS data.

The agency received comments regarding this portion of the interim final rule from North Dakota, Maryland, NAGHSR and Michigan.

Both North Dakota and Maryland raised objections regarding the use of FARS data and the agency's method for estimating alcohol involvement, when there are gaps in the data. Maryland asserts that ''FARS data has been found to be incomplete and/or inaccurate in a number of respects, particularly in past years.'' North Dakota argued that it is severely penalized by NHTSA's imputation process.

As an illustration, North Dakota asserted that its ''fatality rate, based on deaths per 100 million vehicle miles traveled, is consistently lower than the national rate. In 1995, North Dakota had the lowest number of fatalities since 1944 with 74 deaths. Of these 74, [North Dakota's] data identified 37 as alcohol-related.'' However, ''the FARS imputation process added 6 to the total killed in alcohol-related crashes. This imputation increased [North Dakota's] percent of alcohol related fatalities from 50 to 57.9% and made [North Dakota] the highest in the nation.''

Both of these comments question the use of the imputation process. The agency would like to emphasize, first of all, that the FARS imputation process is applied only to those fatal crashes that involve a driver or non-occupant who was not tested for alcohol, or whose test results are unknown. Since the State has not provided BAC data for these crashes, the agency uses a statistical model to estimate whether alcohol was involved.

In other words, if a State reports a crash to FARS, but reports no information regarding the BAC level of the driver(s) or non-occupant(s) involved in the crash, the agency does not assume that no alcohol was involved, but rather the statistical model

supplies an estimate, based on prior experience. The statistical model considers the characteristics of the crash and, based on data from prior years, determines the likelihood that alcohol was involved. For example, there is a high incidence of alcohol-involvement in single-vehicle night-time crashes, so additional instances of alcohol use would be imputed if a State reports a number of such crashes without reporting any BAC information.

This is what happened to North Dakota in 1995. Although the North Dakota data had identified only 37 of its 74 deaths as being alcohol-related, the State's estimate was based on reported BAC information from only 40 (out of 97) drivers involved in fatal crashes. Based on the characteristics of the crashes for which BAC information was not reported, the agency estimated that an additional 6 deaths were alcohol-related.

Maryland suggested in its comments that ''the final rule should provide that a State can submit alternative data to establish compliance with the performance grant criteri[on].'' This is already an option. As provided in the interim regulations, ''any State with a percentage of BAC testing among fatally injured drivers of 85 percent or greater in each of the three most recent calendar years * * * may calculate * * * the percentage of fatally injured drivers with a BAC of 0.10 percent or greater in that State for those calendar years, using State data.''

Accordingly, States can exercise this option by increasing to 85 the percentage of drivers in fatal crashes who are tested.

Mr. Allred of Utah, commenting on behalf of NAGHSR, recognized that the ''regulations allow a state with an 85% BAC testing rate for fatally injured drivers to make its own eligibility calculations.'' He pointed out, however, that ''NHTSA will verify the percentages submitted using FARS data,'' and he asserted that ''the FARS estimate and state data are very likely to be different, which would affect a state's eligibility and would defeat the purpose of allowing a state to use acceptable state data.'' Mr. Allred suggested that NHTSA instead ''conduct a verification of the data using the state's own data.''

When the agency stated in the interim final rule that NHTSA would verify the actual percentages submitted by States using FARS data, we wish to clarify that the agency intended this statement to mean that NHTSA would verify the percentages submitted by States in their Section 410 applications, based on the data submitted to the agency by States as part of NHTSA's FARS program (prior to the imputation process). This language appeared only in the preamble to the interim final rule, and not in the regulations themselves. Accordingly, no change is needed to the regulations as a result.

Michigan expressed concern regarding the requirement that States must demonstrate that the percentage of fatally injured drivers with 0.10 percent or greater BAC has decreased and has been lower than the average percentage for all States in each of the three most recent calendar years. Specifically, Michigan asserted that ''natural variation occurs from year to year, and this variation may well be compounded by the use of statistical estimates.'' Michigan argues that this variation could ''mask a three year trend that would otherwise have put the state in compliance with the rule'' and Michigan urges that ''a state should not be penalized for achieving a three year trend that was in the proper direction, but had an apparent 'blip' in [one of the three years] that may well be due to expected variation.''

NHTSA appreciates Michigan's comment. However, the condition that States must meet the above-noted requirements ''in each of the three most recent calendar years'' was established by statute. Accordingly, the agency is not at liberty to change this element of the requirement, without an amendment to the underlying statute.

Moreover, as stated above, the Section 410 statute requires that States must demonstrate that the percentage of fatally injured drivers with 0.10 percent or greater BAC has decreased and has been lower than the average percentage for all States in each of the three most recent calendar years. Accordingly, a State will not qualify if this percentage has increased or has been higher than the national average. Similarly, a State also will not qualify if the percentage has remained the same or has equaled the national average. If it appears that a State's percentage has remained the same or has equaled the national average, based on rounded FARS figures, the agency will determine the actual value of these percentages to as many decimal places as are needed to determine whether the State percent has decreased and has been lower than the national average.

As discussed previously in today's final rule, during the administration of the Section 410 program in FY 1999, the agency noted that ''the most recently available FARS data'' that were available on ''the first day of [that] fiscal year'' were not yet finalized and, by the end of the fiscal year, the data for many States had changed.

As stated above, the agency believes that it should not use preliminary data to make funding decisions if finalized data can be used instead. Today's final rule provides that, beginning in FY 2000, NHTSA will no longer release Section 410 funds in two stages, and the funds will be released near the end of the fiscal year (by September 30). Since the FARS data that are available on the first day of a fiscal year generally are finalized in the spring of that fiscal year, this portion of the regulation also has been changed to provide that, beginning in FY 2000, these final data will be used.

Since Section 410 applications are due by August 1 of each fiscal year, the regulation has been changed to provide that the data to be used are the ''most recently available final FARS data as of August 1 of the fiscal year.'' However, as noted above, these final FARS data generally are available prior to August 1. To assist States in their preparation of Section 410 applications, the agency will provide States with the final data as soon as they are available.

V. Rulemaking Analyses and Notices

A. Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and it has been determined that this action will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Accordingly, a Federalism Assessment has not been prepared.

B. Executive Order 12778 (Civil Justice Reform)

This final rule will not have any preemptive or retroactive effect. The enabling legislation does not establish a procedure for judicial review of rules promulgated under its provisions. There is no requirement that individuals submit a petition for reconsideration or other administrative proceedings before they may file suit.

C. Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The agency has examined the impact of this action and has determined that it is not a significant action within the meaning of Executive Order 12866 or significant within the meaning of the Department of Transportation Regulatory Policies and Procedures.

The action will not have an annual effect on the economy of $100 million or more or adversely affect in a material way a sector of the economy, competition, jobs, the environment,

public health or safety, or State, local or tribal governments or communities. It will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency, and it will not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof. Nor does it raise novel legal or policy issues.

In addition, the costs associated with this rule are not significant and are expected to be offset by the grant funds received and the resulting highway safety benefits. The adoption of alcohol-impaired driving prevention programs should help to reduce impaired driving, which is a serious and costly problem in the United States. Accordingly, further economic assessment is not necessary.

D. Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), the agency has evaluated the effects of this action on small entities. Based on the evaluation, we certify that this action will not have a significant impact on a substantial number of small entities. States are the recipients of any funds awarded under the Section 410 program, and they are not considered to be small entities, under the Regulatory Flexibility Act.

E. Paperwork Reduction Act

The requirements in this final rule that provide that States retain and report information to the Federal government which demonstrates compliance with the alcohol-impaired driving prevention incentive grant criteria, are considered to be information collection requirements, as that term is defined by the Office of Management and Budget (OMB) in 5 CFR Part 1320.

Accordingly, these requirements have been submitted previously to and approved by OMB, pursuant to the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*). These requirements have been approved under OMB No. 2127–0501, through April 30, 2003. This final rule reduces for the States previous information collection requirements associated with demonstrating compliance with many of the criteria.

F. National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that it will not have any significant impact on the quality of the human environment.

G. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Public Law 104–4) requires agencies to prepare a written assessment of the costs, benefits and other affects of 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 final rule does not meet the definition of a Federal mandate, because the resulting annual expenditures will not exceed the $100 million threshold. In addition, this incentive grant program is completely voluntary and States that choose to apply and qualify will receive incentive grant funds.

List of Subjects in 23 CFR Part 1313

Alcohol and alcoholic beverages, Grant programs-transportation, Highway safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, the interim final rule published in the **Federal Register** of December 29, 1998, 63 FR 71688, is adopted as final, with the following changes:

PART 1313—INCENTIVE GRANT CRITERIA FOR ALCOHOL-IMPAIRED DRIVING PREVENTION PROGRAMS

1. The authority citation for Part 1313 continues to read as follows:

Authority: 23 U.S.C. 410; delegation of authority at 49 CFR 1.50.

2. Section 1313.5 is amended by revising paragraphs (d)(1)(i)(D), (d)(1)(ii)(D), (d)(2), (d)(3), (f)(2)(ii), (g)(1)(i)(B), (g)(1)(ii), (g)(3)(i)(B), (g)(3)(ii)(B), and (g)(4),to read as follows:

§ 1313.5 Requirements for a programmatic basic grant.

* * * * *

(d) *Graduated driver's licensing system.*

(1) * * *

(i) * * *

(D) Stage I learner's permit holders must remain conviction free for not less than three months; and

(ii) * * *

(D) Stage II intermediate driver's license holders must have remained conviction free during Stages I and II for a combined period of not less than one year; and

* * * * *

(2) *Definitions.*

(i) *Conviction free* means that, during the term of the permit or license, the driver has not been charged with and subsequently convicted of any offense under State or local law relating to the use or operation of a motor vehicle, to the extent required by State law.

(ii) *Successfully complied* means that the driver:

(A) did not violate any of the conditions of the previous stage(s), or

(B) has been subject to the consequences prescribed by State or local law for violating the conditions of the previous stage(s).

(3) *Demonstrating compliance.* (i) To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, the State shall submit a copy of the law, regulation or binding policy directive implementing or interpreting the law or regulation, which provides for each element of this criterion. If the State's law, regulation or binding policy directive does not provide that Stage I permits and Stage II and Stage III licenses must be distinguishable, the State shall submit either:

(A) Sample permits and licenses, which contain visual features that would enable a law enforcement officer to distinguish between the permit and the licenses; or

(B) A description of the State's system, which enables law enforcement officers in the State during traffic stops to distinguish between the permit and the licenses.

(ii) To demonstrate compliance in subsequent fiscal years, the State shall submit a copy of any changes to the State's law, regulation, binding policy directive, permit or licenses, or State system or, if there have been no changes, the State shall submit a statement certifying that there have been no changes in the State's laws, regulations, binding policy directives, permit or licenses, or State system.

* * * * *

(f) *Young adult drinking and driving program.*

(2) * * *

(ii) To demonstrate compliance in subsequent fiscal years, the State shall submit:

(A) An updated description of its Statewide public information and awareness campaign;

(B) A description and sample materials documenting activities designed to reduce the incidence of alcohol-impaired driving by young drivers, which must involve:

(1) at least two of the four components contained in paragraph (f)(1)(ii) of this section in the second fiscal year the State receives Section 410 funds based on this criterion;

(2) at least three of the four components contained in paragraph (f)(1)(ii) of this section in the third fiscal

year the State receives Section 410 funds based on this criterion; and

(3) all four components contained in paragraph (f)(1)(ii) of this section in the fourth or subsequent fiscal year the State receives Section 410 funds based on this criterion; and

(C) an updated plan that outlines proposed efforts to involve all four components contained in paragraph (f)(1)(ii) of this section, until the State's activities involve all four components.

(g) *Testing for BAC.*

(1) * * *

(i) * * *

(B) BAC testing data. The State's percentage of BAC testing among drivers involved in fatal motor vehicle crashes is equal to or greater than the national average, as determined by the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought.

* * * * *

(ii) In FY 2001 and each subsequent fiscal year, a percentage of BAC testing among drivers involved in fatal motor vehicle crashes that is equal to or greater than the national average, as determined by the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought.

* * * * *

(3) * * *

(i) * * *

(B) a statement certifying that the percentage of BAC testing among drivers involved in fatal motor vehicle crashes in the State is equal to or greater than the national average, as determined by the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought; or

* * * * *

(ii) * * *

(B) If in the first fiscal year the State demonstrated compliance under paragraph (g)(3)(i)(B), the State may submit instead a statement certifying that the percentage of BAC testing among drivers involved in fatal motor vehicle crashes in the State continues to be equal to or greater than the national average, as determined by the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought.

* * * * *

(4) Demonstrating compliance beginning in FY 2001. To demonstrate compliance for a grant based on this criterion in FY 2001 or any subsequent fiscal year, the State shall submit a statement certifying that the percentage of BAC testing among drivers involved in fatal motor vehicle crashes in the State is equal to or greater than the national average, as determined by the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought.

3. Section 1313.6 is amended by revising paragraphs (a)(1), (b), and (c)(2) to read as follows:

§ 1313.6 Requirements for a performance basic grant.

(a)(1) the percentage of fatally injured drivers in the State with a BAC of 0.10 percent or greater has decreased in each of the three most recent calendar years for which statistics for determining such percentages are available as determined by the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought; and

* * * * *

(b) *Calculating percentages.* (1) The percentage of fatally injured drivers with a BAC of 0.10 percent or greater in each State is calculated by NHTSA for each calendar year, using the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought and NHTSA's method for estimating alcohol involvement.

(2) The average percentage of fatally injured drivers with a BAC of 0.10 percent or greater for all States is calculated by NHTSA for each calendar year, using the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought and NHTSA's method for estimating alcohol involvement.

(3) Any State with a percentage of BAC testing among fatally injured drivers of 85 percent or greater in each of the three most recent calendar years, as determined by the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought, may calculate for submission to NHTSA the percentage of fatally injured drivers with a BAC of 0.10 percent or greater in that State for those calendar years, using State data.

(c) * * *

(2) Alternatively, a State with a percentage of BAC testing among fatally injured drivers of 85 percent or greater, as determined by the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought, may demonstrate compliance with this criterion by submitting its calculations developed under paragraph (b)(3) of this section and a statement certifying that the State meets each element of this criterion, based on the percentages calculated in accordance with paragraphs (b)(2) and (b)(3) of this section.

Issued on: July 24, 2000.

Rosalyn G. Millman,

Deputy Administrator, National Highway Traffic Safety Administration.

[FR Doc. 00–18985 Filed 7–25–00; 10:41 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

31 CFR Part 103

RIN 1506–AA23

Amendment to the Bank Secrecy Act Regulations—Exemptions From the Requirement to Report Transactions in Currency; Interim Rule

AGENCY: Financial Crimes Enforcement Network (''FinCEN''), Treasury.

ACTION: Interim rule with request for comments.

SUMMARY: Rules previously issued under the Bank Secrecy Act established new procedures for exemption of transactions of retail and other businesses from the requirement that depository institutions report transactions in currency in excess of $10,000. The interim rule (the ''Interim Rule'') contained in this document modifies those procedures so that they will also apply to transactions involving money market deposit accounts used for business purposes. The Interim Rule also makes certain technical changes in the exemption procedures. Modification of the exemption procedures is another step in the Department of the Treasury's continuing program to increase the cost-effectiveness of the counter-money laundering policies of the Department of the Treasury.

DATES: *Effective Date:* July 31, 2000.

Comment Deadline: Comments must be received by September 26, 2000.

ADDRESSES: Written comments should be submitted to: Office of Chief Counsel, Financial Crimes Enforcement Network, Department of the Treasury, 2070 Chain Bridge Road, Vienna, VA 22182, *Attention:* Interim Rule—MMDA. Comments also may be submitted by electronic mail to the following Internet address: ''regcomments@fincen.treas.gov'' with the caption ''Attention: Interim Rule—MMDA.'' Comments may be inspected at the Department of the Treasury between 10 a.m. and 4 p.m., in the FinCEN reading room at the Franklin Court Building, 14th and L Streets, NW., Washington, DC. Persons wishing to inspect the comments submitted should request an appointment by telephoning (202) 354–6400.

FOR FURTHER INFORMATION CONTACT: Peter Djinis, Executive Assistant Director (Regulatory Policy), FinCEN, (703) 905–3930; Christine E. Carnavos, Assistant Director (Office of Compliance and Regulatory Enforcement), FinCEN, (1–800) 949–2732; Stephen R. Kroll, Chief Counsel, Cynthia L. Clark, Deputy Chief Counsel, and Albert R. Zarate and Christine L. Schuetz, Attorney-Advisors, Office of Chief Counsel, FinCEN, (703) 905–3590.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory Provisions

The Bank Secrecy Act, Titles I and II of Public Law 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5330, authorizes the Secretary of the Treasury, *inter alia,* to issue regulations requiring financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, and to implement counter-money laundering programs and compliance procedures. Regulations implementing the Bank Secrecy Act appear at 31 CFR Part 103. The authority of the Secretary to administer the Bank Secrecy Act has been delegated to the Director of FinCEN.

The reporting by financial institutions of transactions in currency in excess of $10,000 has long been a major component of the Department of the Treasury's implementation of the Bank Secrecy Act. The reporting requirement is imposed by 31 CFR 103.22, a rule issued under the broad authority granted to the Secretary of the Treasury by 31 U.S.C. 5313(a) to require reports of domestic coin and currency transactions.

The provisions of 31 U.S.C. 5313(d) through (g), added to the Bank Secrecy Act in 1994,[1] concern the exemption, from the currency transaction reporting requirements, of transactions by certain customers of depository institutions.[2] 31 U.S.C. 5313(d) (sometimes called the ''mandatory exemption'' provision) states that the Secretary of the Treasury shall exempt a depository institution from the requirement to report currency transactions with respect to transactions between the depository institution and four specified categories of customers, while 31 U.S.C. 5313(e) (sometimes called the ''discretionary exemption'' provision) authorizes the Secretary of the Treasury to exempt a depository institution from the requirement to report transactions in currency between it and a qualified business customer.[3]

A ''qualified business customer,'' for purposes of the discretionary exemption provision, is a business that

(A) maintains a transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act) at the depository institution;

(B) frequently engages in transactions with the depository institution which are subject to the reporting requirements of subsection (a); and

(C) meets criteria which the Secretary determines are sufficient to ensure that the purposes of this subchapter are carried out without requiring a report with respect to such transactions.

31 U.S.C. 5313(e)(2). The Secretary of the Treasury is required to establish, by regulation, the criteria for granting and maintaining an exemption for qualified business customers, *see* 31 U.S.C. 5313(e)(3), as well as guidelines for depository institutions to follow in selecting customers for exemption. *See* 31 U.S.C. 5313(e)(4)(A).

B. Regulatory Provisions

The reformed exemption procedures called for by 31 U.S.C. 5313(d)–(g) are now found in the Bank Secrecy Act regulations at 31 CFR 103.22(d). The procedures are the result of a four-part rulemaking[4] and are designed to permit streamlined exemption from the reporting requirements of transactions by most depository institution customers that have recurring needs for large amounts of currency to support their commercial enterprises in the United States. (Certain non-publicly-traded companies are ineligible for exemption under the procedures, as the statute contemplates.[5] *See* 31 CFR 103.22(d)(6)(viii).)

Classes of Exempt Persons.

The reformed exemption procedures apply to depository institution customers who fall within one of the classes of exempt persons described in 31 CFR 103.22(d)(2)(i)–(vii). The classes of exempt persons are:

(i) Other banks operating in the United States;

(ii) Government departments and agencies;

(iii) Certain entities that exercise governmental authority;

(iv) Entities whose equity interests are listed on one of the major national stock exchanges;

(v) Certain subsidiaries of entities whose equity interests are listed on one of the major national stock exchanges;

(vi) ''Non-listed businesses,'' as defined and described more fully below; and

(vii) ''Payroll customers,'' as defined and described more fully below.[6]

Non-Listed Businesses and Payroll Customers

Under the exemption rules, a ''non-listed business'' is any other commercial enterprise (*i.e.*, an enterprise that is neither a bank,[7] a government agency, a publicly-traded company, nor a subsidiary of a publicly-traded company

[1] *See* section 402 of the Money Laundering Suppression Act of 1994 (the ''Money Laundering Suppression Act''), Title IV of the Riegle Community Development and Regulatory Improvement Act of 1994, Public Law 103–325 (September 23, 1994).

[2] Section 402(b) of the Money Laundering Suppression Act states simply that in administering the new statutory exemption provisions: the Secretary of the Treasury shall seek to reduce, within a reasonable period of time, the number of reports required to be filed in the aggregate by depository institutions pursuant to section 5313(a) of title 31 * * * by at least 30 percent of the number filed during the year preceding [September 23, 1994,] the date of enactment of [the Money Laundering Suppression Act]. The enactment of 31 U.S.C. 5313(d) through (g) reflects a Congressional intention to ''reform * * * the procedures for exempting transactions between depository institutions and their customers.'' *See* H.R. Rep. 103–652, 103d Cong., 2d Sess. 186 (August 2, 1994).

[3] For additional information about the terms of 31 U.S.C. 5313(e)–(g), see 63 FR 50147, 50148 (September 21, 1998).

[4] An interim rule (with a request for comments) implementing the mandatory exemption provision (in what was called ''Phase I'' of exemption reform, aimed primarily at larger national and regional customers of depository institutions) was published on April 24, 1996. 61 FR 18204. A final rule based on the Phase I interim rule was published on September 8, 1997, 62 FR 47141, as 31 CFR 103.22(h), and a proposed rule implementing the discretionary exemption provision (''Phase II'' of exemption reform, aimed at non-publicly-traded retail and other businesses) was published on the same day. 62 FR 47156. The comment period for the proposed rule was extended on November 28, 1997, 62 FR 63298, and a final rule based on the Phase II proposal was published on September 21, 1998. 63 FR 50147. The final rule containing the Phase II provisions completely restated the language of 31 CFR 103.22; as part of that restatement, the Phase I provisions (previously found in 31 CFR 103.22(h)) and the Phase II provisions were combined in new 31 CFR 103.22(d).

[5] 31 U.S.C. 5313(e)(4)(B) provides that the required regulatory exemption guidelines may include a description of the type of businesses for which no exemption will be granted under the discretionary exemption provision. The ineligible classes of customer are listed at note 8, *see infra*.

[6] Generally, a depository institution seeking to exempt transactions by an eligible customer from the currency transaction reporting requirement need only make a one-time designation identifying the exempting depository institution, the exempt customer, and the category of exempt person into which the customer falls. The designation is made on Treasury Form TD F 90–22.53. As explained below, the Interim Rule changes the language of 31 CFR 103.22(d)(3)(i) and (d)(5)(ii) to specify the use of Form TD F 90–22.53.

[7] As used in 31 CFR 103.22, as elsewhere in the Bank Secrecy Act regulations, the term ''bank'' includes all of the classes of depository institution listed at 31 CFR 103.11(c).

and that is not ineligible for exemption[8]) that

(A) Has maintained a transaction account at the bank for at least 12 months;

(B) Frequently engages in transactions in currency with the bank in excess of $10,000; and

(C) Is incorporated or organized under the laws of the United States or a State, or is registered as and eligible to do business within the United States or a State.

31 CFR 103.22(d)(2)(vi). Such an enterprise is an exempt person only ''[t]o the extent of its domestic operations.'' *Id.* The addition of non-listed businesses as a category of exempt person was intended to make eligible for the reformed exemption procedures transactions of all established depository institution customers (other than ineligible companies) not included within the scope of the mandatory exemption provision.

A ''payroll customer,'' under the exemption rules, is any other person (*i.e.*, a person not otherwise covered under the exempt person definitions) that

(A) Has maintained a transaction account at the bank for at least 12 months;

(B) Operates a firm that regularly withdraws more than $10,000 in order to pay its United States employees in currency; and

(C) Is incorporated or organized under the laws of the United States or a State, or is registered as and eligible to do business within the United States or a State.

31 CFR 103.22(d)(2)(vii). A payroll customer is an exempt person ''[w]ith respect solely to withdrawals for payroll purposes.'' *Id.*

The ''Transaction Account'' Limitation

As indicated above, a person must maintain a ''transaction account'' with a depository institution in order to be treated as a ''non-listed business'' or ''payroll customer'' for purposes of the reformed exemption procedures. In addition, non-listed businesses and payroll customers may be treated as exempt persons ''only to the extent of [their] eligible transaction accounts'' under the present language of the reformed procedures. *See* 31 CFR 103.22(d)(6)(ix).

A ''transaction account'' for this purpose is an account described in section 19(b)(1)(C) of the Federal Reserve Act.[9] Section 19(b)(1)(C) of the Federal Reserve Act, codified at 12 U.S.C. 461(b)(1)(C), in turn, states that a transaction account is

> a deposit or account on which the depositor or account holder is permitted to make withdrawals by negotiable or transferable instrument, payment orders of withdrawal, telephone transfers, or other similar items for the purpose of making payments or transfers to third persons or others. Such term includes demand deposits, negotiable order of withdrawal accounts, savings deposits subject to automatic transfers, and share draft accounts.

Money Market Deposit Accounts

Given the operative definition of a transaction account, the exemption procedures published on September 21, 1998, do not extend to transactions by non-listed businesses or payroll customers that involve so-called money market deposit accounts.[10] *See* 12 CFR 204.2(d)(2) (in implementing section 19(b)(1)(C) of the Federal Reserve Act, defining a money market deposit account as a ''savings deposit'') and 12 CFR 204.2(e) (defining a transaction account to exclude ''savings deposits or accounts described in paragraph (d)(2) of this section even though such accounts permit third party transfers''). FinCEN noted this limitation when it proposed the new exemption procedures for non-listed businesses and payroll customers, *see* 62 FR 47156, 47162 (September 8, 1997), and again when it issued the final rule containing those procedures. *See* 63 FR 50147, 50154 (September 21, 1998). At the same time, FinCEN indicated that it would entertain requests for relief if the transaction account limitation proved to be unduly difficult to apply. *Id.*

II. The Interim Rule

Modification of the Transaction Account Limitation

A number of depository institutions have contacted FinCEN to request reconsideration of the decision to limit the reformed exemption procedures for non-listed businesses and payroll customers to transactions in currency involving transaction accounts. The transaction account limitation has been asserted to limit unnecessarily the ability of banks to make use of the procedures within their intended scope, for two reasons.

The first reason is that smaller businesses often place their receipts in money market deposit accounts to obtain some return on their funds until those funds are necessary for use in their businesses. Use of money market deposit accounts for this purpose reflects the fact that businesses are not generally permitted to hold interest-bearing checking accounts.[11] To satisfy their check-writing needs, businesses simply transfer funds from their money market deposit accounts to their transaction (that is, their checking) accounts as necessary.

The second reason flows from the first. Several banks have indicated that their computerized systems for tracking the currency transactions of their business customers do not distinguish between transaction accounts and money market accounts. Thus, an exemption system that does not extend to money market deposit accounts cannot be used at all for such customers (even for transaction accounts) without either an expensive system change or a time-intensive manual research process. The banks state that, faced with these choices, they would opt simply to file currency transaction reports and not use the exemption procedures at all for the customers in question.

The transaction account limitation was intended to help ensure that streamlined exemption procedures were available only for routine uses of currency by legitimate ongoing commercial enterprises. Deposits and withdrawals of currency from money market accounts by enterprises in the circumstances described above are within the classes of transactions for which the new exemption procedures were designed. For that reason, the

[8] Non-listed businesses ineligible for exemption are businesses engaged primarily in one or more of the following activities: serving as financial institutions or agents of financial institutions of any type; purchase or sale to customers of motor vehicles of any kind, vessels, aircraft, farm equipment or mobile homes; the practice of law, accountancy, or medicine; auctioning of goods; chartering or operation of ships, buses, or aircraft; gaming of any kind (other than licensed parimutuel betting at race tracks); investment advisory services or investment banking services; real estate brokerage; pawn brokerage; title insurance and real estate closing; trade union activities; and any other activities that may be specified by FinCEN. 31 CFR 103.22(d)(6)(viii).

[9] *See* 31 U.S.C. 5313(e)(2)(A) (defining a qualified business customer (whose transactions the Secretary of the Treasury is authorized to exempt from currency transaction reporting by 31 U.S.C. 5313(e)(1)), as a business which, among other things, ''maintains a transaction account (as defined in section 19(b)(1)(c) of the Federal Reserve Act) at the depository institution.'').

[10] Money market deposit accounts were established by the Garn-St. Germain Act of 1982, as interest-bearing accounts comparable to money market mutual funds upon which a limited number of checks may be drawn or other withdrawals made.

[11] Prior to the passage of the Monetary Control Act of 1980, all interest payments on demand deposits were prohibited. The Monetary Control Act established, among other things, negotiable order of withdrawal (''NOW'') accounts, to allow customers to earn interest on balances against which checks may be drawn. However, businesses are not permitted to hold NOW accounts.

Interim Rule modifies the new exemption procedures so that they will apply to the transactions of non-listed businesses and withdrawals for payroll purposes by payroll customers that involve a money market deposit account, within the meaning of section 19(b)(1)(C) of the Federal Reserve Act and that section's implementing regulations. *See* 12 CFR 204.2(d)(2).

The change made by the Interim Rule, however, as noted in more detail below, does not alter the definition of an exempt person itself. Thus, for example, a non-listed business may only be treated as an exempt person to the extent that it has maintained a transaction account at the depository institution for at least twelve months. *See* 31 CFR 103.22(d)(2)(vi). Moreover, under the new exemption procedures applicable to non-listed businesses and payroll customers, as modified by the Interim Rule, money market deposit accounts maintained other than as part of a commercial enterprise are not eligible for exemption. *See* 31 CFR 103.22(d)(2)(vi).

FinCEN is requesting comments on the expansion of the exemption procedures made by the Interim Rule. Commenters may wish to address any of the issues discussed above (for example, the fact that the changes made by the Interim Rule do not permit treatment as an exempt person of a customer whose only relationship with a bank is maintenance of a money market deposit account), or other matters related to the subject of the Interim Rule (for example, whether other savings accounts should be treated in the same manner as money market deposit accounts). The comments should include as much statistical or other information as possible about the terms and business or commercial uses of particular types of accounts that are discussed in any comments. Comments should also explain the reasons that any additional modifications to the exemption procedures sought by the comments are appropriate to accomplish the goals of the procedures and are not subject to the risk of extending the exemption procedures beyond their intended scope.

The provisions of the Interim Rule concerning money market deposit accounts become effective on July 31, 2000. Although FinCEN believes that the definition of a ''transaction account'' has been made clear heretofore, for reasons of administrative convenience, FinCEN will not generally require backfiling regarding any exemption granted based on the mistaken assumption that the term ''transaction account'' included money market deposit accounts.

Conforming Changes Based Upon Modification of Transaction Account Limitation

The Interim Rule makes several conforming changes to the exemption procedures based on the amendment to the transaction account limitation described above. First, the Interim Rule extends the exemption procedures to all exemptible accounts of a non-listed business or payroll customer, rather than just those customers' transaction accounts. Correspondingly, the term ''exemptible accounts'' is defined, for purposes of non-listed businesses and payroll customers, to include both transaction accounts and money market deposit accounts. (These changes are reflected in the new language of 31 CFR 103.22(d)(6)(ix).) Lastly, the Interim Rule substitutes the term ''exemptible account'' for the term ''transaction account'' for purposes of the terms of the exemption procedures concerning aggregation. Thus, when determining the qualification of a customer as a non-listed business or payroll customer, a bank may treat all exemptible accounts (rather than just transaction accounts) of the customer as a single account.

Reference to Treasury Form TD F 90–22.53

Since the reformed exemption procedures were published on September 21, 1998, 63 FR 50149, a new form, Treasury Form TD F 90–22.53, has been designated by FinCEN for use by banks when filing both the initial and biennial renewal of designation of exempt persons. Thus, the Interim Rule amends the exemption procedures to require the use of Treasury Form TD F 90–22.53 in that regard.

III. Specific Provisions

A. 103.22(d)(2)(vi)—Non-listed Businesses

The Interim Rule amends the language of 31 CFR 103.22(d)(2)(vi) to state that a non-listed business may only be treated as an exempt person to the extent of transactions conducted through its exemptible accounts. FinCEN believes that this change will help clarify the limitation on exemption for non-listed businesses.

The Interim Rule further modifies the language of 31 CFR 103.22(d)(2)(vi) to refer to the definition of a transaction account that is set forth at 31 CFR 103.22(d)(6)(ix). FinCEN believes that a cross-reference here would be helpful because of the change in the heading to paragraph (d)(6)(ix) that is described below.

B. 103.22(d)(2)(vii)—Payroll Customers

The Interim Rule amends the language of 31 CFR 103.22(d)(2)(vii) regarding withdrawals for payroll purposes to refer to withdrawals from exemptible accounts. The Interim Rule further modifies the language of 31 CFR 103.22(d)(2)(vii) to refer to the definition of a transaction account that is set forth at 31 CFR 103.22(d)(6)(ix). FinCEN believes that a cross-reference here would be helpful because of the change in the heading to paragraph (d)(6)(ix) that is described below.

C. 103.22(d)(3)(i)—Initial Designation of Exempt Persons

The Interim Rule amends the language of 31 CFR 103.22(d)(3)(i) to refer to the use of Treasury Form TD F 90–22.53 when filing the initial designation of exempt person. [12]

D. 103.22(d)(5)(ii)—Renewal of Designations for Non-listed Businesses and Payroll Customers

The Interim Rule amends the language of 31 CFR 103.22(d)(5)(ii) to refer to the use of Treasury Form TD F 90–22.53 when filing the biennial renewal of designation of exempt persons regarding customers who are non-listed businesses or payroll customers.

E. 103.22(d)(6)(v)—Aggregated Accounts

The Interim Rule modifies the language of 31 CFR 103.22(d)(6)(v) to state that a bank may aggregate all exemptible accounts (rather than simply transaction accounts) of a non-listed business or payroll customer to apply the terms of the exemption procedures to such a customer. Thus, for example, the determination whether a non-listed business ''frequently engages in transactions in currency with the bank in excess of $10,000'' (see 31 CFR 103.22(d)(2)(vi)(B)) is to be made by aggregating transactions in transaction and money market deposit accounts.

F. 103.22(d)(6)(ix)—Exemptible Accounts

The Interim Rule modifies the language of 31 CFR 103.22(d)(6)(ix) to state that the exemptible accounts of a non-listed business or payroll customer include both transaction accounts and money market deposit accounts. (The heading for paragraph (d)(6)(ix) correspondingly has been changed from ''Transaction account'' to ''Exemptible

[12] A bank is not required to file a form with respect to the transfer of currency to or from any of the twelve Federal Reserve Banks.

accounts of a non-listed business or payroll customer''.) The term ''money market deposit account,'' for purposes of paragraph (d), is defined by reference to the definition of that term contained in 12 CFR 204.2(d)(2). Currently, section 204.2(d)(2) defines a money market deposit account as any interest-bearing account on which the account holder is authorized to make no more than six transfers per calendar month or similar period for the purpose of making payments or transfers to another account of the depositor at the same institution or to a third person by means of a preauthorized, automatic, or telephonic order or instruction; of those six authorized transfers, no more than three may be made by check or similar order to a third person. The term ''transaction account,'' for purposes of paragraph (d), continues to be defined by reference to section 19(b)(1)(C) of the Federal Reserve Act, 12 U.S.C. 461(b)(1)(C), and that statute's implementing regulations, found at 12 CFR 204 *et seq.*

IV. Regulatory Matters

A. Executive Order 12866

The Department of the Treasury has determined that this interim rule is not a significant regulatory action under Executive Order 12866.

B. Unfunded Mandates Act of 1995 Statement

Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), Public Law 104–4 (March 22, 1995), requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a federal mandate that may result in expenditure by state, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 202 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. FinCEN has determined that it is not required to prepare a written statement under section 202 and has concluded that on balance the Interim Rule provides the most cost-effective and least burdensome alternative to achieve the objectives of the rule.

C. Administrative Procedure Act

The Interim Rule grants significant relief from existing regulatory requirements. Thus, the Interim Rule may be made effective without the need to abide by the notice and comment procedures contained in 5 U.S.C. 553(b), and, further, may be made effective before 30 days have passed after its publication date. *See* 5 U.S.C. 553(d).

D. Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory analysis (5 U.S.C. 604) are not applicable to the Interim Rule contained in this document because FinCEN was not required to publish a notice of proposed rulemaking under 5 U.S.C. 553 or any other law.

E. Paperwork Reduction Act

The Interim Rule is being issued without prior notice and public procedure pursuant to 5 U.S.C. 553. By expanding the applicable exemptions from an information collection that has been reviewed and approved by the Office of Management and Budget (OMB) under control number 1506–0004, relating to the Currency Transaction Report, the Interim Rule contained in this document significantly reduces the existing burden of information collection under 31 CFR 103.22. Thus, the Paperwork Reduction Act does not require FinCEN to follow any particular procedures in connection with the promulgation of the Interim Rule.

List of Subjects in 31 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Banks and banking, Currency, Foreign banking, Foreign currencies, Gambling, Investigations, Law enforcement, Penalties, Reporting and recordkeeping requirements, Securities, Taxes.

Amendment

For the reasons set forth above in the preamble, 31 CFR Part 103 is amended as follows:

PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

1. The authority citation for part 103 continues to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

2. Section 103.22 is amended by—

a. Revising the introductory text of paragraph (d)(2)(vi),

b. Revising paragraph (d)(2)(vi)(A),

c. Revising the introductory text of paragraph (d)(2)(vii),

d. Revising paragraph (d)(2)(vii)(A),

e. Removing the second sentence of paragraph (d)(3)(i) and adding two new sentences in its place,

f. Revising the first sentence of paragraph (d)(5)(ii),

g. Revising paragraph (d)(6)(v), and

h. Revising paragraph (d)(6)(ix).

The revisions and additions read as follows:

§ 103.22 Reports of transactions in currency.

* * * * *

(d) *Transactions of exempt persons* * * *

(2) *Exempt person.* * * *

(vi) To the extent of its domestic operations and only with respect to transactions conducted through its exemptible accounts, any other commercial enterprise (for purposes of this paragraph (d), a ''non-listed business''), other than an enterprise specified in paragraph (d)(6)(viii) of this section, that:

(A) Has maintained a transaction account, as defined in paragraph (d)(6)(ix) of this section, at the bank for at least 12 months;

* * * * *

(vii) With respect solely to withdrawals for payroll purposes from existing exemptible accounts, any other person (for purposes of this paragraph (d), a ''payroll customer'') that:

(A) Has maintained a transaction account, as defined in paragraph (d)(6)(ix) of this section, at the bank for at least 12 months;

* * * * *

(3) *Initial designation of exempt persons—(i) General.* * * * Except as provided in paragraph (d)(3)(ii) of this section, designation by a bank of an exempt person shall be made by a single filing of Treasury Form TD F 90–22.53. (A bank is not required to file a Treasury Form TD F 90–22.53 with respect to the transfer of currency to or from any of the twelve Federal Reserve Banks.) * * *

* * * * *

(5) *Biennial filing with respect to certain exempt persons* * * *

(ii) *Non-listed businesses and payroll customers.* The designation of a non-listed business or a payroll customer as an exempt person must be renewed biennially, beginning on March 15 of the second calendar year following the year in which the first designation of such customer as an exempt person is made, and every other March 15 thereafter, on Treasury Form TD F 90–22.53. * * *

(6) *Operating rules* * * *

(v) *Aggregated accounts.* In determining the qualification of a customer as a non-listed business or a payroll customer, a bank may treat all exemptible accounts of the customer as a single account. If a bank elects to treat

all exemptible accounts of a customer as a single account, the bank must continue to treat such accounts consistently as a single account for purposes of determining the qualification of the customer as a non-listed business or payroll customer.

* * * * *

(ix) *Exemptible accounts of a non-listed business or payroll customer.* The exemptible accounts of a non-listed business or payroll customer include transaction accounts and money market deposit accounts. However, money market deposit accounts maintained other than in connection with a commercial enterprise are not exemptible accounts. A transaction account, for purposes of this paragraph (d), is any account described in section 19(b)(1)(C) of the Federal Reserve Act, 12 U.S.C. 461(b)(1)(C), and its implementing regulations (12 CFR part 204). A money market deposit account, for purposes of this paragraph (d), is any interest-bearing account that is described as a money market deposit account in 12 CFR 204.2(d)(2).

* * * * *

Dated: July 14, 2000.

James F. Sloan,

Director, Financial Crimes Enforcement Network.

[FR Doc. 00–18770 Filed 7–27–00; 8:45 am]

BILLING CODE 4820–03–P

POSTAL SERVICE

39 CFR Part 111

Sack Preparation Changes for Periodicals Nonletter-Size Pieces and Periodicals Prepared on Pallets

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule sets forth changes to the Domestic Mail Manual (DMM) for the preparation of nonautomation nonletter-size carrier route Periodicals prepared in sacks and the preparation of Periodicals packages and bundles on pallets. For Periodicals carrier route mail prepared in sacks, the changes require carrier route sacks to contain a minimum of 24 pieces and make the use of 5-digit scheme carrier routes sacks, using DMM labeling list L001, a required sortation level. All other sack sortation criteria remain unchanged. For Periodicals prepared as packages and bundles on pallets, the changes require preparation of 5-digit scheme pallets, using DMM labeling list L001.

EFFECTIVE DATE: A future date that coincides with the implementation of rates resulting from the R2000–1 rate case. A document announcing the effective date will be published in the **Federal Register** at a later date.

FOR FURTHER INFORMATION CONTACT: Joel Walker, 202–268–3340; jwalke13@email.usps.gov.

SUPPLEMENTARY INFORMATION: On May 16, 2000, the Postal Service published for comment in the **Federal Register** (65 FR 31118–31120) a proposed rule to change preparation requirements for nonautomation nonletter-size carrier route Periodicals prepared in sacks and for Periodicals packages and bundles prepared on pallets.

The Postal Service proposed that all direct carrier route sacks must contain a minimum of 24 pieces and proposed to require the use of 5-digit/scheme carrier routes sortation using DMM L001 for nonautomation nonletter-size Periodicals prepared in sacks. In addition, the Postal Service proposed to require preparation of both 5-digit scheme and 5-digit pallets when there are 500 pounds of Periodicals packages and bundles for a scheme under DMM L001, or for a single 5-digit ZIP Code not listed in DMM L001.

The Postal Service received a total of five comments on the proposed rule. All comments supported the rule, with two comments highly in favor. Therefore, the Postal Service will adopt, without revision, the proposed changes effective at a future date that coincides with implementation of rates resulting from the R2000–1 rate case.

On May 18, 2000, the Postal Service published for comment in the **Federal Register** (65 FR 31506) a proposed rule to require that packages of basic carrier route Periodicals be sequenced in line-of-travel or walk sequence order. As described in detail in an accompanying final rule, the Postal Service will adopt those proposed changes on the same date as the preparation changes described in this final rule.

Because some of these rules overlap (specifically, E230.2.2a), this final rule is written to include the standards that are included in the other final rule.

Summary of Comments

The Postal Service received five comments on the proposed rule. The respondents included individual publishers, publisher associations, and mailing agents. Although in favor of the proposed rule, two respondents voiced opposition to any future proposal to change the standards for low-volume packages and sacks (fewer than six pieces) or the current minimum volume sack standards for Periodicals. In addition, the two respondents voiced a concern that not all publishers will be able to incorporate L001 into their software by the proposed October 15, 2000, effective date. Therefore, the Postal Service has revised the effective date of the proposed rule. Mailers have the option to use these preparation standards now and will be required to use these standards with the date that coincides with implementation of rates resulting from the R2000–1 rate case. Mailers not currently using these standards are encouraged to begin using them as soon as possible.

One respondent offered three comments that are outside the scope of the proposed rule. The first comment expressed continued support for an option for mailers to label sacks to a carrier route rather than to ''mixed carrier routes'' when the sack contains mail only to a single carrier route, but less than 24 pieces. The next comment expressed support for the design and implementation of a new container (mini-pallet), and the last suggested that these rule changes be expanded to Standard Mail (A) flat-size mail.

For the reasons discussed above, the Postal Service adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR part 111).

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Amend the following sections of the *Domestic Mail Manual* (DMM) as follows:

E ELIGIBILITY

* * * * *

E200 Periodicals

* * * * *

E230 Nonautomation Rates

* * * * *

2.0 CARRIER ROUTE RATES

* * * * *

[Amend 2.2 by revising the heading and item a, redesignating item b as item c, and adding a new item b to read as follows:]

2.2 Sequencing

Preparation to qualify eligible pieces for carrier route rates is optional and is subject to M200. Carrier route sort need not be done for all carrier routes in a 5-digit area. Specific rate eligibility is subject to these standards:

a. The carrier route rates apply to copies in carrier route packages of six or more letter-size pieces each that are sorted to carrier routes, 5-digit carrier routes, or 3-digit carrier routes trays; and six or more flat-size pieces or irregular parcel-size pieces each that are sorted to carrier route, 5-digit, or 5-digit scheme carrier routes sacks. Preparation of 5-digit scheme carrier routes sacks is required for all 5-digit scheme destinations. The applicable sequencing requirements in M050 and in 2.2b or 2.2c also must be met.

b. Basic carrier route rate mail must be prepared either in carrier walk sequence or in line-of-travel (LOT) sequence according to LOT schemes prescribed by the USPS (M050).

c. The high density and saturation rates apply to pieces that are eligible for carrier route rates under 2.2a, are prepared in carrier walk sequence, and meet the applicable density standards in 6.0 for the rate claimed.

* * * * *

M MAIL PREPARATION AND SORTATION

M000 General Preparation Standards

M010 Mailpieces

M011 Basic Standards

1.0 TERMS AND CONDITIONS

* * * * *

1.3 Preparation Instructions

For purposes of preparing mail:

[Amend items h and i by revising the fourth sentence in each to read as follows:]

* * * * *

h. * * * The 5-digit/scheme sort is required for carrier route rate flat-size and irregular parcel Periodicals and optional for flat-size Enhanced Carrier Route rate Standard Mail (A) in sacks. * * *

i. * * * The 5-digit/scheme sort is required for carrier route rate flat-size and irregular parcel Periodicals and optional for flat-size Standard Mail (A) prepared as packages on pallets and may not be used for other mail prepared on pallets, except for packages of Standard Mail (A) irregular parcels that are part of a mailing job that is prepared in part as palletized flats at automation rates. * * *

* * * * *

M030 Containers

* * * * *

M033 Sacks and Trays

1.0 BASIC STANDARDS

* * * * *

1.8 Periodicals Flats and Irregular Parcels Origin/Entry SCF Sacks

[Amend 1.8 by revising the first sentence to read as follows:]

For flat-size and irregular parcel-size Periodicals, after all carrier route, 5-digit carrier routes, 5-digit scheme carrier routes, 5-digit, 3-digit, and required SCF sacks are prepared, an SCF sack must be prepared to contain any remaining 5-digit and 3-digit packages for the 3-digit ZIP Code area(s) served by the SCF serving the post office where the mail is verified, and may be prepared for the area served by the SCF/plant where mail is entered (if that is different from the SCF/plant serving the post office where the mail is verified; e.g., a PVDS deposit site). * * *

* * * * *

M040 Pallets

M041 General Standards

* * * * *

5.0 PREPARATION

* * * * *

5.2 Required Preparation

These standards apply to:

[Amend item a by revising the third sentence and adding a new fourth sentence to read as follows:]

a. Periodicals, Standard Mail (A), and Parcel Post (other than BMC Presort, OBMC Presort, DSCF, and DDU rate mail). A pallet must be prepared to a required sortation level when there are 500 pounds of Periodicals or Standard Mail packages, sacks, or parcels or six layers of Periodicals or Standard Mail (A) letter trays. For packages of Periodicals flats and irregular parcels on pallets prepared under the standards for package reallocation (M045.5), not all mail for a required 5-digit scheme destination is required to be on a 5-digit scheme pallet. For packages of Standard Mail (A) flats on pallets, not all mail for a required 5-digit destination is required to be on a 5-digit pallet or optional 5-digit/scheme pallet.* * *

* * * * *

M045 Palletized Mailings

* * * * *

4.0 PALLET PRESORT AND LABELING

4.1 Packages, Bundles, Sacks, or Trays on Pallets

Preparation sequence and Line 1 labeling:

[Revise items a and b to read as follows:]

a. 5-digit (for Periodicals sacks or trays and all Standard Mail): required for sacks; required for packages and bundles of Standard Mail, except for packages and bundles prepared under b; optional for trays; for Line 1, use 5-digit ZIP Code destination of contents.

b. 5-digit scheme: required for Periodicals packages and bundles and optional for Standard Mail (A) packages and bundles; for Line 1 for 5-digit pallets, use 5-digit ZIP Code destination of contents; for Line 1 for 5-digit scheme pallets, use L001, Column B.

* * * * *

M200 Periodicals (Nonautomation)

1.0 BASIC STANDARDS

* * * * *

1.5 Low-Volume Packages and Sacks

[Amend 1.5 by revising package and sack levels to read as follows:]

As a general exception to 2.4b through 2.4d, and 3.1a through 3.1e, nonletter-size Periodicals may be prepared in carrier route, 5-digit, and 3-digit packages containing fewer than six pieces when the publisher determines that such preparation improves service, provided those packages are placed in 5-digit carrier routes, 5-digit scheme carrier routes, 5-digit, 3-digit, and SCF sacks. These low-volume packages may be placed on 5-digit, 5-digit scheme, 3-digit, and SCF pallets under M045.

* * * * *

3.0 SACK PREPARATION (FLAT-SIZE PIECES AND IRREGULAR PARCELS)

3.1 Sack Preparation

Sack size, preparation sequence, and Line 1 labeling:

[Amend 3.1 by removing b, redesignating c through h as b through g respectively, and revising a and new b to read as follows:]

a. Carrier route: Required for rate eligibility at 24 pieces, fewer pieces not permitted; for Line 1, use 5-digit ZIP Code destination of packages, preceded for military mail by the prefixes under M031.

b. 5-digit/scheme carrier routes (carrier route packages only): Required for rate eligibility (no minimum); for Line 1 for 5-digit carrier routes sacks, use 5-digit ZIP Code destination of packages, preceded for military mail by

the prefixes under M031; for Line 1 for 5-digit scheme carrier routes sacks, use L001, Column B.

* * * * *

This change will be published in a future issue of the Domestic Mail Manual. An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 00–19163 Filed 7–27–00; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

39 CFR Part 111

Line-of-Travel Sequencing for Basic Carrier Route Periodicals

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule sets forth changes to the Domestic Mail Manual (DMM) for the preparation of basic carrier route Periodicals in line-of-travel (LOT) order.

EFFECTIVE DATE: A future date that coincides with implementation of rates resulting from the R2000–1 rate case. A document announcing the effective date will be published in the **Federal Register** at a later date.

FOR FURTHER INFORMATION CONTACT: Anne Emmerth, 202–268–2363; aemmerth@email.usps.gov.

SUPPLEMENTARY INFORMATION: On May 18, 2000, the Postal Service published for comment in the **Federal Register** (65 FR 31506) a proposed rule requiring that packages of basic carrier route Periodicals be sequenced in LOT or walk-sequence order. Mailers would be required to use the Postal Service LOT product to sequence their mail no more than 90 days prior to mailing. Alternately, mailers may prepare mail in walk sequence under the standards in M050.

This final rule is based on a cost analysis that indicated that implementing a line-of-travel or walk-sequence requirement for packages of basic carrier route Periodicals could produce significant savings.

The Postal Service received a total of four comments on the proposed rule; all of those comments strongly supported the proposal. Therefore, the Postal Service will adopt the proposed changes effective on the date that coincides with implementation of rates resulting from the R2000–1 rate case. Mailers will be notified of the effective date through the **Federal Register**.

The LOT product is available through the Postal Service National Customer Support Center (www.usps.com > address quality > address information systems (AIS) products or 1–800–238–3150). New postage statements will not be produced until rates are implemented for the R2000–1 rate case. Until then, mailers must annotate line 22 (for outside-county) and line 53 (for In-county) on the Forms 3541 to show the sequencing date.

On May 16, 2000, the Postal Service published for comment in the **Federal Register** (65 FR 31118) a proposed rule to require that, for carrier route Periodicals prepared in sacks, those sacks must contain a minimum of 24 pieces and must be sorted to a required 5-digit scheme carrier routes sack level using DMM labeling list L001. For Periodicals prepared as packages and bundles on pallets, mailers would be required to prepare a 5-digit scheme pallet using DMM labeling list L001. As described in detail in an accompanying final rule, the Postal Service will adopt those proposed changes on the same date as the preparation changes described in this final rule. Because some of these rules overlap (specifically, DMM E230.2.2a), this final rule is written to include the standards that are included in the other final rule.

Summary of Comments

The Postal Service received four comments in response to the proposed rule. The respondents included Periodicals publishers and one publisher association. All four respondents expressed strong support of the proposal as a way to reduce mail processing costs for Periodicals. Two respondents asked for additional changes to the Domestic Mail Manual to allow small newspaper publishers to get sequencing information through means other than the USPS LOT product. Those comments are outside the scope of this final rule and will be taken under consideration by the Postal Service for possible future action. However, mailers may obtain walk sequence information through the means described in DMM M050.

For the reasons discussed above, the Postal Service adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulation (see 39 CFR part 111).

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Amend the following sections of the Domestic Mail Manual (DMM) as follows:

E ELIGIBILITY

* * * * *

E200 Periodicals

* * * * *

E230 Nonautomation Rates

* * * * *

2.0 CARRIER ROUTE RATES

* * * * *

[Amend 2.2 by revising the heading and item a, redesignating item b as item c, and adding a new item b to read as follows:]

2.2 Sequencing

Preparation to qualify eligible pieces for carrier route rates is optional and is subject to M200. Carrier route sort need not be done for all carrier routes in a 5-digit area. Specific rate eligibility is subject to these standards:

a. The carrier route rates apply to copies in carrier route packages of six or more letter-size pieces each that are sorted to carrier routes, 5-digit carrier routes, or 3-digit carrier routes trays; and six or more flat-size pieces or irregular parcel-size pieces each that are sorted to carrier route, 5-digit, or 5-digit scheme carrier routes sacks. Preparation of 5-digit scheme carrier routes sacks is required for all 5-digit scheme destinations. The applicable sequencing requirements in M050 and in 2.2b or 2.2c also must be met.

b. Basic carrier route rate mail must be prepared either in carrier walk sequence or in line-of-travel (LOT) sequence according to LOT schemes prescribed by the USPS (M050).

c. The high density and saturation rates apply to pieces that are eligible for carrier route rates under 2.2a, are prepared in carrier walk sequence, and meet the applicable density standards in 6.0 for the rate claimed.

* * * * *

M MAIL PREPARATION AND SORTATION

M000 General Preparation Standards

M010 Mailpieces

* * * * *

M013 Optional Endorsements Lines

1.0 USE

1.1 Basic Standards

[Amend 1.1 by revising the exhibit to read as follows:]

Sortation level	OEL example
[Replace the second entry in the table with the following:]	
Carrier Route-Periodicals: (basic, high density, and saturation carrier route)	CAR–RT LOT * * C–001

* * * * *

M050 Delivery Sequence

* * * * *

3.0 DELIVERY SEQUENCE INFORMATION

* * * * *

3.4 Line-of-Travel Sequence

[Amend 3.4 by revising the first sentence to read as follows:]

Unless the mail is prepared in carrier walk sequence, LOT sequence is required for mailings at Enhanced Carrier Route basic Standard Mail (A) rates and carrier route basic Periodicals rates. * * *

4.0 DOCUMENTATION

4.1 General

[Amend 4.1 by revising the fourth sentence to read as follows:]

* * * For Periodicals, the postage statement must be annotated in the ''Sequencing Date'' block on each of the lines where basic, high density, and saturation per piece rate postage is reported. * * *

* * * * *

M200 Periodicals (Nonautomation)

1.0 BASIC STANDARDS

* * * * *

[Amend 1.3 by revising the heading and the second sentence to read as follows:]

1.3 Basic Carrier Route and Walk Sequence

* * * Periodicals for which a carrier route discount is claimed must be prepared as a carrier route mailing under this section and either the walk sequencing standard or the line-of-travel sequencing standard in M050; pieces prepared with a simplified address must also meet the standards in A040.

* * * * *

This change will be published in a future issue of the Domestic Mail Manual. An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 00–19164 Filed 7–27–00; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[NC–AT–2000–01; FRL–6728–8]

New Stationary Sources; Supplemental Delegation of Authority to the State of North Carolina

AGENCY: Environmental Protection Agency (EPA).

ACTION: Delegation of Authority.

SUMMARY: The State of North Carolina has requested that EPA delegate authority for implementation and enforcement of existing New Source Performance Standards (NSPS) which have been previously adopted by the State agency but has remained undelegated by EPA, and to approve the mechanism for delegation (automatic) of future NSPS. The purpose of the agency requests for approval of their delegation mechanism is to streamline the existing administrative procedures by eliminating unnecessary steps involved in taking delegation of federal NSPS regulations. With the new NSPS delegation mechanism in place, once a new or revised NSPS is promulgated by EPA, delegation of authority from EPA to the North Carolina Department of Environment, Health, and Natural Resources (DEHNR) will become effective on the date the NSPS is promulgated. No further State requests for delegation will be necessary. Likewise, no further **Federal Register** notices will be published. The EPA's review of each of the agencies' pertinent laws, rules, and regulations indicate that adequate and effective procedures are in place for the implementation and enforcement of these Federal standards. This notice was written to inform the public of delegations that were made to the above mentioned agencies for which a **Federal Register** notice was not previously written and to inform the public of the agencies' new mechanism for delegation of future NSPS.

EFFECTIVE DATE: The effective date is July 28, 2000.

ADDRESSES: Copies of the request for delegation of authority and EPA's letter of delegation are available for public inspection during normal business hours at the following locations:

Environmental Protection Agency, Region 4, Air & Radiation Technology Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303

North Carolina Department of Environment, Health, & Natural Resources, P.O. Box 29580, Raleigh, North Carolina 27626–0580

Effective immediately, all requests, applications, reports and other correspondence required pursuant to the delegated standards should not be submitted to the Region 4 office, but should instead be submitted to the following address: North Carolina Department of Environment, Health, & Natural Resources, P.O. Box 29580, Raleigh, North Carolina 27626–0580.

FOR FURTHER INFORMATION CONTACT: Ms. Katy Forney, Air & Radiation Technology Branch, Environmental Protection Agency, Region 4, 61 Forsyth St. SW, Atlanta, Georgia 30303, 404–562–9130.

SUPPLEMENTARY INFORMATION: Section 301, in conjunction with Sections 110 and 111(c)(1) of the Clean Air Act as amended November 15, 1990, authorizes EPA to delegate authority to implement and enforce the standards set out in 40 CFR Part 60, New Source Performance Standards (NSPS).

On November 24, 1976, the EPA initially delegated the authority for implementation and enforcement of the NSPS program to the State of North Carolina. Currently, no existing NSPS regulations are awaiting delegation for

the State of North Carolina. This agency has subsequently requested a delegation of authority for implementation and enforcement of future NSPS categories codified in 40 CFR part 60.

All current NSPS categories are delegated with the exception of the following sections within those subparts that may not be delegated. Future NSPS regulations will contain a list of sections that will not be delegated for that subpart.

1. Subpart A—§ 60.8(b) (2) and (3), § 60.11(e) (7) and (8), § 60.13 (g), (i) and (j)(2)
2. Subpart B—§ 60.22, § 60.27, and § 60.29
3. Subpart Da—§ 60.45a
4. Subpart Db—§ 60.44b(f), § 60.44b(g), § 60.49b(a)(4)
5. Subpart Dc—§ 60.48c(a)(4)
6. Subpart Ec—§ 60.56(c)(i)
7. Subpart J—§ 60.105(a)(13)(iii), § 60.106(i)(12)
8. Subpart Ka—§ 60.114a
9. Subpart Kb—§ 60.111b(f)(4), § 60.114b, § 60.116b(e)(3) (iii) and (iv), § 60.116b(f)(2)(iii)
10. Subpart O—§ 60.153(e)
11. Subpart EE—§ 60.316(d)
12. Subpart GG—§ 60.334(b)(2), § 60.335(f)(1)
13. Subpart RR—§ 60.446(c)
14. Subpart SS—§ 60.456(d)
15. Subpart TT—§ 60.466(d)
16. Subpart UU—§ 60.474(g)
17. Subpart VV—§ 60.482–1(c)(2) and § 60.484
18. Subpart WW—§ 60.496(c)
19. Subpart XX—§ 60.502(e)(6)
20. Subpart AAA—§ 60.531, § 60.533, § 60.534, § 60.535, § 60.536(i)(2), § 60.537, § 60.538(e), § 60.539
21. Subpart BBB—§ 60.543(c)(2)(ii)(B)
22. Subpart DDD—§ 60.562–2(c)
23. Subpart III—§ 60.613(e)
24. Subpart NNN—§ 60.663(e)
25. Subpart RRR—§ 60.703(e)
26. Subpart SSS—§ 60.711(a)(16), § 60.713(b)(1)(i), § 60.713(b)(1)(ii), § 60.713(b)(5)(i), § 60.713(d), § 60.715(a), § 60.716
27. Subpart TTT—§ 60.723(b)(1), § 60.723(b)(2)(i)(C), § 60.723(b)(2)(iv), § 60.724(e), § 60.725(b)
28. Subpart VVV—§ 60.743(a)(3)(v)(A) and (B), § 60.743(e), § 60.745(a), § 60.746
29. Subpart WWW— § 60.754(a)(5)

After a thorough review of the request, the Regional Administrator determined that such a delegation was appropriate for all source categories. All sources subject to the requirements of 40 CFR part 60 will now be under the jurisdiction of the appropriate above mentioned agency.

Since review of the pertinent laws, rules, and regulations for the State agency has shown them to be adequate for implementation and enforcement of existing, previously adopted, undelegated NSPS and future NSPS, EPA hereby notifies the public that it has delegated the authority for existing, previously adopted and undelegated NSPS as well as the mechanism for delegation (automatic) of future NSPS source categories upon publication of this **Federal Register** notice.

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

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 July 28, 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).

Authority: This notice is issued under the authority of sections 101, 110, 111, 112 and 301 of the Clean Air Act, as Amended (42 U.S.C. 7401, 7410, 7411, 7412 and 7601).

Dated: June 19, 2000.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 00–19112 Filed 7–27–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[FRL–6728–9]

New Stationary Sources; Supplemental Delegation of Authority to the States of Alabama, Florida, Georgia and Tennessee and to Nashville-Davidson County, TN

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction to delegation of authority.

SUMMARY: This document corrects an error in the supplemental delegation of authority **Federal Register** notices published on September 21, 1998 and March 25, 1999 for the States of Alabama, Florida, Georgia and Tennessee and to Nashville-Davidson County, Tennessee. The previous **Federal Register** notices mistakenly held back the authority for states to approve reference methods that contain minor changes in test methodology.

EFFECTIVE DATE: The effective date is July 28, 2000.

FOR FURTHER INFORMATION CONTACT: Katy Forney at 404–562–9130

SUPPLEMENTARY INFORMATION: This document corrects an error in the following, previously published, **Federal Register** notices given supplemental delegation of authority to the above mentioned states and local agencies: State of Tennessee & Nashville-Davidson Co. Tennessee—63 FR 50162 (September 21, 1998) State of Florida—63 FR 50163 (September 21, 1998) States of Alabama & Georgia—64 FR 14393 (March 25, 1999)

The **SUPPLEMENTARY INFORMATION** section of the **Federal Register** notices listed above contains a list of sections that will not be delegated for that subpart.

The list currently contains the following citation:

1. Subpart A—§ 60.8(b)(1) thru (5), § 60.11(e)(7) and (8), § 60.13(g), (i), and (j)(2)

The list should be amended to contain the following citation:

1. Subpart A—§ 60.8(b)(2) and (3), § 60.11(e)(7) and (8), § 60.13(g), (i), and (j)(2)

Administrative Requirements

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

Because this corrective notice is not subject to notice-and-comment

requirements under the Administrative Procedure Act or any other statute, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *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. 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 July 28, 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).

Authority: This notice is issued under the authority of sections 101, 110, 111, 112 and 301 of the Clean Air Act, as Amended (42 U.S.C. 7401, 7410, 7411, 7412 and 7601).

Dated: June 19, 2000.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 00–19113 Filed 7–27–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6842–5]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of Chemform, Inc. Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region IV announces the deletion of the Chemform, Inc. Site (Site) in Pompano Beach, Broward County, Florida, from the National Priorities List (NPL). The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended. EPA and the Florida Department of Environmental Protection (FDEP) have determined that all appropriate response actions under CERCLA have been implemented and that no further response action is appropriate. Moreover, EPA and the FDEP have determined that the response actions conducted at the Site to date are protective of public health, welfare, and the environment.

EFFECTIVE DATE: July 28, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Jamey Watt, Remedial Project Manager, EPA Region IV, 61 Forsyth St. SW, Atlanta, Georgia, 30303, (404) 562–8920.

Comprehensive information on this Site is available through the EPA Region IV public docket, which is available for viewing at two locations. Locations and phone numbers are: USEPA Region IV Record Center, 61 Forsyth St. SW, Atlanta, Georgia 30303, (404) 562–8862 and the Broward County Main Public Library, Government Documents, 100 South Andrews Avenue N.E., Fort Lauderdale, Florida 33301.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is the Chemform, Inc. Site, Pompano Beach, Broward County, Florida.

EPA published a Notice of Intent to Delete the Chemform, Inc. Site from the NPL on May 9, 2000 in the **Federal Register** (65 FR 26803). EPA did not receive any comments on the proposed deletion. Therefore, no responsiveness summary is necessary for attachment to this Notice of Deletion.

EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substances Superfund Response Trust Fund (Fund-financed) remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. 40 CFR 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: June 23, 2000.

A. Stanley Meiburg,

Acting Regional Administrator, Region IV.

For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p.193.

Appendix B—[Amended]

2. Table 1 of Appendix B to part 300 is amended by removing the site ''Chemform, Inc., Pompano Beach, Florida.''

[FR Doc. 00–19118 Filed 7–27–00; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

43 CFR Part 2

RIN 1090–AA76

Legal Process: Testimony of Employees and Production of Records

AGENCY: Department of the Interior.

ACTION: Final rule and statement of policy.

SUMMARY: This regulation amends 43 CFR Part 2, Subpart E, Compulsory Process and Testimony of Employees. It generally provides that Department employees may not appear as witnesses, concerning information acquired in the course of performing official duties or because of their official status, or to produce Department records in litigation either voluntarily or in response to a subpoena, without the consent of the Department. The intended effect of this regulation is to conserve the ability of the Department to conduct official business, preserve its employee resources, minimize involvement in matters unrelated to its mission and programs, preserve its impartially, avoid spending public time and money for private purposes, and to help avoid needless litigation. This regulation does not apply to Congressional inquiries, Federal court

civil proceedings in which the United States is a party, criminal cases, or to Freedom of Information Act and Privacy Act requests.

DATES: This regulation is effective July 28, 2000.

FOR FURTHER INFORMATION CONTACT: Timothy S. Elliott, Deputy Associate Solicitor, Division of General Law, Office of the Solicitor, Department of the Interior, 1849 C Street, NW., Washington, DC 20240, telephone: (202) 208–4722; Randolph J. Myers, Attorney, Division of Parks and Wildlife, Office of the Solicitor, Department of the Interior, 1849 C Street, NW., Washington, DC 20240, telephone: (202) 208–4338.

SUPPLEMENTARY INFORMATION: Department employees are frequently requested or subpoenaed to provide testimony or produce records in litigation. Current Department regulations do not clearly specify when its employees are required to respond to subpoenas or produce Department records. This has resulted in an employee giving testimony or providing records, which diverts such employee from performing his/her duties, and has, at times, created the appearance that the Department is taking sides in private litigation. This regulation is intended to address this situation by generally prohibiting both voluntary appearances and compliance with subpoenas unless authorized by the Department.

Subpoenas to testify concerning information which employees have acquired in the course of performing official duties, or to produce records, are essentially legal actions against the United States for which there has been no waiver of sovereign immunity. The courts have recognized the authority of Federal agencies to limit compliance with such subpoenas. *United States ex rel. Touhy* v. *Ragen,* 340 U.S. 462 (1951). *See also United States* v. *Williams,* 170 F.3d 431 (4th Cir. 1999); *Smith* v. *Cromer,* 159 F.3d 875 (4th Cir. 1998); *Boron Oil Company* v. *Downie,* 873 F.2d 67 (4th Cir. 1989); *Davis Enterprises* v. *E.P.A.,* 877 F.2d 1181 (3rd Cir. 1989); *Moore* v. *Armour Pharmaceutical Co.,* 927 P.2d 1194 (11th Cir. 1991).

Moreover, subpoenas by State, territorial or Tribal courts, and legislative or administrative bodies, which attempt to assert jurisdiction over Federal agencies and their employees, are inconsistent with the Supremacy Clause of the U.S. Constitution. A Federal regulation, such as this one prohibiting compliance with such subpoenas, is consistent with the Supremacy Clause principle. *See McCulloch* v. *Maryland,* 7 U.S. (4 Wheat.) 316 (1819); *Houston Business Journal, Inc.* v. *Office of the Comptroller of the Currency,* 86 F.3d 1208 (D.C. Cir. 1996); *United States* v. *McLeod,* 385 F.2d 734 (5th Cir. 1967); *Giza* v. *Secretary of HEW,* 628 P.2d 748 (1st Cir. 1980). Accordingly, this regulation restricts a Department employee from complying with subpoenas from State, territorial or Tribal courts, and legislative or administrative bodies without the approval of the official in charge of the employee's bureau, division, office or agency of the Department.

In addition, this regulation describes procedures by which the Department will make its employees and records available in response to subpoenas in Federal court civil proceedings in which the United States is not a party. In the event that the Department or its Solicitor's Office fails to reach an agreement regarding the proper scope of a subpoena, the Solicitor's Office will coordinate with the Department of Justice to file appropriate motions, including motions to quash or for a protective order. In the case of the Department's Office of Inspector General, its General Counsel will attempt to reach an agreement or will coordinate with the Department of Justice to file appropriate motions. *Exxon Shipping Co.* v. *U.S. Dep't of the Interior,* 34 F.3d 774 (9th Cir. 1994) and *Comsat Corp.* v. *National Science Foundation,* 190 F.3d 269 (4th Cir. 1999).

The regulation does not apply to congressional proceedings. This regulation also does not apply to Federal court civil proceedings in which the United States is a party, because the Department of Justice is already representing the Department's interests and may file appropriate protective motions under the Federal Rules of Civil Procedure. This regulation likewise does not apply to either Freedom of Information Act or Privacy Act requests.

We also recognize that there are situations in which the Department should cooperate with Federal, State, territorial and Tribal authorities as part of the Department's responsibility for developing and enforcing land and resource standards and other policies. This regulation does not preclude these efforts, and the official in charge of the employee's bureau, division, office or agency of the Department is empowered to authorize such testimony.

Further, this regulation does not apply to criminal cases before Federal, State and Tribal courts where Department employees and records are involved. The Department has over 5,000 employees who perform law enforcement functions. These and other employees regularly testify in Federal, State or Tribal courts in thousands of criminal cases. The Department has long-standing procedures with prosecutors which adequately address the proper scope of discovery, record production requests and witness subpoenas. Once prosecutors are advised by the Department of an inappropriate witness subpoena or subpoena *duces tecum,* prosecutors traditionally file motions to quash or for a protective order to protect the interests of the Department. As such, the Department sees no need to include criminal cases in this regulation.

While this regulation applies to information which employees acquire in the course of performing official duties, to production of records in Department files and to testimony concerning such records, we recognize that there are situations where Department employees may properly serve as expert witnesses on subjects outside the scope of their official duties and on behalf of private parties. Such situations are treated as outside activities under 5 CFR Part 2635, Subpart H, and employees providing this testimony are required to comply with those regulations and to perform those activities on their own time or while in an approved leave status. Employees must also review and comply with 5 CFR 2635.805, which details a separate authorization procedure for an employee to testify as an expert witness, not on behalf of the United States, in any proceeding before a court or agency in which the United States is a party or has a direct and substantial interest. In both instances, we require employees to state for the record that they are appearing as private individuals and that their testimony does not necessarily represent the official views of the Department of the Interior.

We also recognize that employees may, on their own time or while in an approved leave status, appear as private citizens in proceedings in which Department policies and programs are not at issue. This regulation does not restrict such activities.

Finally, the Department of the Interior is sometimes asked to authenticate copies of official records for purposes of admissibility under 28 U.S.C. 1733, Federal Rule of Civil Procedure 44, or comparable State or Tribal law. Since official actions and policies can best be proved by Department records, and since this regulation provides that it is generally inappropriate for employees to appear as witnesses to discuss the background of Department policies and action in private litigation, this

regulation provides that we will authenticate a copy of Department records on request. *See* 43 U.S.C. 1460.

Public Comment Procedures

Since this regulation establishes internal policy for Department employees, the Administrative Procedure Act does not require that it be published as a proposed regulation for notice and public comment. 5 U.S.C. 553(a)(2). This regulation revises current regulations and provides immediate clarifying guidance on how Department employee testimony and Department records may be obtained. As such, the Department finds that good cause exists for making the regulation effective less than thirty days after publication. 5 U.S.C. 553(b)(3)(B).

We welcome and encourage public comment by any one of several methods. You may mail comments to the Office of the Solicitor, Department of the Interior, 1849 C Street, NW., Room 6510, Washington, DC 20240. For the next six months, you may also comment via e-mail on the Internet addressed to: Witness_regs@ios.doi.gov. Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include ''Attn: 1090–AA76'' and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at Office of the Solicitor, Division of Parks and Wildlife at (202) 208–4338. Finally, you may also fax comments to Office of the Solicitor at (202) 208–1790. These are not toll-free numbers.

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 regulation making record, which we will honor to the extent allowed by law. There also may be circumstances in which we would withhold from the regulation making record a respondent's identity, as allowed by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Drafting Information

The following persons participated in the writing of this regulation: Randolph J. Myers, Arthur E. Gary, Robert H. Moll, Timothy S. Elliott, Karen Sprecher Keating, and David A. Watts, Office of the Solicitor, Department of the Interior, 1849 C Street, NW., Washington, DC 20240.

Compliance With Other Laws

Regulatory Planning and Review (E.O. 12866)

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

(1) This regulation will not have an effect of $100 million or more on the economy. This regulation regulates how and when Department employees and documents may be provided in certain situations. As such, it will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities.

(2) This regulation will not create a serious inconsistency or interfere with an action taken or planned by another agency.

(3) This regulation does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This regulation is consistent with well-established constitutional and statutory principles and does not raise novel legal or policy issues.

Regulatory Flexibility Act

The Department of the Interior certifies that this regulation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. *et seq.*). This regulation merely regulates how and when Department employees may testify and that documents may be provided in certain situations.

Small Business Regulatory Enforcement Fairness Act

This regulation is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. Because this regulation only regulates how and when Department employees may testify and that Department documents may be provided in certain situations, this regulation:

a. Dies not have an annual effect on the economy of $100 million or more.

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

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

Unfunded Mandates Reform Act

This regulation does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. This regulation does not have a significant or unique effect on State, local or tribal governments or the private sector because this regulation only regulates how and when Department employees may testify and Department documents my be provided in certain situations. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (E.O. 12630)

In accordance with Executive Order 12630, this regulation does not have significant takings implications. A takings implication assessment is not required.

Federalism (E.O. 13132)

The Department of the Interior has determined this regulation conforms to the Federalism principals of Executive Order 13132. It also certifies that to the extent a regulatory preemption occurs, it is because the exercise of State and Tribal authority conflicts with the exercise of Federal authority under the U.S. Constitution's supremacy clause and Federal statute. This regulation is, however, restricted to the minimum level necessary to achieve the objections of 5 U.S.C. 301 pursuant to which this regulation is promulgated.

Civil Justice Reform (E.O. 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this regulation does not unduly burden the judicial system, under *United States ex rel. Touhy* v. *Ragen*, 340 U.S. 462 (1951), and does meet the requirements of section 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This regulation contains no reporting or record keeping requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3510 *et seq.*

National Environmental Policy Act (NEPA)

This regulation is of an administrative, legal and procedural nature and therefore is categorically excluded from NEPA, 516 DM 2 Appendix 1.10. This regulation also does not constitute a major Federal action significantly affecting the quality of the human environment under NEPA, 42 U.S.C. 4321 *et seq.* A detailed statement under the NEPA is not required.

List of Subjects in 43 CFR Part 2

Administrative practice and procedure, Classified information, Freedom of information, and Government employees.

In consideration of the foregoing, the Department amends 43 CFR Part 2, Subpart E as set forth below:

1. The authority citation for Subpart E is revised to read as follows:

Authority: 5 U.S.C. 301, 552 and 552a; 31 U.S.C. 9701; 43 U.S.C. 1460; and Reorganization Plan No. 3 of 1950, 15 FR 3174.

2. Sections 2.80 and 2.82 are removed and Title 43, Part 2, Subpart E of the Code of Federal Regulations is revised to read as follows:

Subpart E—Legal Process: Testimony by Employees and Production of Records

General Information

Sec.
2.80 What does this subpart cover?
2.81 What is the Department's policy on granting requests for employee testimony or Department records?

Responsibilities of Requesters

2.82 How can I obtain employee testimony or Department records?
2.83 If I serve a subpoena or subpoena *duces tecum*, must I also submit a request under *United States ex rel. Touhy* v. *Ragen*, 340 U.S. 462 (1951)?
2.84 What information must I put in my *Touhy* Request?
2.85 How much will I be charged?
2.86 Can I get an authenticated copy of a Department record?

Responsibilities of the Department

2.87 How will the Department process my *Touhy* Request?
2.88 What criteria will the Department consider in responding to my *Touhy* Request?

Responsibilities of Employees

2.89 What must I, as an employee, do upon receiving a request?
2.90 Must I get approval before testifying as an expert witness on a subject outside the scope of my official duties?

General Information

§ 2.80 What does this subpart cover?

(a) This subpart describes how the Department of the Interior (including all its bureaus and offices) responds to requests or subpoenas for:

(1) Testimony by employees in State, territorial or Tribal judicial, legislative or administrative proceedings concerning information acquired while performing official duties or because of an employee's official status;

(2) Testimony by employees in Federal court civil proceedings in which the United States is not a party concerning information acquired while performing official duties or because of an employee's official status;

(3) Testimony by employees in any judicial or administrative proceeding in which the United States, while not a party, has a direct and substantial interest;

(4) Official records or certification of such records for use in Federal, State, territorial or Tribal judicial, legislative or administrative proceedings.

(b) In this subpart, ''employee'' means a current or former Department employee, including a contract or special government employee.

(c) This subpart does not apply to:

(1) Congressional requests or subpoenas for testimony or records;

(2) Federal court civil proceedings in which the United States is a party;

(3) Federal administrative proceedings;

(4) Federal, State and Tribal criminal court proceedings;

(5) Employees who voluntarily testify, while on their own time or in approved leave status, as private citizens as to facts or events that are not related to the official business of the Department. The employee must state for the record that the testimony represents the employee's own views and is not necessarily the official position of the Department. *See* 5 CFR §§ 2635.702(b), 2635.807 (b).

(6) Testimony by employees as expert witnesses on subjects outside their official duties, except that they must obtain prior approval if required by § 2.90.

(d) This subpart does not affect the rights of any individual or the procedures for obtaining records under the Freedom of Information Act (FOIA), Privacy Act, or statutes governing the certification of official records. The Department FOIA and Privacy Act regulations are found at 43 CFR Part 2, subparts B and D.

(e) Nothing in this subpart is intended to impede the appropriate disclosure under applicable laws of Department information to Federal, State, territorial, Tribal, or foreign law enforcement, prosecutorial, or regulatory agencies.

(f) This subpart only provides guidance for the internal operations of the Department, and neither creates nor is intended to create any enforceable right or benefit against the United States.

§ 2.81 What is the Department's policy on granting requests for employee testimony or Department records?

(a) Except for proceedings covered by § 2.80(c) and (d), it is the Department's general policy not to allow its employees to testify or to produce Department records either upon request or by subpoena. However, if you request in writing, the Department will consider whether to allow testimony or production of records under this subpart. The Department's policy ensures the orderly execution of its mission and programs while not impeding any proceeding inappropriately.

(b) No Department employee may testify or produce records in any proceeding to which this subpart applies unless authorized by the Department under §§ 2.80 through 2.90 *United States ex rel. Touhy* v. *Ragen,* 340 U.S. 462 (1951).

Responsibilities of Requesters

§ 2.82 How can I obtain employee testimony or Department records?

(a) To obtain employee testimony, you must submit:

(1) A written request (hereafter a ''*Touhy* Request;'' *see* § 2.84 and *United States ex rel. Touhy* v. *Ragen,* 340 U.S. 462 (1951)); and

(2) A statement that you will submit a check for costs to the Department of the Interior, in accordance with § 2.85, if your *Touhy* Request is granted.

(b) To obtain official Department records, you must submit:

(1) A *Touhy* Request; and

(2) A Statement that you agree to pay the costs of duplication in accordance with 43 CFR Part 2, appendix A, if your *Touhy* Request is granted.

(c) You must send your *Touhy* Request to:

(1) The employee's office address;

(2) The official in charge of the employee's bureau, division, office or agency; and

(3) The appropriate unit of the Solicitor's Office.

(d) To obtain employee testimony or records of the Office of Inspector General, you must send your *Touhy* Request to the General Counsel for the Office of Inspector General.

(e) 43 CFR Part 2, Appendix B contains a list of the addresses of the

Department's bureaus and offices and the units of the Solicitor's Office. The General Counsel for the Inspector General is located at the address for the Office of the Inspector General. If you do not know the employee's address, you may obtain it from the employee's bureau or office.

§ 2.83 If I serve a subpoena duces tecum, must I also submit a Touhy request?

Yes. If you serve a subpoena for employee testimony, you also must submit a request under *United States ex rel. Touhy* v. *Regan,* 340 U.S. 462 (1951)? If you serve a subpoena *duces tecum* for records in the possession of the Department, you also must submit a *Touhy* Request.

§ 2.84 What information must I put in my Touhy Request?

Your *Touhy* Request must:

(a) Identify the employee or record;

(b) Describe the relevance of the desired testimony or records to your proceeding and provide a copy of the pleadings underlying your request;

(c) Identify the parties to your proceeding and any known relationships they have to the Department's mission or programs;

(d) Show that the desired testimony or records are not reasonably available from any other source;

(e) Show that no record could be provided and used in lieu of employee testimony;

(f) Provide the substance of the testimony expected of the employee; and

(g) Explain why you believe your *Touhy* Request complies with § 2.88.

§ 2.85 How much will I be charged?

We will charge you the costs, including travel expenses, for employees to testify under the relevant substantive and procedural laws and regulations. You must pay costs for record production under 43 CFR Part 2, Appendix A. Costs must be paid by check or money order payable to the Department of the Interior.

§ 2.86 Can I get an authenticated copy of a Department record?

Yes. We may provide an authenticated copy of a Department record, for purposes of admissibility under Federal, State or Tribal law. We will do this only if the record has been officially released or would otherwise be released under § 2.13 or this Subpart.

Responsibility of the Department

§ 2.87 How will the Department process my Touhy Request?

(a) The appropriate Department official will decide whether to grant or deny your *Touhy* Request. Our Solicitor's Office or, in the case of the Office of Inspector General, its General Counsel, may negotiate with you or your attorney to refine or limit both the timing and content of your *Touhy* Request. When necessary, the Solicitor's Office or, in the case of the Office of Inspector General, its General Counsel, also will coordinate with the Department of Justice to file appropriate motions, including motions to remove the matter to Federal court, to quash, or to obtain a protective order.

(b) We will limit our decision to allow employee testimony to the scope of your *Touhy* Request.

(c) If you fail to follow the requirements of this Subpart, we will not allow the testimony or produce the records.

(d) If your *Touhy* Request is complete, we will consider the request under § 2.88.

§ 2.88 What criteria will the Department consider in responding to my Touhy Request?

In deciding whether to grant your *Touhy* Request, the appropriate Department official will consider:

(a) Your ability to obtain the testimony or records from another source;

(b) The appropriateness of the employee testimony and record production under the relevant regulations of procedure and substantive law, including the FOIA or the Privacy Act; and

(c) Our ability to:

(1) Conduct our official business unimpeded;

(2) Maintain impartiality in conducting our business;

(3) Minimize the possibility that we will become involved in issues that are not related to our mission or programs;

(4) Avoid spending public employee's time for private purposes;

(5) Avoid the negative cumulative effect of granting similar requests;

(6) Ensure that privileged or protected matters remain confidential; and

(7) Avoid undue burden on us.

Responsibilities of Employees

§ 2.89 What must I, as an employee, do upon receiving a request?

(a) If you receive a request or subpoena that does not include a *Touhy* Request, you must immediately notify your supervisor and the Solicitor's Office, or the General Counsel of the Office of the Inspector General, as applicable, for assistance in issuing the proper response.

(b) If you receive a *Touhy* Request, you must promptly notify your supervisor and forward the request to the head of your bureau, division or office. After consulting with the Solicitor's Office or, in the case of the Office of Inspector General, its General Counsel, the official in charge will decide whether to grant the *Touhy* Request under § 2.88.

(c) All decisions granting or denying a *Touhy* Request must be in writing. The official in charge must ask the applicable unit of the Solicitor's Office or, in the case of the Office of Inspector General, its General Counsel, for advice when preparing the decision.

(d) Under 28 U.S.C. 1733, Federal Rule of Civil Procedure 44(a)(1), or comparable State or Tribal law, a request for an authenticated copy of a Department record may be granted by the person having the legal custody of the record. If you believe that you have custody of a record:

(1) Consult your delegated authority to determine if you can grant a request for authentication of records; and

(2) Consult the Solicitor's Office or, in the case of the Office of Inspector General, its General Counsel, concerning the proper form of the authentication (as authentication requirements may vary by jurisdiction).

§ 2.90 Must I get approval before testifying as an expert witness on a subject outside the scope of my official duties?

(a) You must comply with 5 CFR 2635.805(c), which details the authorization procedure for an employee to testify as an expert witness, not on behalf of the United States, in any judicial or administrative proceeding in which the United States is a party or has a direct and substantial interest. This procedure means:

(1) You must obtain the written approval of your Deputy Ethics Official;

(2) You must be in an approved leave status if you testify during duty hours; and

(3) You must state for the record that you are appearing as a private individual and that your testimony does not represent the official views of the Department.

(b) If you testify as an expert witness on a matter outside the scope of yoru official duties, and which is not covered by paragraph (a) of this section, you must comply with 5 CFR 2635.802 and 5 CFR 3501.105.

Dated: July 11, 2000.

John D. Leshy,

Solicitor.

[FR Doc. 00–18480 Filed 7–27–00; 8:45 am]

BILLING CODE 4310–55–M.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

45 CFR Part 1159

RIN 3135–AA16

Implementation of the Privacy Act of 1974

AGENCY: National Endowment for the Arts.

ACTION: Final rule.

SUMMARY: The National Endowment for the Arts (Endowment) has amended its Privacy Act regulations to reflect administrative changes at the agency and to comply with the President's Memorandum on Plain Language in Government Writing. These regulations establish procedures by which an individual may determine whether a system of records maintained by the Endowment contains a record pertaining to him or her; gain access to such records; and request correction or amendment of such records. These regulations also establish exemptions from certain Privacy Act requirements for all or part of certain systems of records maintained by the Endowment.

EFFECTIVE DATE: July 28, 2000.

FOR FURTHER INFORMATION CONTACT: Karen Elias, Deputy General Counsel, at (202) 682–5418.

SUPPLEMENTARY INFORMATION: The Endowment operates as part of the National Foundation on the Arts and the Humanities under the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 *et seq.*). The corresponding regulations published at 45 CFR Chapter XI, Subchapter A apply to the entire Foundation, while the regulations published at 45 CFR Chapter XI, Subchapter B apply only to the Endowment. The proposed rule was published by the Endowment in the **Federal Register** on May 19, 2000. The Endowment received no comments on the proposed rule.

This final rule adds Privacy Act regulations to Subchapter B (45 CFR part 1159), replacing the existing regulations in Subchapter A (45 CFR part 1115) with regard to the Endowment. The new regulations reflect administrative changes at the Endowment. In addition, the new regulations' question-and-answer format and increased detail as to several provisions of the Privacy Act are intended to increase understanding of the Endowment's Privacy Act policies. The Endowment is authorized to propose the new regulations under 5 U.S.C. 552a(f) of the Privacy Act.

Regulatory Impact

Executive Order 12866, Regulatory Planning and Review

This final rule is not classified as a significant rule under Executive Order 12866 because it will not 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, geographic regions, or Federal, State, or local government agencies; 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 foreign markets. Accordingly, no regulatory impact assessment is required. In addition, based on the assessments noted in this paragraph, this proposed rule is not a ''major rule'' as defined at 5 U.S.C. 804(2).

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency certifies, under 5 U.S.C. 605(b), that the regulation will not have a significant economic impact on a substantial number of small entities. The Endowment has considered the impact of this final rule under the Regulatory Flexibility Act and certifies that this final rule is not likely to have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The Endowment certifies that this final rule does not require additional reporting under the criteria of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Unfunded Mandates Reform Act of 1995

This final rule does not include a Federal mandate that may result in the expenditure by the private sector or by State, local, and tribal governments (in the aggregate) of $100 million or more in any one year. Therefore, a statement under 2 U.S.C. 1532 is not required.

List of Subjects in 45 CFR Part 1159

Privacy.

For the reasons set out in this preamble, the Endowment amends Title 45, Code of Federal Regulations, by adding Part 1159 to read as follows:

PART 1159—IMPLEMENTATION OF THE PRIVACY ACT OF 1974

Sec.

1159.1 What definitions apply to these regulations?
1159.2 What is the purpose of these regulations?
1159.3 Where should individuals send inquiries about the Endowment's systems of records or implementation of the Privacy Act?
1159.4 How will the public receive notification of the Endowment's systems of records?
1159.5 What government entities will the Endowment notify of proposed changes to its systems of records?
1159.6 What limits exist as to the contents of the Endowment's systems of records?
1159.7 Will the Endowment collect information from me for its records?
1159.8 How can I acquire access to Endowment records pertaining to me?
1159.9 What identification will I need to show when I request access to Endowment records pertaining to me?
1159.10 How can I pursue amendments to or corrections of an Endowment record?
1150.11 How can I appeal a refusal to amend or correct an Endowment record?
1159.12 Will the Endowment charge me fees to locate, review, or copy records?
1159.13 In what other situations will the Endowment disclose its records?
1159.14 Will the Endowment maintain a written account of disclosures made from its systems of records?
1159.15 Who has the responsibility for maintaining adequate technical, physical, and security safeguards to prevent unauthorized disclosure or destruction of manual and automatic record systems?
1159.16 Will the Endowment take steps to ensure that its employees involved with its systems of records are familiar with the requirements and implications of the Privacy Act?
1150.17 Which of the Endowment's systems of records are covered by exemptions in the Privacy Act?
1159.18 What are the penalties for obtaining an Endowment record under false pretenses?
1159.19 What restrictions exist regarding the release of mailing lists?

Authority: 5 U.S.C. 552a(f)

§ 1159.1 What definitions apply to these regulations?

The definitions of the Privacy Act apply to this part. In addition, as used in this part:

(a) *Agency* means any executive department, military department, government corporation, or other establishment in the executive branch of the Federal government, including the Executive Office of the President or any independent regulatory agency.

(b) *Business day means a calendar day, excluding Saturdays, Sundays, and legal public holidays.*

(c) *Chairperson* means the Chairperson of the Endowment, or his or her designee;

(d) *Endowment* means the National Endowment for the Arts;

(e) *Endowment* system means a system of records maintained by the Endowment;

(f) *General Counsel* means the General Counsel of the Endowment, or his or her designee.

(g) *Individual* means any citizen of the United States or an alien lawfully admitted for permanent residence;

(h) *Maintain* means to collect, use, store, or disseminate records, as well as any combination of these recordkeeping functions. The term also includes exercise of control over and, therefore, responsibility and accountability for, systems of records;

(i) *Privacy Act* means the Privacy Act of 1974, as amended (5 U.S.C. 552a);

(j) *Record* means any item, collection, or grouping of information about an individual that is maintained by an agency and contains the individual's name or another identifying particular, such as a number or symbol assigned to the individual, or his or her fingerprint, voice print, or photograph. The term includes, but is not limited to, information regarding an individual's education, financial transactions, medical history, and criminal or employment history;

(k) *Routine* use means, with respect to the disclosure of a record, the use of a record for a purpose that is compatible with the purpose for which it was collected;

(l) *Subject individual* means the individual to whom a record pertains. Uses of the terms ''I'', ''you'', ''me'', and other references to the reader of the regulations in this part are meant to apply to subject individuals as defined in this paragraph (l); and

(m) *System of records* means a group of records under the control of any agency from which information is retrieved by use of the name of the individual or by some number, symbol, or other identifying particular assigned to the individual.

§ 1159.2 What is the purpose of these regulations?

The regulations in this part set forth the Endowment's procedures under the Privacy Act, as required by 5 U.S.C. 552a(f), with respect to systems of records maintained by the Endowment. These regulations establish procedures by which an individual may exercise the rights granted by the Privacy Act to determine whether an Endowment system contains a record pertaining to him or her; to gain access to such records; and to request correction or amendment of such records. These regulations also set identification requirements, prescribe fees to be charged for copying records, and establish exemptions from certain requirements of the Act for certain Endowment systems or components thereof.

§ 1159.3 Where should individuals send inquiries about the Endowment's systems of records or implementation of the Privacy Act?

Inquiries about the Endowment's systems of records or implementation of the Privacy Act should be sent to the following address: National Endowment for the Arts; Office of the General Counsel; 1100 Pennsylvania Avenue, NW; Room 518; Washington, DC 20506.

§ 1159.4 How will the public receive notification of the Endowment's systems of records?

(a) From time to time, the Endowment shall review its systems of records in the **Federal Register**, and publish, if necessary, any amendments to those systems of records. Such publication shall not be made for those systems of records maintained by other agencies while in the temporary custody of the Endowment.

(b) At least 30 days prior to publication of information under paragraph (a) of this section, the Endowment shall publish in the **Federal Register** a notice of its intention to establish any new routine uses of any of its systems of records, thereby providing the public an opportunity to comment on such uses. This notice published by the Endowment shall contain the following:

(1) The name of the system of records for which the routine use is to be established;

(2) The authority for the system;

(3) The purpose for which the record is to be maintained;

(4) The proposed routine use(s);

(5) The purpose of the routine use(s); and

(6) The categories of recipients of such use.

(c) Any request for additions to the routine uses of Endowment systems should be sent to the Office of the General Counsel (see § 1159.3 of this part).

(d) Any individual who wishes to know whether an Endowment system contains a record pertaining to him or her should write to the Office of the General Counsel (see § 1159.3 of this part). Such individuals may also call the Office of the General Counsel at (202) 682–5418 on business days, between the hours of 9 a.m. and 5:30 p.m., to schedule an appointment to make an inquiry in person. In either case, inquiries should be presented in writing and should specifically identify the Endowment systems involved. The Endowment will attempt to respond to an inquiry as to whether a record exists within 10 business days of receiving the inquiry.

§ 1159.5 What government entities will the Endowment notify of proposed changes to its systems of records?

When the Endowment proposes to establish or significantly changes any of its systems of records, it shall provide adequate advance notice of such proposal to the Committee on Government Reform of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget (OMB), in order to permit an evaluation of the probable or potential effect of such proposal on the privacy or other rights of individuals. This report will be submitted in accordance with guidelines provided by the OMB.

§ 1159.6 What limits exist as to the contents of the Endowment's systems of records?

(a) The Endowment shall maintain only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required by statute or by executive order of the President. In addition, the Endowment shall maintain all records that are used in making determinations about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to ensure fairness to that individual in the making of any determination about him or her. However, the Endowment shall not be required to update retired records.

(b) The Endowment shall not maintain any record about any individual with respect to or describing how such individual exercises rights guaranteed by the First Amendment of the Constitution of the United States, unless expressly authorized by statute or by the subject individual, or unless pertinent to and within the scope of an authorized law enforcement activity.

§ 1159.7 Will the Endowment collect information from me for its records?

The Endowment shall collect information, to the greatest extent practicable, directly from you when the information may result in adverse determinations about your rights, benefits, or privileges under Federal

programs. In addition, the Endowment shall inform you of the following, either on the form it uses to collect the information or on a separate form that you can retain, when it asks you to supply information:

(a) The statutory or executive order authority that authorizes the solicitation of the information;

(b) Whether disclosure of such information is mandatory or voluntary;

(c) The principal purpose(s) for which the information is intended to be used;

(d) The routine uses that may be made of the information, as published pursuant to § 1159.4 of this part; and

(e) Any effects on you of not providing all or any part of the required or requested information.

§ 1159.8 How can I acquire access to Endowment records pertaining to me?

The following procedures apply to records that are contained in an Endowment system:

(a) You may request review of records pertaining to you by writing to the Office of the General Counsel (see § 1159.3 of this part). You may also call the Office of the General Counsel at (202) 682–5418 on business days, between the hours of 9 a.m. and 5:30 p.m., to schedule an appointment to make such a request in person. In either case, your request should be presented in writing and should specifically identify the Endowment systems involved.

(b) Access to the record, or to any other information pertaining to you that is contained in the system, shall be provided if the identification requirements of § 1159.9 of this part are satisfied and the record is otherwise determined to be releasable under the Privacy Act and these regulations. The Endowment shall provide you an opportunity to have a copy made of any such record about you. Only one copy of each requested record will be supplied, based on the fee schedule in § 1159.12 of this part.

(c) The Endowment will comply promptly with requests made in person at scheduled appointments, if the requirements of this section are met and the records sought are immediately available. The Endowment will acknowledge mailed requests, or personal requests for documents that are not immediately available, within 10 business days, and the information requested will be provided promptly thereafter.

(d) If you make your request in person at a scheduled appointment, you may, upon your request, be accompanied by a person of your choice to review your record. The Endowment may require that you furnish a written statement authorizing discussion of your record in the accompanying person's presence. A record may be disclosed to a representative chosen by you upon your proper written consent.

(e) Medical or psychological records pertaining to you shall be disclosed to you unless, in the judgment of the Endowment, access to such records might have an adverse effect upon you. When such determination has been made, the Endowment may refuse to disclose such information directly to you. The Endowment will, however, disclose this information to a licensed physician designated by you in writing.

§ 1159.9 What identification will I need to show when I request access to Endowment records pertaining to me?

The Endowment shall require reasonable identification of all individuals who request access to records in an Endowment system to ensure that they are disclosed to the proper person.

(a) The amount of personal identification required will of necessity vary with the sensitivity of the record involved. In general, if you request disclosure in person, you shall be required to show an identification card, such as a driver's license, containing your photograph and sample signature. However, with regard to records in Endowment systems that contain particularly sensitive and/or detailed personal information, the Endowment reserves the right to require additional means of identification as are appropriate under the circumstances. These means include, but are not limited to, requiring you to sign a statement under oath as to your identity, acknowledging that you are aware of the penalties for improper disclosure under the provisions of the Privacy Act.

(b) If you request disclosure by mail, the Endowment will request such information as may be necessary to ensure that you are properly identified. Authorized means to achieve this goal include, but are not limited to, requiring that a mail request include certification that a duly commissioned notary public of any State or territory (or a similar official, if the request is made outside of the United States) received an acknowledgment of identity from you.

(c) If you are unable to provide suitable documentation or identification, the Endowment may require a signed, notarized statement asserting your identity and stipulating that you understand that knowingly or willfully seeking or obtaining access to records about another person under false pretenses is punishable by a fine of up to $5,000.

§ 1159.10 How can I pursue amendments to or corrections of an Endowment record?

(a) You are entitled to request amendments to or corrections of records pertaining to you pursuant to the provisions of the Privacy Act, including 5 U.S.C. 552a(d)(2). Such a request should be made in writing and addressed to the Office of the General Counsel (see § 1159.3 of this part).

(b) Your request for amendments or corrections should specify the following:

(1) The particular record that you are seeking to amend or correct;

(2) The Endowment system from which the record was retrieved;

(3) The precise correction or amendment you desire, preferably in the form of an edited copy of the record reflecting the desired modification; and

(4) Your reasons for requesting amendment or correction of the record.

(c) The Endowment will acknowledge a request for amendment or correction of a record within 10 business days of its receipt, unless the request can be processed and the individual informed of the General Counsel's decision on the request within that 10-day period.

(d) If after receiving and investigating your request, the General Counsel agrees that the record is not accurate, timely, or complete, based on a preponderance of the evidence, then the record will be corrected or amended promptly. The record will be deleted without regard to its accuracy, if the record is not relevant or necessary to accomplish the Endowment function for which the record was provided or is maintained. In either case, you will be informed in writing of the amendment, correction, or deletion. In addition, if accounting was made of prior disclosures of the record, all previous recipients of the record will be informed of the corrective action taken.

(e) If after receiving and investigating your request, the General Counsel does not agree that the record should be amended or corrected, you will be informed promptly in writing of the refusal to amend or correct the record and the reason for this decision. You will also be informed that you may appeal this refusal in accordance with § 1159.11 of this part.

(f) Requests to amend or correct a record governed by the regulations of another agency will be forwarded to such agency for processing, and you will be informed in writing of this referral.

§ 1150.11 How can I appeal a refusal to amend or correct an Endowment record?

(a) You may appeal a refusal to amend or correct a record to the Chairperson. Such appeal must be made in writing within 10 business days of your receipt of the initial refusal to amend or correct your record. Your appeal should be sent to the Office of the General Counsel (see § 1159.3 of this part), should indicate that it is an appeal, and should include the basis for the appeal.

(b) The Chairperson will review your request to amend or correct the record, the General Counsel's refusal, and any other pertinent material relating to the appeal. No hearing will be held.

(c) The Chairperson shall render his or her decision on your appeal within 30 business days of its receipt by the Endowment, unless the Chairperson, for good cause shown, extends the 30-day period. Should the Chairperson extend the appeal period, you will be informed in writing of the extension and the circumstances of the delay.

(d) If the Chairperson determines that the record that is the subject of the appeal should be amended or corrected, the record will be so modified, and you will be informed in writing of the amendment or correction. Where an accounting was made of prior disclosures of the record, all previous recipients of the record will be informed of the corrective action taken.

(e) If your appeal is denied, you will be informed in writing of the following:

(1) The denial and the reasons for the denial;

(2) That you may submit to the Endowment a concise statement setting forth the reasons for your disagreement as to the disputed record. Under the procedures set forth in paragraph (f) of this section, your statement will be disclosed whenever the disputed record is disclosed; and

(3) That you may seek judicial review of the Chairperson's determination under 5 U.S.C. 552a(g)(1)(a).

(f) Whenever you submit a statement of disagreement to the Endowment in accordance with paragraph (e)(2) of this section, the record will be annotated to indicate that it is disputed. In any subsequent disclosure, a copy of your statement of disagreement will be disclosed with the record. If the Endowment deems it appropriate, a concise statement of the Chairperson's reasons for denying your appeal may also be disclosed with the record. While you will have access to this statement of the Chairperson's reasons for denying your appeal, such statement will not be subject to correction or amendment. Where an accounting was made of prior disclosures of the record, all previous recipients of the record will be provided a copy of your statement of disagreement, as well as any statement of the Chairperson's reasons for denying your appeal.

§ 1159.12 Will the Endowment charge me fees to locate, review, or copy records?

(a) The Endowment shall charge no fees for search time or for any other time expended by the Endowment to review a record. However, the Endowment may charge fees where you request that a copy be made of a record to which you have been granted access. Where a copy of the record must be made in order to provide access to the record (*e.g.,* computer printout where no screen reading is available), the copy will be made available to you without cost.

(b) Copies of records made by photocopy or similar process will be charged to you at the rate of $0.10 per page. Where records are not susceptible to photocopying (*e.g.,* punch cards, magnetic tapes, or oversize materials), you will be charged actual cost as determined on a case-by-case basis. A copying fee totaling $3.00 or less shall be waived, but the copying fees for contemporaneous requests by the same individual shall be aggregated to determine the total fee.

(c) Special and additional services provided at your request, such as certification or authentication, postal insurance, and special mailing arrangement costs, will be charged to you.

(d) A copying fee shall not be charged or, alternatively, it may be reduced, when the General Counsel determines, based on a petition, that the petitioning individual is indigent and that the Endowment's resources permit a waiver of all or part of the fee.

(e) All fees shall be paid before any copying request is undertaken. Payments shall be made by check or money order payable to the ''National Endowment for the Arts.''

§ 1159.13 In what other situations will the Endowment disclose its records?

(a) The Endowment shall not disclose any record that is contained in a system of records to any person or to another agency, except pursuant to a written request by or with the prior written consent of the subject individual, unless disclosure of the record is:

(1) To those officers or employees of the Endowment who maintain the record and who have a need for the record in the performance of their official duties;

(2) Required under the provisions of the Freedom of Information Act (5 U.S.C. 552). Records required to be made available by the Freedom of Information Act will be released in response to a request to the Endowment formulated in accordance with the National Foundation on the Arts and the Humanities regulations published at 45 CFR part 1100;

(3) For a routine use as published in the annual notice in the **Federal Register**;

(4) To the Census Bureau for purposes of planning or carrying out a census, survey, or related activity pursuant to the provisions of Title 13 of the United States Code;

(5) To a recipient who has provided the Endowment with adequate advance written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(6) To the National Archives and Records Administration as a record that has sufficient historical or other value to warrant its continued preservation by the United States government, or for evaluation by the Archivist of the United States, or his or her designee, to determine whether the record has such value;

(7) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity, if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the Endowment for such records specifying the particular portion desired and the law enforcement activity for which the record is sought. The Endowment may also disclose such a record to a law enforcement agency on its own initiative in situations in which criminal conduct is suspected, provided that such disclosure has been established as a routine use, or in situations in which the misconduct is directly related to the purpose for which the record is maintained;

(8) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if, upon such disclosure, notification is transmitted to the last known address of such individual;

(9) To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress, or subcommittee of any such joint committee;

(10) To the Comptroller General, or any of his or her authorized representatives, in the course of the performance of official duties of the General Accounting Office;

(11) To a consumer reporting agency in accordance with 31 U.S.C. 3711(e); or

(12) Pursuant to an order of a court of competent jurisdiction. In the event that any record is disclosed under such compulsory legal process, the Endowment shall make reasonable efforts to notify the subject individual after the process becomes a matter of public record.

(b) Before disseminating any record about any individual to any person other than an Endowment employee, the Endowment shall make reasonable efforts to ensure that such records are, or at the time they were collected were, accurate, complete, timely, and relevant for Endowment purposes. This paragraph (b) does not apply to disseminations made pursuant to the provisions of the Freedom of Information Act (5 U.S.C. 552) and paragraph (a)(2) of this section.

§ 1159.14 Will the Endowment maintain a written account of disclosures made from its systems of records?

(a) The Office of the General Counsel shall maintain a written log containing the date, nature, and purpose of each disclosure of a record to any person or to another agency. Such accounting shall also contain the name and address of the person or agency to whom each disclosure was made. This log need not include disclosures made to Endowment employees in the course of their official duties, or pursuant to the provisions of the Freedom of Information Act (5 U.S.C. 552).

(b) The Endowment shall retain the accounting of each disclosure for at least five years after the accounting is made or for the life of the record that was disclosed, whichever is longer.

(c) The Endowment shall make the accounting of disclosures of a record pertaining to you available to you at your request. Such a request should be made in accordance with the procedures set forth in § 1159.8 of this part. This paragraph (c) does not apply to disclosures made for law enforcement purposes under 5 U.S.C. 552a(b)(7) and § 1159.13(a)(7) of this part.

§ 1159.15 Who has the responsibility for maintaining adequate technical, physical, and security safeguards to prevent unauthorized disclosure or destruction of manual and automatic record systems?

The Deputy Chairman for Management and Budget has the responsibility of maintaining adequate technical, physical, and security safeguards to prevent unauthorized disclosure or destruction of manual and automatic record systems. These security safeguards shall apply to all systems in which identifiable personal data are processed or maintained, including all reports and outputs from such systems that contain identifiable personal information. Such safeguards must be sufficient to prevent negligent, accidental, or unintentional disclosure, modification or destruction of any personal records or data, and must furthermore minimize, to the extent practicable, the risk that skilled technicians or knowledgeable persons could improperly obtain access to modify or destroy such records or data and shall further insure against such casual entry by unskilled persons without official reasons for access to such records or data.

(a) Manual systems.

(1) Records contained in a system of records as defined herein may be used, held or stored only where facilities are adequate to prevent unauthorized access by persons within or outside the Endowment.

(2) All records, when not under the personal control of the employees authorized to use the records, must be stored in a locked metal filing cabinet. Some systems of records are not of such confidential nature that their disclosure would constitute a harm to an individual who is the subject of such record. However, records in this category shall also be maintained in locked metal filing cabinets or maintained in a secured room with a locking door.

(3) Access to and use of a system of records shall be permitted only to persons whose duties require such access within the Endowment, for routine uses as defined in § 1159.1 as to any given system, or for such other uses as may be provided herein.

(4) Other than for access within the Endowment to persons needing such records in the performance of their official duties or routine uses as defined in § 1159.1, or such other uses as provided herein, access to records within a system of records shall be permitted only to the individual to whom the record pertains or upon his or her written request to the General Counsel.

(5) Access to areas where a system of records is stored will be limited to those persons whose duties require work in such areas. There shall be an accounting of the removal of any records from such storage areas utilizing a written log, as directed by the Deputy Chairman for Management and Budget. The written log shall be maintained at all times.

(6) The Endowment shall ensure that all persons whose duties require access to and use of records contained in a system of records are adequately trained to protect the security and privacy of such records.

(7) The disposal and destruction of records within a system of records shall be in accordance with rules promulgated by the General Services Administration.

(b) Automated systems.

(1) Identifiable personal information may be processed, stored or maintained by automated data systems only where facilities or conditions are adequate to prevent unauthorized access to such systems in any form. Whenever such data, whether contained in punch cards, magnetic tapes or discs, are not under the personal control of an authorized person, such information must be stored in a locked or secured room, or in such other facility having greater safeguards than those provided for herein.

(2) Access to and use of identifiable personal data associated with automated data systems shall be limited to those persons whose duties require such access. Proper control of personal data in any form associated with automated data systems shall be maintained at all times, including maintenance of accountability records showing disposition of input and output documents.

(3) All persons whose duties require access to processing and maintenance of identifiable personal data and automated systems shall be adequately trained in the security and privacy of personal data.

(4) The disposal and disposition of identifiable personal data and automated systems shall be done by shredding, burning or in the case of tapes or discs, degaussing, in accordance with any regulations now or hereafter proposed by the General Services Administration or other appropriate authority.

§ 1159.16 Will the Endowment take steps to ensure that its employees involved with its systems of records are familiar with the requirements and implications of the Privacy Act?

(a) The Chairperson shall ensure that all persons involved in the design, development, operation or maintenance of any Endowment system are informed of all requirements necessary to protect the privacy of subject individuals. The Chairperson shall also ensure that all Endowment employees having access to records receive adequate training in their protection, and that records have adequate and proper storage with sufficient security to assure the privacy of such records.

(b) All employees shall be informed of the civil remedies provided under 5 U.S.C. 552a(g)(1) and other implications

of the Privacy Act, and the fact that the Endowment may be subject to civil remedies for failure to comply with the provisions of the Privacy Act and these regulations.

§ 1150.17 Which of the Endowment's systems of records are covered by exemptions in the Privacy Act?

(a) Pursuant to and limited by 5 U.S.C. 552a(j)(2), the Endowment system entitled ''Office of the Inspector General Investigative Files'' shall be exempted from the provisions of 5 U.S.C. 552a, except for subsections (b); (c)(1) and (2); (e)(4)(A) through (F); (e)(6), (7), (9), (10), and (11); and (i), insofar as that Endowment system contains information pertaining to criminal law enforcement investigations.

(b) Pursuant to and limited by 5 U.S.C. 552a(k)(2), the Endowment system entitled ''Office of the Inspector General Investigative Files'' shall be exempted from 5 U.S.C. 552a(c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f), insofar as that Endowment system consists of investigatory material compiled for law enforcement purposes, other than material within the scope of the exemption at 5 U.S.C. 552a(j)(2).

(c) The Endowment system entitled ''Office of the Inspector General Investigative Files'' is exempt from the above-noted provisions of the Privacy Act because their application might alert investigation subjects to the existence or scope of investigations; lead to suppression, alteration, fabrication, or destruction of evidence; disclose investigative techniques or procedures; reduce the cooperativeness or safety of witnesses; or otherwise impair investigations.

§ 1159.18 What are the penalties for obtaining an Endowment record under false pretenses?

(a) Under 5 U.S.C. 552a(i)(3), any person who knowingly and willfully requests or obtains any record concerning an individual from the Endowment under false pretenses shall be guilty of a misdemeanor and fined not more than $5,000.

(b) A person who falsely or fraudulently attempts to obtain records under the Privacy Act may also be subject to prosecution under other statutes, including 18 U.S.C. 494, 495, and 1001.

§ 1159.19 What restrictions exist regarding the release of mailing lists?

The Endowment may not sell or rent an individual's name and address unless such action is specifically authorized by law. This section shall not be construed to require the withholding of names and addresses otherwise permitted to be made public.

Dated: July 24, 2000.

Karen Elias,

Deputy General Counsel.

[FR Doc. 00–19052 Filed 7–27–00; 8:45 am]

BILLING CODE 7536–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–1557; MM Docket No. 99–361; RM–9777; RM–9851]

Radio Broadcasting Services; Plainville and Larned, KS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a petition for rule making filed on behalf of Radio, Inc., licensee of Station KFIX, Plainville, Kansas, this document substitutes Channel 245C1 for Channel 244A at Plainville and modifies the license issued to Radio, Inc., as requested. (See Supplementary Information, *infra.*) Additionally, to accommodate the modification at Plainville, this document also substitutes Channel 255C3 for previously proposed Channel 255A at Larned, as counterproposed by Goodstar Broadcasting of Kansas, L.L.C. (''Goodstar''), licensee of Station KGTR, Channel 244A, Larned, Kansas, and modifies its license accordingly. *See* 65 FR 3407, January 21, 2000. Coordinates used for Channel 245C1 at Plainville, Kansas, are 39–01–15 NL and 99–28–12 WL. Coordinates used for Channel 255C3 at Larned, Kansas, are 38–09–54 NL and 99–06–05 WL.

DATES: Effective August 28, 2000.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–361, adopted July 5, 2000, and released July 14, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Channel 245C2 was substituted for Channel 244A at Plainville pursuant to grant of a one-step application on August 7, 1998, and the authorization for Station KFIX was modified accordingly (File No. BLH–19980509KC). However, the Table of Allotments was never amended to reflect the substitution of Channel 245C2 for Channel 244A at Plainville.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Kansas, is amended by removing Channel 244A and adding Channel 255C3 at Larned;

3. Section 73.202(b), the Table of FM Allotments under Kansas, is amended by removing Channel 244A and adding Channel 245C1 at Plainville.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 00–19085 Filed 7–27–00; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304062–9062–02; I.D. 072400B]

Fisheries of the Exclusive Economic Zone Off Alaska; Sablefish by Vessels Using Trawl Gear in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting retention of sablefish by vessels using trawl gear in the Central Regulatory Area of the Gulf of Alaska (GOA). NMFS is requiring that catch of sablefish by vessels using trawl gear in this area be treated in the same manner as prohibited species and discarded at sea

with a minimum of injury. This action is necessary because the allocation of the sablefish 2000 total allowable catch (TAC) assigned to trawl gear in this area has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 24, 2000, until 2400 hrs, A.l.t., December 31, 2000.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–526–7210.

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

In accordance with § 679.20(a)(4)(ii)(B), the Final 2000 Harvest Specifications of Groundfish for the GOA (65 FR 8298, February 18, 2000) established the allocation of the 2000 sablefish TAC assigned to trawl gear in the Central Regulatory Area of the GOA as 1,146 metric tons (mt).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS, has determined that the allocation of the sablefish TAC assigned to trawl gear in the Central Regulatory Area of the GOA has been reached. Therefore, NMFS is requiring that further catches of sablefish by vessels using trawl gear in the Central Regulatory Area of the GOA be treated as prohibited species in accordance with § 679.21(b).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the allocation of the sablefish TAC assigned to trawl gear in the Central Regulatory Area of the GOA. A delay in the effective date is impracticable and contrary to the public interest. The fleet has taken the allocation of the sablefish TAC assigned to trawl gear in the Central Regulatory Area. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under E.O. 12866.

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

Dated: July 24, 2000.

Richard W. Surdi,

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

[FR Doc. 00–19038 Filed 7–24–00; 4:51 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 000211039–0039–01; I.D. 072400C]

Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish in the Western Regulatory Area of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for northern rockfish in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2000 total allowable catch (TAC) of northern rockfish in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 24, 2000, through 2400 hrs, A.l.t., December 31, 2000.

FOR FURTHER INFORMATION CONTACT: Thomas Pearson, 907–481–1780, fax 907–481–1781 or tom.pearson@noaa.gov.

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

The 2000 TAC of northern rockfish for the Western Regulatory Area was established as 630 metric tons (mt) in the Final 2000 Harvest Specifications of Groundfish for the GOA (65 FR 8298, February 18, 2000). See § 679.20(c)(3)(ii).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2000 TAC for northern rockfish in the Western Regulatory Area will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 580 mt, and is setting aside the remaining 50 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for northern rockfish in the Western Regulatory Area of the GOA.

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

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the 2000 TAC of northern rockfish for the Western Regulatory Area of the GOA. A delay in the effective date is impracticable and contrary to the public interest. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under E.O. 12866.

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

Dated: July 24, 2000.

Bruce C. Morehead,

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

[FR Doc. 00–19037 Filed 7–24–00; 4:51 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 65, No. 146
Friday, July 28, 2000

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–ANE–38]

Airworthiness Directives; Pratt & Whitney JT9D–7R4 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: This action withdraws a supplemental notice of proposed rulemaking (SNPRM) that proposed a new airworthiness directive (AD) applicable to Pratt & Whitney (PW) JT9D–7R4 series turbofan engines. That action would have required the addition of initial and repetitive on-wing eddy current inspections (ECI) of affected diffuser case assembly bosses for cracks, and replacement of cracked bosses with serviceable parts. In addition, that action would have revised the initial accomplishment time for the previously proposed actions. Finally, that action would have added further etches, fluorescent penetrant inspections (FPIs), x-ray inspections, and shotpeening to the shop requirements, and would have provided an optional terminating action in the form of a redesigned diffuser case. The actions specified by the SNPRM were intended to prevent diffuser case assembly rupture, which could result in an uncontained engine failure, engine fire, and damage to the airplane. Since the issuance of the SNPRM, the FAA has reevaluated the safety risk to the fleet using the most recent fleet data , including the status of how much of the fleet has already undergone the modifications and inspections included in the proposed actions.. The drawdown period of the fleet management program that was originally proposed has been completed. All case assemblies continue to be inspected on-wing as part of normal maintenance actions. Therefore, the safety risk has been considerably reduced. As a result, the FAA has determined that an AD is no longer required, and the proposed rule is withdrawn.

FOR FURTHER INFORMATION CONTACT: Tara Goodman, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: (781) 238–7130, fax: (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add a new AD, applicable to PW JT9D–7R4 series turbofan engines, was published in the **Federal Register** on August 23, 1995 (60 FR 43730). That proposal would have required the removal of material from certain bosses on the diffuser case assembly, inspection of the reworked area using Flourscent Penetrant and x-ray methods, and shotpeening of the reworked area. That action was prompted by reports of cracks at the aft corners of bosses on the diffuser case assemblies.

The FAA received comment on the proposed rule, and in response to those comments and further analysis of the unsafe condition published a Supplemental Notice of Proposed Rulemaking (SNPRM) on December 8, 1997 (62 FR 64523). As supplemented the proposed rule would have required the addition of initial and repetitive on-wing eddy current inspection (ECI) of affected diffuser case assembly bosses for cracks, and replacement, if necessary, with serviceable parts. The proposed rule as supplemented also would have revised the initial accomplishment time for the previously proposed actions. Finally, the supplemented proposed rule would have added further etches, FPIs, x-ray inspections, and shotpeening to the shop requirements and would have provided an optional terminating action in the form of a redesigned diffuser case. The proposed actions were intended to prevent diffuser case assembly rupture, which could result in an uncontained engine failure, engine fire, and damage to the airplane.

Since the issuance of that SNPRM, the FAA has reevaluated the safety risk to the fleet using the most recent fleet data, including the status of how much of the fleet has already undergone the modifications and inspections included in the proposed actions. The drawdown period of the fleet management program that was originally proposed, which corresponds to the actions in the service bulletins, has been completed. All case assemblies continue to be inspected on-wing as part of normal maintenance actions. Therefore, the safety risk has been considerably reduced.

Upon further consideration, the FAA has determined that the unsafe condition no longer exists. Accordingly, the proposed rule is hereby withdrawn.

Withdrawal of this supplemental notice of proposed rulemaking constitutes only such action, and does not preclude the agency from issuing another notice in the future, nor does it commit the agency to any course of action in the future.

Since this action only withdraws a supplemental notice of proposed rulemaking, it is neither a proposed nor a final rule and therefore, is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Withdrawal

Accordingly, the supplemental notice of proposed rulemaking, Docket 95–ANE–38, published in the **Federal Register** on December 8, 1997 (62 FR 64523), is withdrawn.

Issued in Burlington, Massachusetts, on July 21, 2000.

Robert Guyotte,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 00–19074 Filed 7–27–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 167

[USCG–2000–7695]

RIN 2115–AF99

Traffic Separation Scheme: In the Approaches to Los Angeles-Long Beach, CA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes amending the existing Traffic Separation Scheme (TSS) in the Approaches to Los Angeles-Long Beach, California. A recent port access route study, which evaluated vessel routing and traffic management measures, validated the proposed amendments. The study was necessary because of major port improvements made to the Ports of Los Angeles and Long Beach. Once implemented, the amended TSS would route commercial vessels farther offshore, providing an extra margin of safety and environmental protection in the San Pedro Channel area and the entrances to the Ports of Los Angeles and Long Beach.

DATES: Comments and related materials must reach the Docket Management Facility on or before August 28, 2000.

ADDRESSES: To make sure your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, (USCG–2000–7695), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By hand delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at http://dms.dot.gov.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in this docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For questions on this proposed rule, contact Mike Van Houten, Aids to Navigation Section Chief, Eleventh Coast Guard District, telephone 510–437–2968, e-mail MvanHouten@d11.uscg.mil; Lieutenant Commander Brian Tetreault, Vessel Traffic Management Officer, Eleventh Coast Guard District, telephone 510–437–2951, e-mail Btetreault@d11.uscg.mil; or George Detweiler, Coast Guard, Office of Vessel Traffic Management (G-MWV), at 202–267–0574, e-mail Gdetweiler@comdt.uscg.mil. For questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (USCG–2000–7695), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may request one by submitting a request to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

Under the Ports and Waterways Safety Act (33 U.S.C. 1221–1232) (PWSA), the Coast Guard establishes Traffic Separation Schemes (TSS's), where necessary, to provide safe access routes for vessels proceeding to or from U.S. ports. Before implementing new TSS's or modifying existing ones, we conduct a port access route study (PARS). Through the PARS process, we consulted with affected parties to reconcile the need for safe access routes with the need to accommodate other reasonable uses of the waterway, such as oil and gas exploration, deepwater port construction, establishment of marine sanctuaries, and recreational and commercial fishing. If a study recommends a new or modified TSS we must initiate a rulemaking to implement the TSS. Once a TSS is established, the right of navigation is considered paramount within the TSS.

Existing Los Angeles-Long Beach TSS

The current TSS in the approaches to Los Angeles-Long Beach is a two-pronged TSS that abuts the Santa Barbara Channel TSS. It was adopted by the International Maritime Organization (IMO) in 1975. The current TSS and Precautionary Area are reflected on National Oceanic and Atmospheric Administration (NOAA) nautical chart 18746 and in ''Ships Routeing,'' Sixth Edition 1991, International Maritime Organization. Consistent with the PWSA, we initiated a PARS of the California coast in 1979. Study results were published in the early to mid 1980's. The study evaluated potential traffic density patterns, waterways use conflicts, and the need for safe access routes in offshore areas. It did not recommend any changes to the Los Angeles-Long Beach TSS.

Recent Port Access Route Study

From 1993 through 1996, we conducted a PARS to analyze vessel routing measures in the approaches to California ports. The study considered the results and findings of several other related studies. We published the study results in the **Federal Register** on October 25, 1996 (61 FR 55248). The PARS concluded that no changes to the TSS in the approaches to Los Angeles-Long Beach were necessary at that time.

Los Angeles-Long Beach PARS

In 1995, the Ports of Los Angeles and Long Beach initiated major port improvement projects. These projects are near completion and include the following:

- Lengthening of the Los Angeles Approach Channel to extend approximately 3.5 nautical miles beyond the Los Angeles breakwater.
- Deepening of the Los Angeles Approach Channel to a project depth of 81 feet.
- A slight shift of the Long Beach Approach to a 355° True inbound course.
- Deepening of the Long Beach Approach Channel to a project depth of 69 feet.

We published a notice of study in the **Federal Register** (64 FR 12139, March 11, 1999) which announced that we would conduct a PARS for the approaches to Los Angeles and Long

Beach. A notice of study results was published in the **Federal Register** on May 19, 2000 (65 FR 31856). The PARS evaluated the potential effects of these recent port improvement projects on navigational safety and vessel traffic management efficiency. It concluded that modifications to the TSS in the approaches to Los Angeles-Long Beach and the Precautionary Area are necessary for the safety of the maritime community utilizing the Ports of Los Angeles and Long Beach.

Discussion of Proposed Rule

This rulemaking would amend the existing TSS in the approaches to Los Angeles-Long Beach. The existing TSS is delineated in ''Ships Routing,'' Sixth Edition 1991, International Maritime Organization, but not yet codified in the Code of Federal Regulations (CFR). This proposed rulemaking would codify the amended TSS into 33 CFR part 167. The amendments are based on the recommendations of the 1999 PARS. Without changes to the traffic lanes, the Precautionary Area, and the Regulated Navigation Area (RNA), the longer and deeper channels would create vessel traffic management problems and increase the risk of collision for vessels operating in the area. We propose the following changes to the existing TSS:

- Expand the Precautionary Area approximately 2.2 nautical miles to the south.
- Shift the western traffic lane approximately 2.2 nautical miles to the south.
- Shift the southern traffic lane approximately 3 miles to the west.

Expand the Precautionary Area

The existing Precautionary Area should be amended to provide enhanced navigational safety in light of the modifications to the ports of Los Angeles and Long Beach previously discussed. The western and southern TSS's branch into two harbor entrances and crossing situations are unavoidable as traffic patterns cross in all areas of the Precautionary Area and the RNA. Port improvements will allow even larger vessels to call on Los Angeles and Long Beach. These larger, less maneuverable ships will be constrained to the channels.

The current practice of freighters, tankers, tugs and barges, fishing boats, and pleasure craft converging in the Precautionary Area will continue to present hazards for all mariners. Fill and construction activities with the Los Angeles/Long Beach Harbors and development of a shallow water habitat have constricted the amount of room available for small commercial and recreational vessels to maneuver within the Outer Harbor and in the area immediately outside the San Pedro, Middle, and Long Beach breakwaters. This has the effect of concentrating traffic flows and placing small vessels more directly in competition with deep draft vessels for use of the Precautionary Area.

Expansion of the Precautionary Area would result in several positive impacts for safe navigation. First, the larger Precautionary Area would give vessels of all types, sizes, and drafts more time and room to maneuver in their approach to or departure from the ports. Second, the Commander, Eleventh Coast District, is planning modifications to the San Pedro Bay Regulated Navigation Area (RNA), promulgated at 33 CFR 165.1109, to geographically match the RNA to the expanded Precautionary Area. When specified categories of vessels enter the RNA, they are required to slow. This allows more time for vessel traffic management, *e.g.,* queuing of vessels arriving and departing during peak periods and coordinating passing arrangements. Finally, the expanded Precautionary Area should be well adapted to the lengthened Los Angeles entrance channel.

Relocate the Western and Southern TSS's

The existing western and southern TSS's do not yield safe or practical approaches to the improved Long Beach and Los Angeles entrance channels. The lengthened entrance channels extend beyond the entrance to the existing western TSS. This proposed rule would shift the western TSS to the south and the southern TSS to the west. These changes would reduce the maneuvering difficulties for vessels approaching and departing the Los Angeles-Long Beach Port Complex. The proposed shifts would allow even the largest vessels safe transit between both ports and the western TSS.

Relocating the southern TSS westward would also have distinct advantages. First, the proposed shift would align the southern TSS with Long Beach channel and would allow a more direct approach to Los Angeles channel (proposed northbound coastwise lane at course 340° True/southbound coastwise lane at course 160° True). Second, by shifting the existing southern TSS, oil platforms located in the TSS separation zone would no longer be in the TSS, which would increase the safety of the platforms and transiting vessels. Finally, the proposed southern lane would be properly aligned with the proposed Precautionary Area.

Modifications to the RNA

The Commander, Eleventh Coast Guard District, plans to modify the existing San Pedro Bay RNA. Specifically, the geographic coordinates of the modified RNA would match those of the proposed Precautionary Area. A separate notice of proposed rulemaking (NPRM) reflecting the proposed changes to the RNA will be published in the **Federal Register**. The RNA rulemaking will also address vessel operating requirements; vessel size, speeds, draft limitations; operating conditions; pilot boarding areas; and restrictions under hazardous conditions.

Regulatory Evaluation

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

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The costs and benefits of this proposed rulemaking are summarized below.

Costs

The proposed amendments to the TSS's in the approaches to Los Angeles-Long Beach would result in a slight increase in transit times and operating costs for vessels using the TSS's to call on the Los Angeles-Long Beach Port complex. Most of the vessels using the TSS are large commercial vessels such as container ships and tankers. The following calculations assume vessels arriving or departing from the north or south are using the proposed western and southern TSS's, respectively. The distance for vessels arriving from the north (3600/year) will increase by approximately 2.35 nautical miles (nm). The distance for vessels departing to the north (3100/year) will increase by approximately 1.6 nm. The distance for vessels arriving from the south (2100/year) will increase by approximately 0.40 nm. The distance for vessels departing to the south (2600/year) will increase by approximately 1.2 nm. Assuming an average transit speed of 12 knots, the time per transit arriving from the north would increase by .20 hr, departing to the north by .14 hr, arriving from the south by .04 hr, and departing

to the south by .10 hr. This corresponds to 1154 additional hours per year for vessels arriving or departing to the north [(3600 transits × .20 hr/transit) + (3100 transits × .14 hr/transit)] and 344 additional hours per year for vessels arriving or departing to the south [(2100 transits × .04 hr/transit) + (2600 transits × .1 hr/transit)]. Assuming a fuel cost of approximately $600.00 per hour, the estimated increase in costs for the industry would be $898,800.00 per year [(1154 hours + 344 hours) × $600/hr].

Vessel operators would incur the minimal cost of plotting new coordinates on their existing charts or purchasing updated charts, when available.

Benefits

The proposed amendments to the TSS's in the approaches to Los Angeles-Long Beach would increase the margin of safety for all vessels utilizing the Ports of Los Angeles and Long Beach. The larger Precautionary Area and amended traffic lanes would decrease the chance of collisions and groundings, particularly for the deepest draft vessels, which require significant room to maneuver.

The larger Precautionary Area would give vessels of all types, sizes, and drafts more time and room to maneuver in their approach to or departure from the ports. The proposed expanded Precautionary Area is also well adapted to the lengthened Los Angeles entrance channel.

The existing western and southern TSS's do not yield safe or practical approaches to the improved Long Beach and Los Angeles entrance channels. The lengthened entrance channels extend beyond the entrance to the existing western traffic lane. This proposed rule shifts the western TSS to the south and the southern TSS to the west. These changes would reduce the maneuvering difficulties for vessels approaching and departing the Los Angeles-Long Beach Port Complex. The proposed shifts would allow even the largest vessels safe transit between both ports and the western lane.

Relocating the southern TSS westward would align the southern TSS with Long Beach channel and would allow a more direct approach to Los Angeles channel. In addition, the oil platforms would no longer be in the southern lane separation zone, which would increase the safety of the platforms and transiting vessels.

Small Entities

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

This proposed rule should have a minimal economic impact on vessels operated by small entities. The proposal amends existing TSS's. This action improves safety for commercial vessels using the TSS by reducing the risk of collisions, allisions, and groundings. Vessels voluntarily transiting the TSS's will have to transit an additional 1.6 to 3.95 nautical miles per trip, depending on the route traveled. The additional transit distance results in increased vessel operating costs ranging from approximately $84 to $204 per trip. Vessels that tend to use the TSS's are commercial vessels such as containerships, freighters, and tankers. These vessels by their very nature are large in size and capable of operating in an offshore environment. Because of their large size most of them would not qualify as small entities. However, even if a vessel does qualify as a small entity, the impact of the additional $84 to $204 per trip would be an insignificant increase to the overall cost of its complete voyage.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES.** In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult George Detweiler, Coast Guard, Marine Transportation Specialist, at 202–267–0574.

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

Collection of Information

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

Federalism

We have analyzed this proposed rule under Executive Order 13132 and have determined that it does not have implications for federalism under that Order.

Title I of the Ports and Waterways Safety Act (33 U.S.C. 1221 *et seq.*) (PWSA) authorizes the Secretary to promulgate regulations to designate and amend traffic separation schemes (TSS's) to protect the marine environment. In enacting PWSA in 1972, Congress found that advance planning and consultation with the affected States and other stakeholders was necessary in the development and implementation of a TSS. Throughout the history of the development of the TSS in the approaches to Los Angeles—Long Beach, California, we have consulted with the LA/LB Harbor Safety Committee (''HSC''), the affected state and federal pilot's associations, vessel operators, users, and all affected stakeholders. The LA/LB HSC, which was established by the State of California, includes all the principal waterway users of the LA/LB ports and other key agencies. The HSC was an active participant in various meetings with the Coast Guard and has contributed to this rulemaking.

Presently, there are no California State laws or regulations concerning the same subjects as are contained in this proposed rule. We understand the state does not contemplate issuing any such rules. However, it should be noted, that by virtue of the PWSA authority, the TSS proposed in this rule will preempt any state rule on the same subject.

In order to be effective against foreign flag vessels on the high seas, TSS's must be submitted to, approved by, and implemented by the International Maritime Organization (IMO). Individual states are not represented at

IMO; that is the role of the federal government. The Coast Guard is the principal United States agency responsible for advancing the interests of the United States at IMO. We recognize, however, the interest of all local stakeholders as we work at IMO to advance the goals of this TSS. We will continue to work closely with such stakeholders to implement the final rule to ensure that the waters in the approaches to Los Angeles—Long Beach affected by this proposed rule are made safer and more environmentally secure.

Unfunded Mandates

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34)(I) of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. This rule proposes adjusting an existing traffic separation scheme. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 167

Harbors, Marine safety, Navigation (water), and Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 167 as follows:

PART 167—OFFSHORE TRAFFIC SEPARATION SCHEMES

1. The authority citation for part 167 continues to read as follows:

Authority: 33 U.S.C. 1223; 49 CFR 1.46.

2. Add §§ 167.500 through 167.503 to read as follows:

§ 167.500 In the approaches to Los Angeles-Long Beach Traffic Separation Scheme: General.

The Traffic Separation Scheme in the approaches to Los Angeles-Long Beach consists of three parts: a Precautionary Area, a Western Approach, and a Southern Approach. The specific areas in the approaches to Los Angeles-Long Beach are described in §§ 167.501 through 167.503. The geographic coordinates in §§ 167.501 through 167.503 are defined using North American Datum 1983 (NAD 83).

§ 167.501 In the approaches to Los Angeles/Long Beach: Precautionary area.

(a) The precautionary area consists of the water area enclosed by the Los Angeles-Long Beach breakwater and a line connecting Point Fermin Light at 33°42.30′N, 118°17.60′W, with the following geographical positions:

Latitude	Longitude
33°35.50′N	118°17.60′W
33°35.50′N	118°09.00′W
33°37.70′N	118°06.50′W
33°43.40′N	118°10.80′W

(b) Pilot boarding areas are located within the precautionary area described in paragraph (a) of this section. Specific regulations pertaining to vessels operating in these areas are contained in 33 CFR 165.1109(d).

§ 167.502 In the approaches to Los Angeles-Long Beach: Western approach.

(a) A separation zone is bounded by a line connecting the following geographical positions:

Latitude	Longitude
33°37.70′N	118°17.60′W
33°36.50′N	118°17.60′W
33°36.50′N	118°23.10′W
33°43.20′N	118°36.90′W
33°44.90′N	118°35.70′W
33°37.70′N	118°20.90′W

(b) A traffic lane for northbound coastwise traffic is established between the separation zone and a line connecting the following geographical positions:

Latitude	Longitude
33°38.70′N	118°17.60′W
33°38.70′N	118°20.60′W
33°45.80′N	118°35.10′W

(c) A traffic lane for southbound coastwise traffic is established between the separation zone and a line connecting the following geographical positions:

Latitude	Longitude
33°35.50′N	118°17.60′W
33°35.50′N	118°23.43′W
33°42.30′N	118°37.50′W

§ 167.503 In the approaches to Los Angeles-Long Beach TSS: Southern approach.

(a) A separation zone is established bounded by a line connecting the following geographic positions:

Latitude	Longitude
33°35.50′N	118°10.30′W
33°35.50′N	118°12.75′W
33°19.70′N	118°03.50′W
33°19.00′N	118°05.60′W

(b) A traffic lane for northbound traffic is established between the separation zone and a line connecting the following geographical positions:

Latitude	Longitude
33°35.50′N	118°09.00′W
33°20.00′N	118°02.30′W

(c) A traffic lane for southbound traffic is established between the separation zone and a line connecting the following geographical positions:

Latitude	Longitude
33°35.50′N	118°14.00′W
33°18.70′N	118°06.75′W

Dated: July 18, 2000.

Joseph J. Angelo,

Acting Assistant Commandant for Marine, Safety and Environmental Protection.

[FR Doc. 00–19205 Filed 7–27–00; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–6841–6]

Motor Vehicle Emissions Budgets in Attainment Demonstrations for the One-Hour National Ambient Air Quality Standard for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental notice of proposed rule.

SUMMARY: On December 16, 1999, we (EPA) proposed to approve or conditionally approve and disapprove in the alternative attainment demonstration State implementation plans (SIPs) for ten areas in the eastern United States (64 FR 70317). In today's supplemental notice, we are clarifying and expanding on two issues relating to the motor vehicle emissions budgets in these SIPs. In addition, we are reopening the comment period to take comment on these two issues and to allow comment on any additional materials that were placed in the dockets for the proposed actions close to or after the initial comment period closed on February 14, 2000.

First, we are proposing to clarify what occurs if we finalize conditional or full approval of any of these SIPs based on a State commitment to revise the SIP's motor vehicle emissions budgets in the future. If this occurs, the motor vehicle emissions budgets in the approved SIP will apply for transportation conformity purposes only until the budgets are revised consistent with the commitment and we have found the new budgets adequate. Once we have found the newly revised budgets adequate, then they would apply instead of the previous conditionally or fully approved budgets.

Second, we are proposing that States may opt to commit to revise their emissions budgets 1 year after the release of MOBILE6, as originally proposed on December 16, 1999. Or, States may commit to a new option, *i.e.*, to revise their budgets 2 years following the release of MOBILE6, provided that conformity is not determined without adequate MOBILE6 SIP budgets during the second year.

DATES: Comments must be received on or before August 28, 2000.

ADDRESSES: Written comments on this action should be addressed to the EPA regional offices responsible for the areas addressed by the SIPs we are reopening. Contact names and addresses for these regional offices are included below in **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: General questions concerning sections of this document that relate to motor vehicles emissions budgets should be directed to Kathryn Sargeant, Transportation and Regional Programs Division, U.S. Environmental Protection Agency, 2000 Traverwood Road, Ann Arbor, Michigan 48105, *sargeant.kathryn@epa.gov.* (734) 214–4441.

Comments or questions on our proposed changes to the applicability of budgets in specific areas or on the new information received on area-specific SIPs should be addressed to the appropriate EPA Regional Office representative listed below in **SUPPLEMENTARY INFORMATION.**

SUPPLEMENTARY INFORMATION: Public dockets for the ten areas addressed by today's action have been established in EPA's Regional Offices. Addresses for these dockets and additional contact information are listed below:

Region I—(1) Greater Connecticut Ozone Nonattainment Area; and (2) The Connecticut Portion of the New York-Northern New Jersey-Long Island Ozone Nonattainment Area

Written comments (in duplicate if possible) on either the Greater CT or the CT portion of the NY-northern NJ ozone nonattainment areas should be sent to: David B. Conroy, EPA Region 1 (New England) Office, One Congress Street, Suite 1100–CAQ, Boston, Massachusetts 02114–2023.

Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours (9:00 A.M. to 4:00 P.M.) at the following addresses: U.S. Environmental Protection Agency, Region 1 (New England), One Congress St., 11th Floor, Boston, Massachusetts 02114–2023, telephone (617) 918–1664, and at the Bureau of Air Management, Connecticut Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–5127. Please telephone in advance before visiting.

For general information contact: Jeff Butensky, (617) 918–1665.

Region I—Western Massachusetts—The Springfield (Western Massachusetts) Ozone Nonattainment Area

Written comments (in duplicate if possible) should be sent to: David B. Conroy at the EPA Region I (New England) Office, One Congress Street, Suite 1100–CAQ, Boston, Massachusetts 02114–2023.

Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours (9:00 A.M. to 4:00 P.M.) at the following addresses: U.S. Environmental Protection Agency, Region 1 (New England), One Congress St., 11th Floor, Boston, Massachusetts 02114–2023, telephone (617) 918–1664, and at the Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, Massachusetts 02108. Please telephone in advance before visiting.

For general information contact: Jeff Butensky (617) 918–1665.

Region II—New York-Northern New Jersey-Long Island (NY–NJ–CT); The New Jersey portion of the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area

Written comments (in duplicate if possible) should be sent to: Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

Copies of the New Jersey submittals and EPA's technical support document are available at the following addresses for inspection during normal business hours: U.S. Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866 and at the New Jersey Department of Environmental Protection, Office of Air Quality Management, Bureau of Air Quality Planning, 401 East State Street, CN418, Trenton, New Jersey 08625.

For general information contact: Paul Truchan (212) 637–4249 or Kirk Wieber (212) 637–3381.

Region III—Baltimore (MD) Ozone Nonattainment Area

Written comments (in duplicate if possible) should be sent to David L. Arnold, Chief, Ozone & Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland 21224.

For general information contact: Cristina Fernandez, (215) 814–2178. Or by e-mail at *fernandez.cristina@epa.gov.*

Region III—Philadelphia-Wilmington-Trenton (PA–NJ–DE–MD); The Delaware portion of the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area

Written comments (in duplicate if possible) should be mailed to David L. Arnold, Chief, Ozone & Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, Dover, Delaware 19901.

For general information contact: Rose Quinto, (215) 814–2182, or by e-mail at *quinto.rose@epa.gov.*

Region III—Philadelphia-Wilmington-Trenton (PA–NJ–DE–MD); The Maryland Portion of the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area

Written comments (in duplicate if possible) may be mailed to David L. Arnold, Chief, Ozone & Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

For general information contact: Cristina Fernandez, (215) 814—2178. Or by e-mail at *fernandez.cristina@epa.gov.*

Region III—Philadelphia-Wilmington-Trenton (PA–NJ–DE–MD); The Pennsylvania Portion of the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area

Written comments (in duplicate if possible) may be mailed to: David L. Arnold, Chief, Ozone & Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

For general information contact: Christopher Cripps, (215) 814–2179. Or by e-mail at cripps.christopher@epa.gov.

Region III—Metropolitan Washington (DC–MD–VA) Ozone Nonattainment Area

Written comments (in duplicate if possible) may be mailed to David L. Arnold, Chief, Ozone & Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the District of Columbia Department of Public Health, Air Quality Division, 51 N Street, N.E., Washington, DC 20002; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224; and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, 23219.

For general information contact: Christopher Cripps, (215) 814–2179, at the EPA Region III address above, or by e-mail at cripps.christopher@epa.gov.

Region IV—Atlanta (GA) Ozone Nonattainment Area

Written comments (in duplicate if possible) should be mailed to: Scott M. Martin, U.S. Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

Copies of the State submittal are available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960; and the Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354. Telephone (404) 363–7000.

For general information contact: Scott Martin at (404) 562–9036.

Region V—Chicago-Gary-Lake County (IL; IN); Illinois and Indiana Portions of the Chicago-Gary-Lake County Ozone Nonattainment Area

Written comments (in duplicate if possible) on either the Illinois or Indiana portions should be mailed to: Jay Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours at the following address: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Mark Palermo at (312) 886–6082 before visiting the Region 5 Office.)

For general information contact: Edward Doty, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number (312) 886–6057, e-mail address doty.edward@epamail.epa.gov.

Region V—Milwaukee-Racine (WI) Ozone Nonattainment Area

Written comments (in duplicate if possible) should be mailed to: Carlton Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours at the following address: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Michael G. Leslie at (312) 353–6680 before visiting the Region 5 Office.)

For general information contact: Michael G. Leslie, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number (312) 353–6680.

Region VI—Houston-Galveston-Brazoria (TX) Ozone Nonattainment Area

Written comments (in duplicate if possible) should be mailed to Mr. Thomas Diggs, Chief, Air Planning Section (6PD–L), Environmental

Protection Agency, telephone: (214) 665–7214.

Copies of the documents relevant to this action, including the technical support document, are available for public inspection during normal business hours at the following addresses: Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), Multimedia Planning and Permitting Division, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone: (214) 665–7214; and the Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 2 working days in advance.

For general information contact: Mr. Guy R. Donaldson, Air Planning Section (6PD–L), Multimedia Planning and Permitting Division, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone: (214) 665–7242.

The contents of this preamble are listed in the following outline:

I. Background Information
A. What Did We Propose On December 16, 1999?
B. What Is Transportation Conformity?
C. What Are Motor Vehicle Emissions Budgets?
D. Which Motor Vehicle Emissions Budgets Usually Apply?
II. What Is EPA Proposing Today?
A. Clarification of the Applicability of Revised Budgets
B. Additional Option for Timing of Budget Revision Following MOBILE6
C. Reopening of the Comment Period
III. Administrative Requirements

I. Background Information

A. What Did We Propose on December 16, 1999?

We proposed to conditionally or fully approve, and in the alternative to disapprove, ozone attainment demonstration (SIPs) for ten areas. The ten areas are described below. Our proposals, all of which were published on December 16, 1999, contain a full explanation of the background and proposed actions for the following areas: Atlanta, 64 FR 70478; Houston-Galveston, 64 FR 70548; Metropolitan Washington, DC, 64 FR 70460; Milwaukee-Racine, 64 FR 70531; Springfield, 64 FR 70319; Greater Connecticut, 64 FR 70332; Baltimore, 64 FR 70397; Chicago-Gary-Lake County, 64 FR 70514 and 64 FR 70496; Philadelphia-Wilmington-Trenton, 64 FR 70412, 64 FR 70428, 64 FR 70444 and 64 FR 70380; and New York-Northern New Jersey-Long Island, 64 FR 70380, 64 FR 70348, 64 FR 70364. For more detail, see the December proposals as cited above.

In order to conditionally or fully approve the attainment demonstration SIPs, we proposed that several areas needed to commit to adopt additional control measures to achieve the level of emissions reductions that we identified as necessary to attain the 1-hour ozone standard. We also proposed that these areas must commit to recalculate and submit revised motor vehicle emissions budgets that include the effects of the measures that are ultimately adopted, if those measures pertain to motor vehicles. We explain the term ''motor vehicle emissions budget'' in item C below.

In addition, we proposed that where a SIP includes the benefits of EPA's Tier 2/Sulfur program, the State must commit to revise the SIP's motor vehicle emissions budgets within 1 year after we release the MOBILE6 model. This commitment would be necessary in order for us to approve the SIP.

Our December 16, 1999 proposals also addressed many other issues that are not directly relevant to today's supplemental proposal. We direct the reader to the December proposals for more details.

B. What Is Transportation Conformity?

Transportation conformity is a Clean Air Act (CAA) requirement for metropolitan planning organizations and the U.S. Department of Transportation to ensure that federally supported highway and transit activities are consistent with (''conform to'') the SIP. Conformity to a SIP means that an action will not cause or contribute to new violations; worsen existing violations; or delay timely attainment.

The conformity requirements are established by CAA section 176(c). We issued the transportation conformity rule (40 CFR part 93) to implement this CAA requirement.

C. What Are Motor Vehicle Emissions Budgets?

As described in CAA section 176(c)(2)(A), attainment demonstrations necessarily include estimates of motor vehicle emissions to help areas reach attainment. These estimates act as a budget or ceiling for emissions from motor vehicles, and are used in conformity to determine whether transportation plans and projects conform to the attainment SIP. In order for transportation plans and projects to conform, estimated emissions from transportation plans and projects must not exceed the emission budgets contained in the attainment demonstration.

D. Which Motor Vehicle Emissions Budgets Usually Apply?

According to the transportation conformity rule, motor vehicle emissions budgets (''budgets'') in a submitted SIP apply for conformity purposes even before we have approved the SIP, under certain circumstances. First, there must not be any other approved SIP budgets that have been established for the same timeframe and with respect to the same CAA requirements. For example, if there is already an approved attainment demonstration SIP that establishes budgets for the attainment date, and the State submits a revision to those budgets, the newly submitted budgets do not apply for conformity purposes until we have approved them into the SIP.

Second, submitted SIP budgets cannot be used before we have approved the SIP unless we have found that the submitted SIP budgets are adequate for conformity purposes. Our process for determining adequacy is explained at 40 CFR 93.118(e) and EPA's May 14, 1999 memo entitled, ''Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision.''

For more details about the applicability of submitted and approved budgets, see 61 FR 36117 (July 9, 1996) and 62 FR 43783 (August 15, 1997).

II. What Is EPA Proposing Today?

Today, we are proposing to supplement and clarify our December 16, 1999 proposals to conditionally or fully approve (and disapprove in the alternative) the attainment demonstration SIPs for ten areas. As discussed below, our supplemental notice addresses two issues specifically pertaining to the motor vehicle emissions budgets in these SIPs.

In addition, we are reopening the comment period so the public may comment on these two issues and may consider and comment on any additional materials that have been placed in the docket for each of these proposed rules close to or after the February 14, 2000 date of the initial comment period. We are also reopening the comment period for all issues with respect to the Pennsylvania portion of the Philadelphia-Wilmington-Trenton nonattainment area based on requests received from the State of Pennsylvania and other interested parties during the initial comment period.

A. Clarification of the Applicability of Revised Budgets

1. How Are We Proposing to Clarify the Applicability of Revised Budgets?

In today's notice, we are proposing to clarify what occurs if we finalize approval or conditional approval of any of the December 16, 1999 SIPs based on a State commitment to revise the budgets in the future. If this occurs, the approved SIP budgets will apply for conformity purposes only until the revised budgets have been submitted and we have found the submitted budgets to be adequate for conformity purposes.

In other words, when the State submits revised budgets as they have committed, those revised budgets will apply for conformity purposes as soon as we have found those budgets to be adequate for conformity purposes and our adequacy finding is effective. The revised budgets would then replace the budgets in the approved (or conditionally approved) attainment demonstration SIP, provided that (as we expect) the revised budgets are submitted as a revision to part of the attainment demonstration SIP and are established for the same year as those in the approved SIP.

2. Why Are We Proposing to Clarify the Applicability of Revised Budgets?

In December 1999, we proposed that we would not approve the attainment demonstration SIPs from certain areas unless the States commit to revise the SIPs' budgets in the future. As described in section I.A. of this preamble, emissions budgets must be revised to reflect the effects of additional control measures that a State has committed to adopt. The budgets must also be revised within 1 year after we release MOBILE6, if the budget that is approved reflects the benefits of our Tier 2/Sulfur regulation.

Since we are proposing to approve budgets only because the States have committed to revise them, we want our approval of the budgets to last only until adequate revised budgets are submitted pursuant to the commitments. We believe the revised budgets should apply as soon as we find them adequate; we do not believe it is appropriate to wait until we have approved the revised attainment demonstration SIP. This is because we know now that once we have confirmed that the revised budgets are adequate, they will be more appropriate than the originally approved budgets for conformity purposes.

Specifically, once an area has adopted additional measures that affect motor vehicle emissions, an appropriate motor vehicle emissions budget must reflect those measures. Otherwise, the budget would not be the level of motor vehicle emissions that is consistent with the attainment demonstration; it would be inappropriately large.

In addition, we know now that we cannot accurately estimate the benefits of the Tier 2 program until we release the MOBILE6 model. We are proposing to approve budgets based on interim approximations of Tier 2 benefits only because the States are committing to recalculate the budgets using MOBILE6 in a timely fashion.

If we do not clarify our proposed approval of the budgets, States will revise their budgets as they have committed, but they will not be able to start using them quickly for conformity purposes. This would defeat the purpose of our original requirement for the budgets to be revised quickly. In contrast, according to today's proposal, the revised budgets could be used for conformity after we have completed our adequacy review process, which we have committed to complete within 90 days after revisions are submitted, provided they are adequate.

This supplemental notice does not propose any change to the existing transportation conformity rule or to the way it is normally implemented with respect to other submitted and approved SIPs, which do not contain commitments to revise the budgets.

3. How Does the 18-Month Clock Apply With Respect to These Budget Revisions?

Section 93.104(e)(2) of the conformity rule requires conformity of the transportation plan and transportation improvement program (TIP) to be redetermined within 18 months following the date of a State's initial submission of each SIP establishing a budget.

As described at 60 FR 44792 (August 29, 1995), the first submission of a given type of SIP that establishes a budget (*e.g.,* an ozone attainment demonstration) starts the 18-month clock for redetermining conformity. However, the 18-month clock is unaffected by subsequent changes to that submitted SIP.

Therefore, the revisions to the attainment demonstration SIPs to reflect additional measures or MOBILE6 will not start a new 18-month clock. Of course, whenever conformity is eventually determined in accordance with the 18-month clock, the demonstration must use whatever budgets are applicable at that time. If an initial submission starts the 18-month clock but then is changed and the revised budgets are found adequate, any subsequent conformity determination must use the new, adequate budgets.

Section 93.104(e)(3) also requires conformity of the transportation plan and TIP to be redetermined 18 months following our approval of a SIP that establishes or revises a budget. If we conditionally approve an ozone attainment demonstration, an 18-month clock will be started on the effective date of our conditional approval. A subsequent conversion of the conditional approval to full approval will not start another 18-month clock, unless the budgets we are approving have changed since the conditional approval.

B. Additional Option for Timing of Budget Revision Following MOBILE6

1. What Is the Additional Option?

In our December 16, 1999 proposal to approve and/or disapprove SIPs for ten urban areas, we stated that if a SIP relied on Tier 2 benefits to demonstrate attainment, States would need to commit to revise their motor vehicle emissions budgets within 1 year after we release MOBILE6, in order for us to approve the SIP.

We proposed that States recalculate their budgets using MOBILE6 because the emission reduction benefits of Tier 2 cannot be properly estimated until MOBILE6 is released. The estimates of Tier 2 benefits that are currently in submitted SIPs are interim approximations.

In this supplemental notice we are proposing that the affected States may have a 1-year extension of time to revise their emissions budgets, under certain circumstances. Specifically, a State may commit to revise its SIP's budgets within 2 years after MOBILE6 is released, if the State also commits that conformity will not be determined during the additional year unless there are adequate SIP budgets in place that were developed using MOBILE6 [1]. As part of this commitment, we also are proposing that States inform affected metropolitan planning organizations and their State transportation departments of this requirement.

States may opt to commit to revise their emissions budgets 1 year after the release of MOBILE6, as originally proposed on December 16, 1999. Or, States may commit to the new option, *i.e.,* to revise their budgets 2 years

[1] This concept was discussed in a letter dated March 6, 2000 from John S. Seitz, Director, Office of Air Quality Planning and Standards to Ralph Marquez, Commissioner, Texas Natural Resources Conservation Commission.

following the release of MOBILE6, provided that conformity is not determined without adequate MOBILE6 SIP budgets during the second year. Any SIPs that rely on Tier 2 benefits must be accompanied by one of these two types of commitments in order for us to find the budgets adequate for conformity purposes, and in order for us to finalize approval of the SIP. The commitment must be subject to a public hearing and fully enforceable as part of the SIP before we can finalize approval of the SIP.

2. How Is ''Release of MOBILE6'' Defined?

We will publish a notice of availability in the **Federal Register** that announces the formal release of MOBILE6. The date of publication of that **Federal Register** notice will constitute ''release of MOBILE6'' for the purposes of the commitments discussed in this supplemental proposal.

3. Why Are We Proposing This Additional Option?

We are proposing to provide States with this additional option in response to a comment on the December 16, 1999 proposal. That comment indicated that in some areas, allowing more than 1 year to revise and adopt a new motor vehicle emissions budget based on the MOBILE6 model would better suit an area's schedule for SIP revisions and updates.

We believe that allowing areas an additional year to revise their budgets using MOBILE6 will not cause any environmental harm as long as during that time there are no new conformity determinations that rely on the older MOBILE5 budgets.

C. Reopening of the Public Comment Period

The EPA is reopening the comment period for 30 days to take comment on the proposed approach, discussed above. In addition, we are reopening the comment period for all ten areas to address additional information that has been placed in the docket close to or since the initial comment period concluded on February 14, 2000. In general, these materials consist of motor vehicle emissions budgets, and revised or additional commitments or reaffirmations submitted by the States. Interested persons should contact the appropriate regional contact listed in the **SUPPLEMENTARY INFORMATION** section with any questions regarding whether new information has been placed in the docket for a specific proposed action.

In addition, based on requests received during the initial comment period, EPA is reopening the comment period for 30 days with respect to all issues concerning the Pennsylvania portion of the Philadelphia-Wilmington-Trenton area.

We are not, however, reopening the separate comment period on the adequacy of motor vehicle emissions budgets, which was started by notification on our adequacy website. Notably, comments on the adequacy of motor vehicle emissions budgets are accepted through a distinct, administrative process established by our conformity regulations, known as adequacy review. That process was not started for any area covered by today's notice until all materials relevant to the budgets had been submitted.

III. 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 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.

C. 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, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

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

D. Executive Order 13132

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

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the

distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves a State rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Regulatory Flexibility Act (RFA)

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

This rule 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 CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not 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 CAA, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

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

The EPA's alternative proposed disapproval of the State request under section 110 and subchapter I, part D of the CAA would not affect any existing requirements applicable to small entities. Any pre-existing Federal requirements would remain in place after this disapproval. Federal disapproval of the State submittal does not affect State-enforceability. Moreover EPA's disapproval of the submittal would not impose any new Federal requirements. Therefore, I certify that the proposed disapproval would not have a significant impact on a substantial number of small entities.

F. Unfunded Mandates Reform Act

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 costs to State, local, or tribal governments in the aggregate; or to the 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.

The EPA has determined that the approval action proposed does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action proposes to approve 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 proposed action.

Sections 202 and 205 do not apply to the proposed disapproval because the proposed disapproval of the SIP submittal would not, in and of itself, constitute a Federal mandate because it would not impose an enforceable duty on any entity. In addition, the CAA does not permit EPA to consider the types of analyses described in section 202 in determining whether a SIP submittal meets the CAA. Finally, section 203 does not apply to the proposed disapproval because it would affect only the State governments, which are not small governments.

G. National Technology Transfer and Advancement Act (NTTAA)

Section 12 of the National Technology Transfer and Advancement Act of 1995 requires Federal agencies to evaluate existing technical standards when developing new regulations. 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 the regulatory actions in this supplemental notice. Today's actions do not require the public to perform activities conducive to the use of VCS.

H. Paperwork Reduction Act

This supplemental notice of proposed rule does not impose any new information collection requirements from EPA which require approval by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

List of Subjects in 40 CFR Part 52

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

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

Dated: July 20, 2000.

Robert D. Brenner,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 00–19122 Filed 7–27–00; 8:45 am]

BILLING CODE 6560–50–U

DEPARTMENT OF THE INTERIOR

Office of Hearings and Appeals

43 CFR Part 4

RIN 1090–AA74

Special Rules Applicable to Surface Coal Mining Hearings and Appeals; Petitions for Award of Costs and Expenses Under Section 525(e) of the SMCRA

AGENCY: Office of Hearings and Appeals, Interior.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Hearings and Appeals (OHA) proposes to amend its rule governing who may receive an award of costs and expenses, including attorney fees, under section 525(e) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) to provide that an applicant for a permit may only receive an award from the Office of Surface Mining Reclamation and Enforcement (OSM) if OSM denies an application in bad faith and for the purpose of harassing or embarrassing the applicant.

DATES: Comments must be receive on or before September 26, 2000.

ADDRESSES: Written comments about this proposed rule may be mailed or hand-delivered to Robert L. Baum, Director, Office of Hearings and Appeals, U.S. Department of the Interior, Room 1111, 4015 Wilson Boulevard, Arlington, Virginia 22203. *See* **SUPPLEMENTARY INFORMATION** for additional information on the handling of comments.

FOR FURTHER INFORMATION CONTACT: Will A. Irwin, Administrative Judge, Interior Board of Land Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Phone: 703–235–3750.

SUPPLEMENTARY INFORMATION: 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 addresses form the rulemaking record, and we will honor such requests to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or official of organizations or businesses, available for public inspection in their entirety.

OSM has requested that OHA purpose amending 43 CFR 4.1294(b) and (c) to provide that an applicant for a permit from OSM is entitled to an award of costs and expenses from OSM only when circumstances demonstrate that OSM denied an application in bad faith and for the purpose of harassing or embarrassing the applicant. The term ''applicant'' is defined at 30 CFR 701.5.

In *Skyline Coal Co.* v. *OSM*, 150 IBLA 51 (1999), the Interior Board of Land Appeals (IBLA) affirmed Administrative Law Judge David Torbett's award of more than $200,000 in costs and expenses, including attorney fees, to Skyline Coal Company (Skyline). OSM had denied an application from Skyline for a permit and Skyline had filed a request for administrative review by OHA of the denial. During the course of the hearing before Judge Torbett, OSM agreed that Skyline's permit application could be approved. Judge Torbett therefore sustained Skyline's request for review.

Subsequently, Skyline filed a petition for an award of costs and expenses with Judge Torbett under section 525(e) of SMCRA, 30 U.S.C. 1275(e) (1994), and the implementing regulations in 43 CFR 4.1291. OSM opposed Skyline's petition, arguing that Skyline was a permittee under 43 CFR § 4.1294(c) and could only receive an award if it could demonstrate OSM had denied its application for a permit in bad faith. Skyline argued it was an applicant for a permit, not a permittee, and thus was entitled to an award under § 4.1294(b) as a ''person'' who had initiated a review proceeding and had prevailed in whole or in part, achieving at least some degree on the merits. IBLA affirmed Judge Torbett's fee award, stating:

> In his August 1, 1994, order, Judge Torbett rejected OSM's argument, noting that an applicant for a permit is not, and does not become, a ''permittee'' until the applicant is issued a permit. He further found that, as a mining company, Skyline was a ''person'' under 30 U.S.C. § 1291(19) (1994) and was therefore eligible to petition for and receive an award of costs and fees under 43 CFR § 4.1294(b). Judge Torbett noted that 43 CFR § 4.1294(c) specifically covers enforcement actions taken against permittees, that is, cases involving cessation orders (CO's), NOV's, or orders to show cause why a permit should not be suspended or revoked. That regulation, the Judge observed, makes no mention of denials of permit applications. He ruled that the governing regulation was 43 CFR § 4.1294(b) and that Skyline met the criteria therein. (August 1, 1994, Order at 3–5, 7.)

Id. at 53.

In his concurring opinion, Administrative Judge Burski suggested that if OSM were dissatisfied with the result of the case it could seek an amendment of the regulations that would accord with its interpretation of SMCRA. *Id.* at 63.

OSM has requested OHA, which is responsible for these regulations, to propose an amendment that would limit an award to an applicant for a permit to the circumstances in § 4.1294(c). OSM suggests that the legislative history of SMCRA supports its request, quoting from the Senate's report on S.7, which was the Senate's version of SMCRA:

> In many, if not most, cases in both the administrative and judicial forum, the citizen who sues to enforce the law, or participates in administrative proceedings to enforce the law, will have little or no money with which to hire a lawyer. If private citizens are to be able to assert the rights granted them by this bill, and if those who violate this bill's requirements are not to proceed with impunity, then citizens must have the opportunity to recover the attorneys' fees necessary to vindicate their rights. Attorneys' fees may be awarded to the permittee or government when the suit or participation is brought in bad faith.

S. Rep. No. 95–128, 95th Cong. 1st Sess. 59 (1977). When § 4.1294 was first proposed, some commenters suggested substituting the statutory language of section 525(e). OHA rejected the suggestion ''because it did not answer any of the questions raised by the statutory language.'' 43 FR 34395 (Aug. 3, 1978).

The proposed amendment of §§ 4. 1294(b) and (c) is designed to answer the question of when an applicant for a permit may be eligible for an award of costs and expenses, including attorney fees, and to limit an award to an applicant to the circumstances in § 4.1294(c).

Procedural Matters

Executive Order 12866—Regulatory Planning and Review

This document is not a significant rule under Executive Order 12866.

a. This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities. The proposed revision would have the effect of limiting the circumstances authorizing the award of costs and expenses, including attorney fees, to applicants whose applications have

been denied. The rule would not impose any new costs on the coal industry. While the number of requests for attorney fees that would be processed under the proposed revisions is not known, it is expected that only a very few applicants would potentially qualify for an award as a result of prevailing over OSM in a proceeding to review OSM's denial of a permit application.

b. This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

No other agency has a rule implementing section 525(e) of SMCRA.

c. This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

No entitlements, grants, user fees, or loan programs are authorized by section 525(e) of SMCRA or its implementing regulations.

d. This rule does not raise novel legal or policy issues.

The legal issued involved—the standard for making an award of costs and expenses to an applicant for a surface coal mining permit who prevails on administrative review of the denial of an application by OSM—has been discussed by IBLA in the *Skyline Coal Co.* case, 150 IBLA 51 (1999). The proposed amendment is in response to that discussion.

Regulatory Flexibility Act

The Department of the Interior 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.*). This determination is based on the findings that the proposed revisions will not significantly change costs to industry and will not affect state or local governments. Furthermore, the rule produces no adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States enterprises to compete with foreign-based enterprises in domestic or export markets for the reasons stated above.

Only a few applicants for surface coal mining permits would be expected to apply for a permit, have their applications denied by OSM, prevail on administrative review of the denial, and be able to demonstrate that OSM's denial was based on bad faith and for the purpose of harassing or embarrassing the applicant, and an even smaller number of these applicants would be small entities.

Small Business Regulatory Enforcement Fairness Act

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

a. Does not have an annual effect on the economy of $100 million or more for the reasons stated above.

The potential reduction in the award of costs and expenses as a result of amending this rule would be, at most, in the hundreds of thousands of dollars per year, given the number of applicants for permits and the even smaller number whose applications would be denied by OSM for reasons they could demonstrate amounted to bad faith and for the purpose of harassing or embarrassing the applicant.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions because the rule does not impose major new requirements on the coal mining industry or consumers.

No cost increases of any kind appear foreseeable as a result of limiting the award of costs and expenses to applicants for surface mining permits to instances in which their applications are denied by OSM for reasons of bad faith and for the purpose of harassing or embarrassing the applicant.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises for the reasons stated above.

Any eventual effects of the nature listed above from limiting the circumstances when an applicant for the award of costs and expenses could receive an award as a result of prevailing on administrative review of the denial of a permit application because OSM's denial was based on bad faith and for the purpose of harassing or embarrassing the applicant would be minimal.

Unfunded Mandates

This rule does not impose an unfunded mandate on state, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on state, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531, *et seq.*) is not required.

A small government is not likely to apply for a surface coal mining permit. Therefore, it is improbable that there would be an effect of any kind on small governments.

Executive Order 12630—Takings

In accordance with Executive Order 12630, the rules does not have takings implications. This determination is based on the fact that the rule will not have an impact on the use or value of private property and so, does not result in significant costs to the government.

No realistic claims of a constitutional taking appear possible from defining the standard for an award of costs and expenses to an applicant for a surface mining permit whose application is denied to be OSM's bad faith and for the purpose of harassing or embarrassing the applicant in denying the application.

Executive Order 13132—Federalism

This proposed rule does not have Federalism implications. It 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.''

The only potential impact on the states from this proposed amendment is that they would wish to change their state program rules to correspond to the changed federal rule. This does not appear to qualify as a significant effect.

Executive Order 12988—Civil Justice Reform

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

The proposed amendment of the rule clearly limits the basis for an award of costs and expenses to an applicant for a surface coal mining permit whose application is denied to a demonstration of bad faith and for the purpose of harassing or embarrassing the applicant on the part of OSM in denying the application. The proposed rule has no pre-emptive or retroactive effect.

Paperwork Reduction Act

The proposed rule does not contain collections of information which require approval by the Office of Management and Budget under 44 U.S.C. § 3501 *et seq.*

The proposed amendment of the rule would not change the information a petitioner for an award of costs and expenses would provide with the petition; it would only change the standard for when an applicant for a

permit could receive an award. Therefore, no information collection is involved.

National Environmental Policy Act

OHA has reviewed this proposed rule and determined that it is categorically excluded from the National Environmental Policy Act process in accordance with the Departmental Manual 516 DM 2, Appendix 1.10.

Clarity of this Regulation

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed rule clearly stated? (2) Does the proposed rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the proposed rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A ''section'' appears in bold type and is preceded by the symbol ''§'' and a numbered heading; for example, § 4.1294). (5) Is the description of the proposed rule in the ''**SUPPLEMENTARY INFORMATION**'' section of this preamble helpful in understanding the proposed rule? What else could we do to make the proposed rule easier to understand?

Send a copy of any comments that concern how we could make this proposed rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street NW, Washington, DC 20240. You may also e-mail the comments to this address: exsec@ios.doi.gov.

List of Subjects in 43 CFR Part 4

Administrative practice and procedure, Lawyers, Surface mining.

Dated: July 3, 2000.

John Berry,

Assistant Secretary, Policy, Management and Budget.

For the reasons set forth in the preamble, OHA proposes to amend 43 CFR Part 4 as follows:

PART 4—DEPARTMENT HEARINGS AND APPEALS PROCEDURES

1. The authority citation for part 4, Subpart L, continues to read as follows:

Authority: 30 U.S.C. 1256, 1260, 1261, 1264, 1268, 1271, 1271, 1275, 1293: 5 U.S.C. 301.

2. 43 CFR 4.1294(b) and (c) are revised to read as follows:

§ 4.1294 Who may receive an award.

* * * * *

(b) From OSM to any person, other than an applicant or permittee or his or her representative, who initiates or participates in any proceeding under the Act, who prevails in whole or in part, achieving at least some degree of success on the merits, upon a finding that such person made a substantial contribution to a full and fair determination of the issues.

(c) To an applicant or permittee from OSM when the applicant or permittee demonstrates that OSM denied an application or issued an order of cessation, a notice of violation, or an order to show cause why a permit should not be suspended or revoked, in bad faith and for the purpose of harassing or embarrassing the applicant or permittee; or

* * * * *

[FR Doc. 00–19063 Filed 7–27–00; 8:45 am]

BILLING CODE 4310–79–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants: 12-Month Finding on Petition To Reclassify the Cheetah (*Acinonyx jubatus*) in the Republic of Namibia From Endangered to Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: 12-month finding on petition.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the 12-month finding on a petition to reclassify the cheetah (*Acinonyx jubatus*) population of Namibia from endangered to threatened. We have determined that the petitioned action is not warranted because available information is inadequate to determine that the factors that caused the cheetah to become endangered have been reduced sufficiently. Specifically, the lack of reliable, long-term population estimates for cheetah in Namibia make it impossible to determine whether the population is of adequate size to withstand most natural catastrophes or whether the population is increasing, decreasing, or stable. Such population trend information is necessary to determine the extent to which the substantial regulatory mechanisms initiated by the Government of Namibia are reducing the killing of cheetahs by Namibian farmers. This killing has been an important mortality factor for cheetahs in Namibia over the past three decades.

DATES: The 12-month finding was made on June 28, 2000.

ADDRESSES: If you have any questions about this decision, you may send correspondence or questions to the Chief, Office of Scientific Authority; Mail Stop: Room 750, Arlington Square; U.S. Fish and Wildlife Service; Washington, DC 20240 (Fax number: 703–358–2276; E-mail address: r9osa@fws.gov). Express and messenger deliveries should be addressed to Chief, Office of Scientific Authority, Room 750; U.S. Fish and Wildlife Service; 4401 North Fairfax Drive; Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Dr. Susan Lieberman, Chief, Office of Scientific Authority (Telephone number: 703–358–1708; Fax number: 703–358–2276; E-mail address: r9osa@fws.gov) or Dr. Kurt A. Johnson, Office of Scientific Authority (same telephone and fax numbers as above; E-mail address: kurt_johnson@fws.gov).

SUPPLEMENTARY INFORMATION:

Background

On August, 11, 1995, the Service received a petition from the government of the Republic of Namibia and Safari Club International requesting that the Namibian population of the cheetah (*Acinonyx jubatus*) be reclassified from endangered to threatened under the Endangered Species Act (Act) of 1973 as amended (16 U.S.C. 1531 *et seq.*). The petition gives three reasons for requesting the reclassification of the cheetah in Namibia: (1) The original listing of the Namibian cheetah population was in error; (2) the cheetah population in Namibia has recovered; and (3) the current endangered classification puts the species at greater risk because it impedes the conservation efforts of the Government of Namibia.

In the **Federal Register** of March 19, 1996 (61 FR 11181), we announced a 90-day finding that the petition presented substantial information indicating that the requested action (*i.e.*, reclassification from endangered to threatened) may be warranted. We initiated a status review of the cheetah in Namibia, with the original comment period ending on July 17, 1996. Before a decision was taken we received two new documents of importance to this issue. The first was the final report of a 1996 cheetah and lion (*Panthera leo*) workshop sponsored by the World Conservation Union/Species Survival Commission (IUCN/SSC) Conservation Breeding Specialist Group (CBSG) in

Otjiwarango, Namibia, and attended by a scientist from the Service. The report, entitled ''Population and Habitat Viability Assessment for the Namibian Cheetah and Lion,'' included a predictive population model for the cheetahs in Namibia. The second was a draft cheetah management plan for the species entitled ''Namibian Cheetah Conservation Strategy'' that was prepared for the Ministry of Environment and Tourism (MET) of the Government of Namibia. In order to consider this new information and any public comments on either report, we announced in the **Federal Register** on December 9, 1997 (62 FR 64800), our decision to reopen the comment period until February 1, 1998.

Section 4(b)(3)(B) of the Act requires us, within 12 months of receipt of a petition, to make a finding on whether that petition is warranted, not warranted, or warranted but precluded by other pending proposals. We herein announce our 12-month finding on this petition.

How Do We Determine if Reclassification of the Namibian Cheetah Population Is Warranted Under the Act?

The cheetah is listed as endangered under the Act. The criteria that we must use in evaluating its potential reclassification under the Act are explicit. First, we must determine if the Namibian cheetah population qualifies as a ''Distinct Population Segment'' as defined in the Service's February 7, 1996, Policy Regarding the Recognition of Distinct Vertebrate Population Segments under the Endangered Species Act (DPS Policy) (61 FR 4722). For a population to be listed under the Act as a distinct vertebrate population segment, three elements are considered: (1) The discreteness of the population segment in relation to the remainder of the species to which it belongs; (2) the significance of the population segment to which it belongs; and (3) the population segment's conservation status in relation to the Act's standards for listing (*i.e.*, is the population segment, when treated as if it were a species, endangered or threatened?).

Second, section 4(a)(1) of the Act requires that we determine if any one or a combination of the following five factors cause the cheetah in Namibia to be endangered or threatened, as defined by the Act:

(A) the present or threatened destruction, modification, or curtailment of its habitat or range;

(B) overutilization for commercial, recreational, scientific, or educational purposes;

(C) disease or predation:

(D) the inadequacy of existing regulatory mechanisms; and

(E) other natural or man-made factors affecting its continued existence.

Endangered is defined as ''in danger of extinction throughout all or a significant portion of its range'' and threatened is defined as ''likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' It is our assessment of these five factors using the best scientific information available, including public comments received during the two public comment periods, that determines whether the cheetah should be reclassified as threatened (or even delisted).

What Are the Population Estimates and Population Trends for the Cheetah in Namibia?

The cheetah population worldwide has declined from an estimated 100,000 in 1900 to the current estimate of 12,000 (Marker-Kraus *et al.* 1996). Except for a population of fewer than 200 cheetahs in Iran, all wild cheetahs occur in Africa.

In the 1970s, the Namibian cheetah population was variously estimated to number from 1,500–3,000 (Myers 1975) to 6,252 (Joubert and Mostert 1975) individuals. This disparity in population estimates may have been caused in part by whether cubs were excluded from or included in the count.

During the 1980s, the Namibian cheetah population was estimated to have declined significantly (up to 50 percent by some estimates). Morsbach (1987) estimated the mid-1980s population to be between 2,000 and 3,000, on the basis of extrapolations from his field study of cheetah population density on a small number of Namibian farms (Nowell 1996). Population declines in the 1980s are thought to have been caused by several factors, but primarily (1) declines in natural prey populations brought about by drought and disease, and (2) increased killing of cheetahs by farmers in defense of livestock (Nowell 1996). For example, kudu (*Tragelaphus strepsiceros*) are a primary cheetah prey species, and 58 percent of the kudu population was lost by 1983 due to a rabies epidemic (Marker-Kraus *et al.* 1996). This reduction in natural prey created greater conflicts with landowners because of actual and/or perceived increases in cheetah predation on domestic livestock. From 1978 through 1995, 9,588 cheetahs were removed from the wild in Namibia according to the MET permit system (Nowell 1996). The actual number of cheetahs killed by farmers is believed to have been under-reported, potentially by as much as 50 to 70 percent (Nowell 1996). If the level of under-reporting was 50 percent, then upwards of 14,000 cheetahs may have been killed from 1978 through 1995 (Nowell 1996). Reported removals were greater in 1978 through 1985 (annual average of 827 cheetahs) than in 1986 through 1995 (annual average of 297 cheetahs) (Nowell 1996).

The current population estimate for cheetah in Namibia is between 2,000 and 3,000 adults and subadults (Nowell 1996, Seal *et al.* 1997). This estimate is based on four studies in addition to Morsbach's previously cited field study of cheetah populations: (1) A nationwide farm survey conducted in 1992 by the MET; (2) a separate farm survey conducted by the Cheetah Conservation Fund (Marker-Kraus *et al.* 1996); (3) an analysis of cheetah sightings in Etosha National Park in 1992 through 1994 (Nowell *et al.* 1994); and (4) a transect survey of cheetah spoor in eastern Bushmanland (Stander *et al.* 1996).

What Information Was Provided by Those Who Commented in 1996?

We received 19 responses to our first request for public comment on the cheetah petition. Most of those were from organizations, and in some instances, groups made more than one submission. Those organizations that sent comments favoring reclassification included the IUCN/SSC Cat Specialist Group, Africa Resources Trust, Namibia Professional Hunting Association, and the American Zoo and Aquarium Association. Those organizations that opposed reclassification included the Humane Society of the United States, the Cheetah Conservation Fund, The Fund For Animals, and the National Museums of Scotland. We also received comments from cheetah conservation projects conducted by the Smithsonian Institution and the Zoological Society of London.

A central argument advanced by many of those favoring reclassification was that, by giving the cheetah value (*i.e.*, as a trophy animal), farmers on whose lands cheetahs naturally occur would become more tolerant of the cheetahs and more selective in killing them. The Service has typically been unable to make the necessary enhancement finding to allow the import of a sport-hunted trophies for a species listed as endangered, and taken from the wild under the Act. In contrast, import permits for sport-hunted trophies of species listed as threatened

under the Act are often issued for animals taken from the wild when it can be demonstrated that the range country has established a conservation program that meets enhancement as defined in Section 10 of the Act.

The Africa Resources Trust noted that competition for habitat with agricultural uses has contributed more to the decline of cheetahs than the trade in skins or the quest for sport-hunted trophies. The Namibia Professional Hunting Association emphasized this point with Namibian government records from 1980 to 1991; these records show that 190 cheetahs were taken by trophy hunters, 958 were live-captured, and 5,670 were shot by farmers. The Director of the Centre for Wildlife Management at the University of Pretoria favored the reclassification because it would support the game ranching industry in Namibia that has created more cheetah habitat. The American Zoo and Aquarium Association stated that the cheetah population had stabilized at about 2,500 adult animals.

Many of the submissions opposing the reclassification focused on the long-term decline of the species and the lack of scientific data on the current size of the population. The American Society of Mammalogists noted that data on cheetah numbers, distribution, and current harvest are needed to set biologically meaningful quotas, and data on sex and age ratios would also be necessary to predict population responses to different harvest levels. The Curator of Mammals and Birds of the National Museums of Scotland also questioned the reliability of the current population estimate. The Humane Society of the United States evaluated the proposal in terms of each of the Act's factors, but particularly pointed out that landholders have already become increasingly tolerant of cheetah without allowing importation of trophies by the United States.

Several commenters joined the Humane Society of the United States in noting that cheetahs are lacking in genetic variation and are, therefore, more vulnerable to disease. However, Peter Jackson, Chairman of the IUCN/SSC Cat Specialist Group, included in his comments information that field biologists working on cheetah had found no impact on genetic viability. Since the estimated initial population is greater than 1,000, the Population and Habitat Viability Assessment projected no additional effects due to inbreeding depression (Seal *et al.* 1997).

Paule Gros and Tim Caro, biologists who have studied cheetahs in the wild and have compared several methods of estimating carnivore densities, concluded that there is no biological evidence that the Namibian cheetah population is stable and secure. They stated that hunting of cheetahs could only be justified if there is some reliable measure of sustainable yield based on the total cheetah population estimated in the field. Chris Stuart, Director of the African-Arabia Wildlife Research Centre, while concurring with the population estimate of 2,500 to 3,000 animals, submitted that the population is not stable but had undergone considerable decline over the last 15 years. While giving no opinion on reclassification, Stuart concluded that putting a ''price-tag'' on the cheetah could improve its conservation standing, as had been his experience with leopards in South Africa.

The Fund for Animals questioned why considering reclassification of the cheetah is a priority within the May 16, 1996, Listing Priority Guidance (61 FR 24722) on allocation of resources for the endangered species listing process. The evaluation of the cheetah's status under the Act was stimulated by a formal petition requesting reclassification; the Act itself mandates a specific time frame for completing a review and evaluation of a petition. The notice of the 90-day petition finding and initiation of status review was published in the **Federal Register** on March 19, 1996, almost two months prior to publication of the listing guidance. The Office of Scientific Authority subsequently complied with the Listing Priority Guidance in assigning priority to the cheetah petition in relation to the Office's other pending actions to be carried out under section 4 of the Act.

What New Information Was Contributed by the Namibian Cheetah Conservation Strategy?

In conjunction with proposed changes in policy toward cheetahs in Namibia, Kristin Nowell of the IUCN/SSC Cat Specialist Group was retained by the Government of Namibia to draft the Namibian Cheetah Conservation Strategy (Strategy). The Strategy was submitted to the MET in 1996, and has subsequently become the working policy (Dr. P. Stander, pers. comm. with Office of Scientific Authority). While the Strategy addresses many of the Act's listing criteria, one of the most important contributions is a population model that was developed to assess what impact cheetah removals (by any means) would have on the population (Nowell 1996). The model, developed at the Etosha Ecological Institute in Namibia and referred to as the Erb model, suggests that in the early 1980s removal of up to 50 percent of males and 10 percent of females each year reduced the population from 3,700 adults and sub-adults in 1970 to about 2,000 in 1985. The model concluded that lower levels of cheetah removals in the 1990s have allowed the population to rebound to an estimated 2,500 in 1996.

The Strategy assumes that, because the cheetah has a higher reproductive rate than those of other big cats, the population should be resilient in rebounding from periods of high mortality and offtake (*i.e.*, removal of individuals from the population by any means, including killing by farmers because of actual or perceived predation on domestic livestock, called ''depredation offtake''). The Erb model projects that an annual offtake of 20 percent of adult males and 5 percent of adult females is biologically sustainable. The Strategy suggests that the MET, which has responsibility for management of the cheetah, establish a target for total removals at 200 per year, and consider stopping the issuance of permits if total removals approach 300 per year.

The Strategy suggests that the MET hire a Predator Coordinator to monitor total cheetah removals reported nationwide each year, as well as the sex and age of those animals. The annual removal data would be used to refine the cheetah population models that have been developed to date. Dr. Philip Stander subsequently was hired for the position of Large Carnivore Coordinator.

What New Information Was Contributed by the Population and Habitat Viability Assessment (PHVA)?

The workshop organized by the IUCN/SSC Conservation Breeding Specialist Group to provide a population and habitat viability assessment for the Namibian cheetah and lion was held in Otjiwarongo, Namibia, in 1996. We participated in that workshop. The viability of the Namibian cheetah population was modeled using the VORTEX population simulation program (Lacy 1993). The VORTEX model measures the likelihood of the cheetah population going extinct given particular population parameters and incorporating the stochastic (or random) factors that often drive small populations to extinction.

The VORTEX modeling exercise started with an approximation of current conditions, as follows. The total Namibian cheetah population was estimated to be 2,500 including cubs (this may be an underestimate of the total Namibian population; the Strategy, in contrast, uses a population estimate of 2,500 excluding cubs). The

proportion of adult females in the population was estimated at 27 percent, while the adult female mortality rate was estimated at 20 percent (10 percent natural mortality and 10 percent human-related offtake). With an initial population estimate of 2,500, the VORTEX model assumed no additional inbreeding depression that would reduce offspring viability. The model also assumed no immigration of cheetahs from Botswana. Given the aforementioned approximation of current conditions, the report concluded that the Namibian cheetah population could tolerate a human-related offtake of 60 to 70 adult females per year and maintain a stable population of around 2,500.

The modeling exercise then continued by evaluating factors that could affect population growth characteristics, specifically by varying the number, frequency, and severity of natural catastrophes (such as drought and disease outbreaks), varying adult mortality, varying the ratio of adult male-to-female mortality, varying the starting population size, and varying the carrying capacity. Factors that tended to cause the population to decline included adult female mortality greater than 30 percent per year and frequent natural catastrophes (*e.g.*, disease outbreaks, drought) resulting in over 50 percent mortality across age classes.

The Executive Summary of the VORTEX Modeling Workshop states that ''if the cheetah population continues to decline at the 4 to 7 percent annual rate experienced over the past 15 years, there is a 50 to 100 percent probability of extinction in the next 100 years.'' This estimate of population decline over the last 15 years would suggest that the population is still being overutilized.

What Additional Public Comments Did the Cheetah Conservation Strategy and the PHVA Stimulate?

We received 122 comments during the second comment period, from December 1997 to January 1998. Fifteen of those comments came from conservation and animal protection organizations such as The International Wildlife Coalition, Beauty without Cruelty, and the Animal Protection Institute. Of the comments of private individuals, 82 were from four groups and all of those opposed reclassifying the cheetah.

Olive D. Butler and Erin Boddicker joined 19 other private individuals in stating that there are no accurate, standardized methods for determining the cheetah population in Namibia. The Animal Protection Institute was among commenters stating that cheetah are inbred and, therefore, more vulnerable to disease. Irene Ballinger and 16 other commenters wrote that the cheetah was still in decline, with the population worldwide dropping more than 60 percent in the last 30 years. Leslie Ann Adams and 22 others stated that there are at present no accurate, standardized methods for determining how many cheetahs are killed each year, whether for depredation control, hunting, or other purposes. We concur that, until there is an established census for the cheetah, conducted over several years, any contention that the population is continuing to decline or has stabilized is conjecture.

Representative George Miller of the U.S. House of Representatives (D–CA) and ranking minority member of the Committee on Resources opened his letter by stating that any decision to reclassify a species must address whether the conditions that led to the listing have been removed. He points out that, while it is useful to encourage other countries to find innovative ways to conserve predators, we must base any decision not on the promise of such programs but evidence of their success.

The American Zoo and Aquarium Association wrote again during the second comment period, reversing their earlier support for reclassification because the provisions they had stipulated in their initial comments had not been met. While acknowledging the ''tremendous strides'' made by the Government of Namibia, they concluded that neither the annual census nor the conservation program funded in part by trophy fees were yet in place.

Kristin Nowell, a member of the IUCN/SSC Cat Specialist Group who participated in the PHVA workshop and drafted the Namibian Cheetah Conservation Strategy, commented that the conclusion in the Executive Summary of the VORTEX Modeling Workshop report on the extinction probability did not reflect the consensus of the workshop. Most of the scenarios that were run by the VORTEX model did not result in extinction within 100 years according to Nowell. She went on to express her view that Namibia has the world's best cheetah conservation program, and there is broad support for the reclassification within the country's conservation community.

Wildlife Biologist James Teer of the Welder Wildlife Foundation emphasized the point made most frequently in support of reclassification: it is the opportunistic, indiscriminate killing of cheetahs by farmers to protect livestock that represents the greatest threat to the species. Teer called for increasing field studies of cheetahs, as well as further genetic and disease work.

John J. Jackson III of Conservation Force wrote in support of the Namibian Cheetah Conservation Strategy. He stated that there was an error in the Executive Summary of the PHVA report, specifically that the population decline in the early 1980s had been reversed and the population had been stable for the last 15 years. Mr. Jackson pointed out that the PHVA workshop used 2,500 as the total cheetah population figure and interpolated the estimate for adults to 1,300, whereas the biologists in Namibia consider 2,500 to be the estimate excluding cubs. Finally, Jackson stated that the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) had approved a quota of cheetah trophies from Namibia, and the United States had not objected. Not allowing these trophies to be imported amounted to a trade sanction, according to Jackson, that would only work in the short term.

In response to Jackson's comments, we believe that there is no consensus on cheetah population trends over the past 15 years. We also believe that, in determining the status of any species, population trends must be evaluated over the long term. In the Namibian cheetah's case, long-term trends indicate a population decline. Furthermore, our decision on reclassification must be based on whether the species has recovered sufficiently so that it is no longer endangered by the five factors specified in the Act, rather than only if the species has ceased to decline within the past 15 years. We disagree that the endangered listing under the Act amounts to a trade sanction, noting that the Act constitutes a ''stricter domestic measure,'' which is specifically authorized in CITES. Whether cheetah trophies can be imported into the United States is not a factor in our decision on whether the species has recovered sufficiently to warrant reclassification under the Act. However, the Fish and Wildlife Service is now reviewing its current practice regarding import of foreign species to determine whether any new policy should be proposed.

Can the Cheetah Population of Namibia Be Considered a Distinct Population Segment Under the Act?

The cheetah in Namibia, *A. j. jubatus*, is a subspecies that occurs in four other African countries. It is not genetically isolated from populations in other countries, particularly Botswana. Nonetheless, the cheetah population of Namibia qualifies as a distinct

population segment because it meets the criteria for discreteness and significance in the Service's DPS Policy (61 FR 4722). One criterion for discreteness under the DPS Policy is: ''[The population] is delimited by international government boundaries within which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist * * *'' The Namibian cheetah population satisfies this criterion. The measures taken by the Government of Namibia, including the development of the Namibian Cheetah Conservation Strategy, are steps that indicate that the population will be managed differently than in the countries that border Namibia. The cheetah population of Namibia also satisfies the following criterion for significance: ''Evidence that loss of the discrete population segment would result in a significant gap in the range of a taxon.'' Clearly, the extinction of the Namibian cheetah population would represent a significant loss to the range of the cheetah in Africa.

After Assessing the Five Factors Specified by the Act, Should the Cheetah Population of Namibia Remain as Endangered or Does It Warrant Reclassification From Endangered to Threatened?

While acknowledging the great strides that have been made by the MET and cooperating groups, we cannot conclude that the cheetah population of Namibia has recovered or that the factors that caused the cheetah to become endangered have been reduced to the extent that the species warrants reclassification from endangered to threatened. Our assessment of the five factors specified in the Act is as follows.

A. Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

With regard to the first factor, there is agreement that at least 90 percent of cheetah habitat in Namibia is on privately owned farmlands (Marker-Kraus *et al.* 1996). Moreover, because of competition with other carnivores, there is little likelihood of public lands becoming a significant refuge for cheetahs (Caro 1994).

Because of the abundance of prey on game ranches and farms with domestic animals, the fact that most cheetah habitat is in private ownership does not constitute an inherent threat to the species. It is a threat if farmers shoot cheetahs indiscriminately, and the effort to substantially reduce these killings on private lands is the critical component of the current management program. Those efforts are not likely to be fully tested until drought or disease again take a significant portion of the cheetah's primary natural prey, and predation on domestic livestock increases, or is perceived to have increased, as a consequence.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

With regard to the second factor, we believe there is substantial evidence to indicate that overutilization, in the form of depredation offtake, contributed substantially to a decline of the Namibian cheetah population in the past three decades (especially from the late 1970s until the late 1980s or early 1990s). However, we cannot determine if overutilization is still occurring because the lack of reliable, long-term population estimates (*i.e.,* estimates obtained through standard survey methodology repeated at regular intervals over the past 30 years) for cheetah in Namibia make it impossible to determine whether the population has been increasing, decreasing, or stable over the past 30 years (but especially the past 10–15 years).

Both the Erb and VORTEX models have been used to derive estimates of offtake that would not drive the population to the point of extinction based on estimates of initial population size and other population parameters. Combining the MET figures for trophy and reported depredation offtake in Namibia, 125 cheetahs were killed in 1997 and 175 in 1998 (P. Stander, pers. comm. with OSA) in contrast to a yearly average of 568 for 1980 through 1991. The 1997 and 1998 totals fall within the sustainable offtake limits set by both models, assuming a 2:1 ratio of males to females in all kills, and assuming a current population of 2,500. However, these results cannot be used to conclude that overutilization is not occurring, because the accuracy of the current population estimate of 2,500 is debatable and the exact level of offtake is not known. The current population estimate should be expressed with a confidence interval (*i.e.,* 2,500 ± 500), as it is derived from an estimate of 2,000 to 3,000 cheetahs made over a decade ago by Morsbach (1997). Even with such a confidence interval, the accuracy of the estimate is still unknown. Recent depredation offtake, averaging 96 animals in 1997 and 1998, is consistent with a steady decline from a high of 850 in 1982. This decline could be attributed to a change in farmer attitudes but may also be a result of increased levels of under-reporting. Nowell (1996; page 28) has stated that ''* * * there are indications that under-reporting is becoming increasingly common.''

The MET has made the development of indirect survey methods and establishment of a population monitoring program its top priorities. It has acknowledged that mark-and-recapture methods have not been very successful, due to the difficulty of capturing the necessary number of cheetahs. Spoor counts have shown potential in the current monitoring program (Stander 1998). We strongly support the implementation of a standardized survey methodology and population monitoring program in Namibia. To that end we have made funds available to co-sponsor a workshop to help evaluate currently used methods and to help adopt a standardized survey strategy and population monitoring program for Namibian cheetahs that has widespread professional acceptance. Data from such a population monitoring program would be needed to determine whether the cheetah population in Namibia has recovered sufficiently to warrant reclassification.

C. Disease or Predation

With regard to disease and predation, it is known that cheetahs have died from feline infectious peritonitis (Brown *et al.* 1993) and anthrax (Jager *et al.* 1990). The low level of genetic variation in cheetahs as a result of historical and recent ''bottlenecks'' due to small population size heightens the concern about disease susceptibility (O'Brien *et al.* 1994). Moreover, outbreaks of foot and mouth disease and rabies had a major impact on natural prey populations in the 1980s, increasing the likelihood that cheetahs would prey on domestic livestock (Marker-Kraus *et al.* 1986) and thereby make them more susceptible to depredation offtake by farmers. In this way, disease has contributed to the overutilization of cheetah in Namibia and thus has been an indirect factor in their endangerment.

Predation on cheetah cubs by lions and hyenas has reduced cheetah numbers in protected areas such as Etosha National Park and elsewhere (Laurenson 1994, Caro 1994). We do not, however, consider this to be a factor contributing to their endangered status.

D. Inadequacy of Existing Regulatory Mechanisms

The fourth factor, the inadequacy of existing regulatory mechanisms, has been the area of greatest change in the last decade. While the cheetah has been classified as ''Protected Game'' in Namibia's Nature Conservation

Ordinance of 1975, and protected game cannot be hunted without a permit, there is an important exception for predators. Article 27.5 allows killing of protected game in protection of livestock ''whilst the life of such livestock, poultry or domestic animal is actually being threatened.'' It also states that anyone who kills a predator must report it in writing within 10 days to the nearest nature conservator or police office. In practice, cheetahs were killed by farmers as a precautionary measure, particularly in the 1980s when cheetahs were a major threat to livestock. Cheetah kills were seldom reported unless the skin was going to be kept. The Namibian Cheetah Conservation Strategy represents a change not in the law but in its application (Nowell 1996).

The cheetah's protected status also precludes trophy hunting, but the government decided to allow trophy hunting of cheetah and leopard due to the problems of predation on livestock, in the hope that increasing their value would reduce the overall number killed. This rationale was explained in a 1982 letter from the Namibian Secretary of the Department of Agriculture to our Office of Scientific Authority. The experiment in conservation hunting of cheetahs in Namibia has been taking place since 1983 and was supported in 1992 at the eighth meeting of the CITES Conference of the Parties (COP8). At COP8, Parties voted to retain the cheetah in Appendix I, but to allow an annual export quota for Namibia of 150 live animals and trophies as well as smaller export quotas for Zimbabwe (50) and Botswana (5).

In 1997, 49 cheetahs were exported (32 males and 17 females). In 1998, 59 cheetahs were tagged, but only 40 were exported (30 males and 10 females) (P. Stander, pers. comm. with OSA). Though significantly fewer cheetahs have been removed than allowed under the quota, we are unable, at present, to evaluate the effects of that removal as well as the depredation offtake on the population.

E. Other Natural or Man-made Factors Affecting its Continued Existence

With regard to other natural factors affecting the existence of the cheetah, drought has had a substantial impact on populations of the cheetah's natural prey. As with disease, this has increased the likelihood that cheetahs would prey on domestic livestock (Marker-Kraus *et al.* 1986), thereby making them more susceptible to depredation offtake by farmers.

The single most important man-made factor affecting the existence of the cheetah is the attitude of farmers with respect to the value of cheetahs relative to the threat they pose to domestic livestock. The Government of Namibia and non-government organizations have worked together to change public attitudes toward this predator. The decrease in the reported depredation offtake, as well as personal interviews with many of the people working in cheetah conservation in Namibia, suggest that attitudes are changing. This factor will become less of a significant issue as attitudes change sufficiently so that most cheetahs on farmlands are tolerated and only problem cheetahs are removed as trophies.

What Is Our Assessment of the Petition's Three Reasons To Reclassify the Cheetah From Threatened to Endangered?

The petition states three reasons why the petitioners believe that the cheetah population of Namibia qualifies for reclassification from endangered to threatened. We do not concur with any of these reasons, as explained in the following assessment.

A. Was the Original Listing of the Cheetah as Endangered Throughout Its Range in Error?

At the time the cheetah was originally considered for listing under the Act, we considered different levels of protection for different populations. It was ultimately decided that the species should be considered endangered throughout its range. Though some populations and subspecies, such as the Asian cheetah, were under greater immediate threat, there were substantial reasons for considering the entire species to be endangered in 1972. The worldwide decline in the last century of the cheetah from 100,000 to 12,000 and the restriction of its range from 44 to 29 countries (Marker-Kraus *et al.* 1996) support this classification. While the cheetah population in Namibia has remained larger than in almost all other African nations, there is evidence that this population has declined substantially as a result of reductions in prey populations and overutilization by people in the form of depredation offtake. We believe that such declines endanger the continued survival of cheetah in Namibia.

B. Has the Cheetah Population of Namibia Recovered to the Point It Is No Longer Endangered?

In order to reclassify the cheetah in Namibia from endangered to threatened, we must have information showing that the factors that led to its endangerment have been reduced sufficiently. That requirement must be met with data supporting the contention that the population is stable or increasing, and of sufficient size to withstand most natural catastrophes. We currently do not have such information for the cheetah population of Namibia. Such information would include reliable, long-term population estimates for the country, data on the demographics of the population, and better information on depredation offtake, and would be used with the existing data on trophy offtake and live capture.

C. Does the Endangered Status of the Cheetah Reduce Its Value to Namibian Farmers, Who Will Then Be More Likely To Kill the Animals Indiscriminately?

This reason is the core of the Namibian Government's effort to have the cheetah reclassified under the Act. Because it is estimated that 90 percent of the cheetahs in Namibia have their primary habitat on farmland, due in part to the density of other carnivores in protected areas, working out conservation measures with private landowners on farmlands is crucial to the long-term survival of the species in Namibia. We agree that cooperative conservation efforts with private landowners are vital to the recovery of the species, as we have seen with endangered and threatened predator species in the United States.

It is important to acknowledge the major effort undertaken by the Government of Namibia during the past decade in developing conservation measures to maintain a stable cheetah population. The MET has worked closely with local non-governmental organizations such as Africat and the Cheetah Conservation Fund to understand and sometimes change the attitudes of farmers toward cheetahs on their land. The MET has adopted a strategy for conserving the cheetah that foremost seeks to give the animals value and avoid having them shot as a precaution against assumed livestock or game predation. The decision in this Notice should not in any way be seen as a rejection of Namibia's conservation efforts, which we applaud. Rather, this decision is based on our evaluation of the five factors specified in the Act.

The MET has worked with the Namibia Professional Hunting Association (NAPHA), which has encouraged its members to sign compacts in which they ''agree to take reasonable steps to control the indiscriminate killing of cheetahs on their properties and to educate their employees, tenants and others living in the vicinity of their properties on the importance of the conservation of the cheetah.'' In November 1998, more than

190 properties comprising 1.5 million hectares were in compact lands. While this does not represent a large percentage of cheetah habitat in the country, more than 70 percent of the land where NAPHA members hunt is covered by compacts.

The second important development is the formation of farm conservancies under the 1996 amendments to the Nature Conservation Ordinance. Conservancies are groups of farms that join together for the purpose of conserving and utilizing wildlife. With the encouragement and participation of the MET, the conservancy movement has greatly expanded in the last few years. Cheetahs should benefit from the formation of conservancies in several ways. Because conservancies are groups of farms that comprise the ranges of game species, they should enhance the cheetah prey base. Also, because cheetahs have such large home ranges, population monitoring as well as identifying depredating individuals is likely to be more reliable at the conservancy level. Merging of the NAPHA compact scheme and the formation of farmland conservancies would also increase the potential benefits of cheetah sport hunting to a larger number of farmers.

The models developed both in conjunction with the PHVA and the Strategy are important steps toward determining what would constitute a stable cheetah population size with a low probability of extinction in the next 100 years. While several scientists submitting comments pointed out limitations with both models, the numbers in these reports have provided a first estimate of the level of offtake that would still sustain a healthy population. The models also point to the need for a monitoring program to provide an accurate estimate of the present population and its demographic composition.

The next significant development in cheetah conservation in the country is the Namibia Carnivore Monitoring Program. While it includes monitoring of other predators as well, it represents a recognition that the success of any conservation effort can only be determined with scientific measurement of cheetah abundance as well as natural mortality and offtake. The monitoring program establishes a priority of developing reliable survey and monitoring techniques within three years. Field personnel have been hired to carry out some of the initial work, and cooperating organizations have been enlisted to work on developing these methods as well. There has been an effort to calibrate the less intensive methods and to compare estimation methods across carnivore species. A determination to reclassify the cheetah under the Act depends critically on the success of the monitoring program.

Finally, one of the most important recent developments in cheetah conservation is the initiation of the Large Carnivore Management Forum. Having met more than 15 times over the past two years, the Forum has brought together all stakeholders in cheetah management in Namibia. The permanent members include Afrileo, Africat, the Conservancy Association of Namibia (formed among farmers to deal with free-ranging wildlife), the Cheetah Conservation Fund, MET, NAPHA, Namibia Agricultural Union, Namibian Game Sanctuary Association, Namibian Carnivore Monitoring Program, Namibian Nature Foundation, OKATUMBA Wildlife Research, and six veterinary clinics. Other groups with issues to bring to the forum are invited, as is the press. The Forum has been directly involved in developing the monitoring program. It also provides a place for discussion when there are conflicts among stakeholders.

In total, the programs undertaken by the Namibian Government in conjunction with interested non-governmental organizations constitute a conservation infrastructure that can contribute to the long-term survival of the species.

Does That Mean That Reclassification of the Cheetah Population of Namibia Will Occur Eventually?

A decision on reclassification can only be made when the threats identified as endangering the species have been reduced, and there is evidence of the species' recovery. Such evidence can only come from reliable estimates of the total population and the sources of annual offtake. Those data must support the contention that the population is stable or increasing, and of sufficient size to withstand most natural catastrophes. The MET is collecting data on the sources of cheetah offtake, and has begun establishing parameters for a census and monitoring program. It is possible that, after population monitoring has taken place for several years, we would have sufficient information to conclude that reclassification is warranted. We do not have that information today. If reliable means of population estimation are established, and those estimates show that the cheetah population is of sufficient size and has remained stable or increased for at least six consecutive years (*i.e.*, the time period during which four biennial or three triennial surveys would take place), then the Service could again consider the Namibian cheetah population for reclassification under the Act.

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Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: June 28, 2000.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 00–18692 Filed 7–27–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 071200B]

Gulf of Mexico Fishery Management Council; Public Hearings

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

ACTION: Notice of public hearings; request for comments.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene public hearings to receive comments on a Draft Fishery Management Plan for the Dolphin and Wahoo Fishery in the Atlantic, Caribbean, and Gulf of Mexico (draft Dolphin/Wahoo FMP).

DATES: The Council will accept written comments on the draft Dolphin/Wahoo FMP until final action is taken. The public hearings will be held in August. See **SUPPLEMENTARY INFORMATION** for specific dates and times of the public hearings.

ADDRESSES: Written comments should be sent to, and copies of the draft Dolphin/Wahoo FMP are available from, Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301, North, Suite 1000, Tampa, Florida 33619; telephone: 813–228–2815; fax: 813–769–4520. See **SUPPLEMENTARY INFORMATION** for specific hearing locations.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Leard, Senior Fishery Biologist, Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301, North, Suite 1000, Tampa, Florida 33619; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The intent of the draft Dolphin/Wahoo FMP is to provide a comprehensive management structure for dolphin and wahoo in the Atlantic, Gulf, and Caribbean exclusive economic zone (EEZ). The draft Dolphin/Wahoo FMP will take a precautionary approach to conserve and manage these fishery resources to maintain both optimum yield in the fishery and current allocations among user groups. The draft Dolphin/Wahoo FMP's first 10 proposed management actions, with options, contain measures that are applicable to the dolphin and wahoo stocks in the jurisdictions of the South Atlantic Fishery Management Council, the Caribbean Fishery Management Council, and the Gulf of Mexico Fishery Management Council. These actions include measures to define the management units; address dealer, vessel, and operator permits; establish data reporting requirements; estimate maximum sustainable yield, optimum yield, and establish overfishing/overfished criteria; and establish a framework procedure that would allow seasonal adjustments to the management structure. Other actions, with options, are separately applicable to each council's area of jurisdiction, and include actions that may be implemented through the framework procedure, (minimum size limits, bag limits, trip limits, and allocations, among others).

Time and Location for Public Hearings

Public hearings for the Dolphin/Wahoo FMP will be held at the following locations and dates from 7 p.m. to 10 p.m.

1. July 31, 2000, Port Aransas Community Center, 408 North Allister, Port Aransas, TX 78373; telephone: 361–749–4111.
2. August 1, 2000, Texas A&M, Auditorium, 200 Seawolf Parkway, Galveston, TX 77553; telephone: 409–740–4416.
3. August 7, 2000, New Orleans Airport Hilton, 901 Airline Drive, Kenner, LA 70062; telephone: 504–469–5000.
4. August 8, 2000, Mississippi Department of Marine Resources, 1141 Bayview Drive, Biloxi, MS 39530; telephone: 228–374–5000.
5. August 9, 2000, Orange Beach Community Center; 27235 Canal Road, Orange Beach, AL 36561; telephone: 334–981–6028.
6. August 10, 2000, National Marine Fisheries Service, 3500 Delwood Beach Road, Panama City, FL 32408; telephone: 850–234–6541.
7. August 14, 2000, City Hall Auditorium, 300 Municipal Drive, Madeira Beach, FL 33708; telephone: 727–391–9951.
8. August 15, 2000, Edison Community College, Corbin Auditorium, Room J–103, 8099 College Parkway, Fort Myers, FL 33919; telephone: 941–489–9412.
9. August 16, 2000, Pier House, 1 Duval Street, Key West, FL 33040; telephone: 305–296–4600.

The Council will also hear public testimony on the draft Dolphin/Wahoo FMP at the September 2000 Council meeting.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council office (see **ADDRESSES**) by July 24, 2000.

Dated: July 24, 2000.

Bruce Morehead,

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

[FR Doc. 00–19165 Filed 7–27–00; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register

Vol. 65, No. 146

Friday, July 28, 2000

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. DA–98–02]

United States Standards for Grades of Dry Whole Milk

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS) is soliciting comments on its proposal to change the United States Standards for Grades of Dry Whole Milk. AMS is proposing changes that would: (1) Lower the maximum bacterial estimate for U.S. Extra Grade from not more than 50,000 per gram to not more than 10,000 per gram and for U.S. Standard Grade from not more than 100,000 per gram to not more than 50,000 per gram, (2) reference the Food and Drug Administration's standards of identity for dry whole milk, (3) incorporate a maximum titratable acidity requirement for U.S. Extra Grade and U.S. Standard grade, (4) delete specific provisions for Dry Whole Milk produced by roller process, (5) include protein content as an optional test, (6) relocate information concerning the optional oxygen content determination and, (7) expand the test methods section to allow product evaluation using methods included in Standard Methods for the Examination of Dairy Products, in the Official Methods of Analysis of the Association of Official Analytical Chemists, and in standards developed by the International Dairy Federation. These changes are being proposed to strengthen the quality requirements of these standards to reflect improvements that have occurred in dry whole milk quality since the Standards were last reviewed. AMS is also proposing editorial changes to provide consistency with other dry milk standards. USDA grade standards are voluntary standards. Manufacturers of dairy products are free to choose whether or not to use these voluntary grade standards. USDA grade standards have been developed to identify the degree of quality in various dairy products. Quality in general refers to usefulness, desirability, and value of the product or its marketability as a commodity.

DATES: Comments must be submitted on or before September 26, 2000.

ADDRESSES: Written comments may be submitted to: Duane R. Spomer, Chief, Dairy Standardization Branch, Dairy Programs, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2746, South Building, Stop 0230, P.O. Box 96456, Washington, DC 20090–6456; faxed to (202) 720–2643; or, e-mailed to *Duane.Spomer@usda.gov*. Comments should reference the date and page number of this issue of the **Federal Register**. All comments received will be made available for public inspection at the above address during regular business hours. The current U.S. Standards for Grades of Dry Whole Milk, along with the proposed changes, are available either through the above address or by accessing, AMS Home Page on the Internet at *www.ams.usda.gov/dairy/stand.htm*.

FOR FURTHER INFORMATION CONTACT: Talari Jude, Dairy Products Marketing Specialist, Dairy Standardization Branch, USDA/AMS/Dairy Programs, Room 2746–S, P.O. Box 96456, Washington, DC 20090–6456; (202) 720–7473.

SUPPLEMENTARY INFORMATION: Section 203 (c) of the Agricultural Marketing Act of 1946, as amended, directs and authorizes the Secretary of Agriculture ''to develop and improve standards of quality, condition, quantity, grade, and packaging and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices * * *''. AMS is committed to carrying out this authority in a manner that facilitates the marketing of agricultural commodities and will make copies of official standards available upon request. The United States Standards for Grades of Dry Whole Milk no longer appear in the Code of Federal Regulations but are maintained by USDA/AMS/Dairy Programs.

When dry whole milk is officially graded, the USDA regulations (7 CFR part 58) governing the grading of manufactured or processed dairy products are used. These regulations require a charge for the grading service provided by USDA. The Agency believes this proposal would accurately identify quality characteristics in dry whole milk.

AMS is proposing to change the United States Standards for Grades of Dry Whole Milk using the procedures that appear in part 36 of title 7 of the Code of Federal Regulations (7 CFR part 36).

The current United States Standards for Grades of Dry Whole Milk have been in effect since May 13,1983. AMS initiated a review of this Standard and discussed possible changes with the dairy industry. The American Dairy Products Institute, a trade association representing the dry whole milk industry, provided specific suggestions, including a recommendation to lower the maximum bacterial estimate.

Proposed by the American Dairy Products Institute

The American Dairy Products Institute provided suggestions to:

- Lower the maximum bacterial estimate for U.S. Extra Grade from not more than 50,000 per gram to not more than 10,000 per gram;
- Lower the maximum bacterial estimate for U.S. Standard Grade from not more than 100,000 per gram to not more than 50,000 per gram; and
- Expand the definition of dry whole milk to specify optional ingredients that may be added to dry whole milk.

Proposed by Dairy Programs, Agricultural Marketing Service

AMS is proposing to:

- Lower the maximum bacterial content requirements as suggested by the American Dairy Products Institute;
- Reference the Food and Drug Administration's standards of identity for dry whole milk to provide for optional ingredients as suggested by the American Dairy Products Institute;
- Incorporate a maximum titratable acidity requirement for U.S. Extra Grade and U.S. Standard Grade;
- Delete specific provisions for dry whole milk produced by roller process;
- Include protein content as an optional test;
- Reference additional test methods that may be used to determine U.S. grade;

• Include provisions to report actual moisture which is moisture calculated on a residual or as is basis; and

• Make editorial changes that would provide consistency with other U.S. grade standards for dairy products.

This notice provides for a 60 day comment period for interested parties to comment on proposed revisions to the standards. The following is an outline of these changes.

BILLING CODE 3410–02–P

United States Standards for Grades of Dry Whole Milk[1]

Current Standard	Proposed	Discussion
Definitions	No change.	N/A.
Dry Whole Milk	No change.	N/A.
"Dry whole milk" made by the Spray process or Roller process is the product obtained by removal of water only from pasteurized milk which may have been homogenized.	"Dry whole milk" made by the Spray process is the product obtained by removal of water only from pasteurized milk which may have been homogenized.	We propose to delete the reference to the roller process since there is very little dry whole milk produced using the roller process.
	It contains not more than 5 percent by weight of moisture on a milk solids not fat basis and not less than 26 percent but less than 40 per cent by weight of milk fat. It shall conform to the applicable provisions of 21 CFR 131 "Milk and Cream" as issued by the Food and Drug Administration.	We propose to include moisture and fat percentages included in the Food and Drug Administration regulations concerning this product and to include a reference to the applicable Code of Federal Regulations.

[1]Compliance with these standards does not excuse failure to comply with the provisions of the Federal Food, Drug and Cosmetic Act.

Current Standard	Proposed	Discussion
Alternatively, dry whole milk may be obtained by blending fluid, condensed, or dried nonfat milk with liquid or dried cream or with fluid, condensed, or dried milk, as appropriate provided the resulting dry whole milk is equivalent in composition to that obtained by drying. It contains the lactose, milk proteins, milkfat, and milk minerals in the same relative proportions as the milk from which it was made. It may be optionally fortified with either Vitamins A or D or both.	No change.	N/A.
Milk	No change.	N/A.
The term "Milk", when used in this part, means milk produced by healthy cows and pasteurized at a temperature of 161^0 F. for 15 seconds or its equivalent in bacterial destruction before or during the manufacture of dry whole milk.	The term "Milk", when used in this part, means the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows, and pasteurized at a temperature of 161^0 F. for 15 seconds or its equivalent in bacterial destruction before or during the manufacture of dry whole milk.	We propose to update the definition using terminology found in the Food and Drug Administration definition of milk.
U.S. Grades	No change.	N/A.
Nomenclature of U.S. grades	No change.	N/A.

Current Standard	Proposed	Discussion
The nomenclature of U.S. grades is as follows:	No change.	N/A.
(a) U.S. Extra grade.	(a) U.S. Extra Grade.	We propose to use uppercase "G" in the word "Grade" to be consistent with other dry milk products standards.
(b) U.S. Standard grade.	(b) U.S. Standard Grade.	We propose to use uppercase "G" in the word "Grade" to be consistent with other dry milk products standards.
Basis for determination of U.S. grades.	No change.	N/A.
The U.S. grades of dry whole milk are determined on the basis of flavor, physical appearance, bacterial estimate, coliform estimate, direct microscopic count, milkfat content, moisture content, scorched particle content, and solubility index.	The U.S. grades of dry whole milk are determined on the basis of flavor, physical appearance, bacterial estimate, coliform count, milkfat content, moisture content, scorched particle content, solubility index and titratable acidity.	We propose to change coliform estimate to coliform count. We also propose to relocate the requirement for titratable acidity from the "Optional tests" section and include it as a required test for assignment of U.S. grade. Titratable acidity is a required test in U.S. grade standards for similar dry milk products and is useful in determining the quality of dry whole milk.

Current Standard	Proposed	Discussion
Specifications for U.S. grades.	No change.	N/A.
(a) U.S. Extra grade. U.S. Extra grade dry whole milk shall conform to the following requirements	(a) U.S. Extra Grade. U.S. Extra Grade dry whole milk shall conform to the following requirements:	We propose to use uppercase "G" in the word "Grade" to be consistent with other dry milk products standards.
(See tables I, II, III):	Delete.	We propose to delete the reference to tables I, II, and III from this section.
(1) Flavor. (applies to the reconstituted product). Shall be sweet, pleasing and desirable. It may possess a slight feed flavor; and a definite cooked flavor. It shall be free from undesirable flavors.	(1) Flavor. Reconstituted dry whole milk shall possess a sweet, pleasing and desirable flavor, free from undesirable flavors, but may possess a slight feed flavor and a definite cooked flavor. See Table I. Classification of Flavor of this section.	We propose to edit the language but not change the content of this section to provide consistency with other dry milk product standards and add a reference to Table I. Classification of Flavor.
(2) Physical Appearance. Shall be white or light cream color, free from lumps that do not break up under slight pressure, and practically free from visible dark particles. The reconstituted product shall be free from graininess.	(2) Physical Appearance. Dry whole milk shall possess a uniform white to light cream color. It shall be free from lumps, except those that readily break up with slight pressure, and be practically free from visible dark particles. The reconstituted product shall be free from graininess. See Table II. Classification of Physical Appearance of this section.	We propose to edit the language but not change the content of this section to provide consistency with other dry milk product standards and add a reference to Table II. Classification of Physical Appearance.

Current Standard	Proposed	Discussion
(3) Bacterial estimate. Not more than 50,000 per gram standard plate count.	(3) Not more than 10,000 per gram standard plate count. See Table III. Classification According to Laboratory Analysis of this section.	We propose to reduce the bacterial estimate from not more than 50,000 per gram to not more than 10,000 per gram to reflect improvements in the quality of dry whole milk currently produced. We also propose to add a reference to Table III. Classification According to Laboratory Analysis.
(4) Coliform estimate. Not more than 10 per gram.	(4) Coliform count. Not more than 10 per gram. See Table III. Classification According to Laboratory Analysis of this section.	We propose to change the word "estimate" to "count" to be consistent with terminology in other dairy products standards. We also propose to add a reference to Table III. Classification According to Laboratory Analysis.
(5) Milkfat content. Not less than 26.0%, but less than 40.0%.	(5) Milkfat content. Not less than 26.0%, but less than 40.0%. See Table III. Classification According to Laboratory Analysis of this section.	We propose to add a reference to Table III. Classification According to Laboratory Analysis.

Current Standard	Proposed	Discussion
(6) Moisture content. Not more than 4.5% (as determined by weight of moisture on a milk solids not fat basis).	(6) Moisture content. Not more than 4.5% (as determined by weight of moisture on a milk solids not fat basis). See Table III. Classification According to Laboratory Analysis of this section. The actual moisture will be calculated and the information will be included on the grading certificate.	We propose that the current requirement for moisture content as determined by the weight of moisture on a milk solids not fat basis remain unchanged but include information pertaining to actual moisture on the grading certificate. Actual moisture being that moisture calculated on a residual or as is basis without regard for milkfat content. We also propose to add a reference to Table III. Classification According to Laboratory Analysis.
(7) Scorched particle content. Not more than 15.0 mg. for spray process and 22.5 mg. for roller process.	(7) Scorched particle content. Not more than 15.0 mg. See Table III. Classification According to Laboratory Analysis of this section.	We propose to maintain the requirement for spray process dry whole milk and delete the special provisions for roller process dry whole milk. We also propose to add a reference to Table III. Classification According to Laboratory Analysis.
(8) Solubility Index. Not more than 1.0 ml. for spray process, and 15.0 ml. for roller process.	(8) Solubility Index. Not more than 1.0 ml. See Table III. Classification According to Laboratory Analysis of this section.	We propose to maintain the requirement for spray process dry whole milk and delete the special provisions for roller process dry whole milk. We also propose to add a reference to Table III. Classification According to Laboratory Analysis.

Current Standard	Proposed	Discussion
	(9) Titratable acidity. Not more than 0.15% (lactic acid). See Table III. Classification According to Laboratory Analysis of this section.	We propose to include the titratable acidity test as a required test for grade assignment. This test has been used as an optional test in the U.S. grade standard in the past, however, the results of this test can be useful in determining the quality of finished product. We also propose to add a reference to Table III. Classification According to Laboratory Analysis.
(b) U.S. Standard grade. U.S. Standard grade dry whole milk shall conform to the following requirements	(b) U.S. Standard Grade. U.S. Standard Grade dry whole milk shall conform to the following requirements:	We propose to use uppercase "G" in the word "Grade" to be consistent with other dry milk products standards.
(See tables I, II, and III):	Delete.	We propose to delete the reference to tables I, II, and III from this section.
(1) Flavor. (applies to the reconstituted product). Shall be sweet and should have a pleasing flavor. It may possess the following flavors to a slight degree: bitter, oxidized, scorched, stale, and storage; and to a definite degree: feed and cooked. It shall be free from undesirable flavors.	(1) Flavor. Reconstituted dry whole milk shall possess a sweet and pleasing flavor, but may possess the following flavors to a slight degree: bitter, oxidized, scorched, stale, and storage; and to a definite degree: cooked and feed. See Table I of this section.	We propose to include wording "Reconstituted dry whole milk" to describe dry whole milk in its reconstituted form and edit the language but not change the content of this section. We also propose to add a reference to Table I. Classification of Flavor.

Current Standard	Proposed	Discussion
(2) Physical appearance. Should be white or light cream color, but may possess a slight unnatural color; and shall be free from lumps that do not break up under moderate pressure; and reasonably free from visible dark particles. The reconstituted product shall be reasonably free from graininess.	(2) Physical appearance. Dry whole milk should be white or light cream color, but may possess a slight unnatural color; and shall be free from lumps that break up readily under moderate pressure; and reasonably free from visible dark particles. The reconstituted product shall be reasonably free from graininess. See Table II of this section.	We propose to edit the language but not change the content of this section to provide consistency with other dry milk product standards and add a reference to Table II. Classification of Physical Appearance.
(3) Bacterial estimate. Not more than 100,000 per gram standard plate count.	(3) Bacterial estimate. Not more than 50,000 per gram standard plate count. See Table III. Classification According to Laboratory Analysis of this section.	We propose to reduce the bacteria estimate from not more than 100,000 per gram to not more than 50,000 per gram to reflect improvements in the quality of dry whole milk currently produced. We also propose to add a reference to Table III. Classification According to Laboratory Analysis.
(4) Coliform estimate. Not more than 10 per gram.	(4) Coliform count. Not more than 10 per gram. See Table III. Classification According to Laboratory Analysis of this section.	We propose to change the word "estimate" to "count" to be consistent with termonology in other dairy product standards. We also propose to add a reference to Table III. Classification According to Laboratory Analysis.
(5) Milkfat content. Not less than 26.0% but less than 40.0%.	(5) Milkfat content. Not less than 26.0% but less than 40.0%. See Table III. Classification According to Laboratory Analysis of this section.	We propose to add a reference to Table III. Classification According to Laboratory Analysis.

Current Standard	Proposed	Discussion
(6) Moisture content. Not more than 5.0% (as determined by weight of moisture on a milk solids not fat basis).	(6) Moisture content. Not more than 5.0% (as determined by weight of moisture on a milk solids not fat basis). See Table III. Classification According to Laboratory Analysis of this section. The actual moisture will be calculated and the information will be included on the grading certificate.	We propose that the current requirement for moisture content as determined by the weight of moisture on a milk solids not fat basis remain unchanged but include information pertaining to actual moisture on the grading certificate. Actual moisture being that moisture calculated on a residual or as is basis without regard for milkfat content. We propose to add a reference to Table III. Classification According to Laboratory Analysis.
(7) Scorched particle content. Not more than 22.5 mg. for spray process and 32.5 mg. for roller process	(7) Scorched particle content. Not more than 22.5 mg. See Table III. Classification According to Laboratory Analysis of this section.	We propose to maintain the requirement for spray process dry whole milk and delete the special provisions for roller process dry whole milk. We also propose to add a reference to Table III. Classification According to Laboratory Analysis.
(8) Solubility index. Not more than 1.5 ml. for spray process, and 15.0 ml. for roller process.	(8) Solubility Index. Not more than 1.5 ml. See Table III. Classification According to Laboratory Analysis of this section.	We propose to maintain the requirement for spray process dry whole milk and delete the special provisions for roller process dry whole milk. We also propose to add a reference to Table III. Classification According to Laboratory Analysis.

Current Standard	Proposed	Discussion
	(9) Titratable acidity. Not more than 0.17% (lactic acid). See Table III. Classification According to Laboratory Analysis of this section.	We propose to include the titratable acidity test as required test for grade assignment. This test has been used as an optional test in the U.S. grade standard in the past, however, the results of this test can be useful in determining the quality of the finished product. We propose to add a reference to Table III. Classification According to Laboratory Analysis.
Basis for oxygen content determination.	Delete.	We propose to relocate oxygen content determination from this section and include it in the optional tests section.
Oxygen content (if gas packed) is not a U.S. grade requirement. Percentage of oxygen content will be made available only on a U.S. graded product and the results will be shown on the grading certificate as follows:	Delete	We propose to relocate oxygen content determination from this section, modify its content, and include it in the optional tests section.

Current Standard	Proposed	Discussion
Oxygen Content Not more than 2% Oxygen, or Not more than 3% Oxygen, or Oxygen content _____%	Delete	We propose to relocate oxygen content determination from this section and include it in the optional tests section.

Table I. Classification of Flavor

	U.S. extra grade	U.S. standard Grade
Identification of Flavor characteristics		
Cooked	Definite	Definite
Feed	Slight	Definite
Bitter	–	Slight
Oxidized	–	Slight
Scorched	–	Slight
Stale	–	Slight
Storage	–	Slight

Table I. Classification of Flavor

	U.S. Extra Grade	U.S. Standard Grade
Flavor characteristics		
Cooked	Definite	Definite
Feed	Slight	Definite
Bitter	–	Slight
Oxidized	–	Slight
Scorched	–	Slight
Stale	–	Slight
Storage	–	Slight

We propose to use uppercase "E" in the word "Extra" and uppercase "G" in the word "Grade". We also propose to edit the language but not the content of this table to provide consistency with other dry milk product standards.

Table II. Classification of Physical Appearance

	U.S. extra grade	U.S. standard grade
Identification of physical appearance characteristics		
Dry Product:		
Unnatural color	None	Slight
Lumps	Slight pressure	Moderate pressure
Visible dark particles	Practically free	Reasonably free
Reconstituted Product:		
Grainy	Free	Reasonably free

Table II. Classification of Physical Appearance

	U.S. Extra Grade	U.S. Standard Grade
Physical appearance characteristics		
Dry Product:		
Unnatural color	None	Slight
Lumps	Slight pressure	Moderate pressure
Visible dark particles	Practically free	Reasonably free
Reconstituted Product:		
Grainy	Free	Reasonably free

We propose to use uppercase "E" in the word "Extra" and uppercase "G" in the word "Grade". We also propose to edit the language but not the content of this table to provide consistency with other dry milk product standards.

Current Standard

Table III. Classification According to Laboratory Analysis

Laboratory tests	U.S. extra grade	U.S. standard grade
Bacterial estimate; SPC/gram (max)	50,000	100,000
Coliform count; per gram (max)	10	10
Milkfat content; percent	Not less than 26.0, but less than 40.0	Not less than 26.0, but less than 40.0
Moisture content; Percent[2] (max)	4.5	5.0
Scorched particle content; mg.		
Spray process	15.0	22.5
Roller process	22.5	32.5
Solubility index, ml.		
Spray process	1.0	1.5
Roller process	15.0	15.0

[2]Milk solids not fat basis

Proposed

Table III. Classification According to Laboratory Analysis

Laboratory tests	U.S. Extra Grade	U.S. Standard Grade
Bacterial estimate; SPC/gram (max)	10,000	50,000
Coliform count; per gram (max)	10	10
Milkfat content; percent	Not less than 26.0, but less than 40.0	Not less than 26.0, but less than 40.0
Moisture content; Percent[2] (max)	4.5	5.0
Scorched particle content; mg. (max)	15.0	22.5
Solubility index, ml. (max)	1.0	1.5

Discussion

We propose to use uppercase "E" in the word "Extra" and uppercase "G" in the word "Grade" to be consistent with other dry milk product standards. We propose to reduce the bacterial estimate for both U.S. Extra Grade and U.S. Standard Grade dry whole milk to reflect changes proposed in this document. We also propose to eliminate provisions for roller process dry whole milk to reflect changes proposed in this document.

Current Standard	Proposed	Discussion
Optional tests.	No change.	N/A.
There are certain optional test requirements in addition to those specified in section, §58.2705. Testing for these requirements may be done occasionally at the option of the Department and will be done whenever they are requested by an interested party. These optional requirements are as follows:	There are certain optional requirements in addition to those required for U.S. Grade assignment. Tests for these requirements may be done occasionally at the option of the Department and will be done whenever they are requested by an interested party. These optional requirements are as follows:	When U.S. Grade Standards were removed from the Code of Federal Regulations, it was no longer appropriate to reference particular sections of the Code. We propose to modify this sentence accordingly.
(a) Copper content. Not more than 1.5 p.p.m.	Delete	We propose to delete the optional test for copper.
(b) Iron content. Not more than 10 p.p.m.	Delete	We propose to delete the optional test for iron.
(c) Titratable acidity. Not more than 0.15 percent	Delete	We propose to relocate the requirement for titratable acidity from the "Optional tests"section and include it as a required test for assignment of U.S. grade. Titratable acidity is a required test for similar dry milk products and is useful in determining the quality of dry whole milk.

Current Standard	Proposed	Discussion
(d) Vitamin addition.	(a) Vitamin addition.	We propose an editorial change to reletter Vitamin addition.
When either or both Vitamin A or D is added, they shall be present in such quantity that, when prepared according to label directions, each quart of the reconstituted product shall contain: Vitamin A. Not less than 2,000 I.U. Vitamin D. 400 I.U.	No change.	N/A.
	(b) Oxygen content. Oxygen content (if gas packed) is not a U.S. grade requirement. Percentage of oxygen will be shown on the grading certificates as follows:	We propose to delete the provisions limiting the determination of oxygen content to USDA graded product only and relocate Oxygen content provisions to the optional test section.
	Oxygen Content Not more than 2% Oxygen, or Not more than 3% Oxygen, or Oxygen content _____%.	We propose to relocate Oxygen content provisions to the optional test section.

Current Standard	Proposed	Discussion
	(c) Protein content. Protein content is not a U.S. grade requirement. Percentage of protein will be shown on the grading certificates as follows:	We propose to include protein content provisions in the optional tests.
	Protein Content Protein content _____%.	We propose to include protein content provisions in the optional tests.
U.S. grades not assignable.	No change.	N/A.
Dry whole milk shall not be assigned a U.S. grade for one or more of the following reasons:	No change.	N/A.
(a) Fails to meet the requirements for U.S. Standard Grade.	(a) The dry whole milk fails to meet the requirements for U.S. Standard Grade.	We propose editorial changes to provide consistency with other dairy product standards.
(b) Has a direct microscopic clump count exceeding 100 million per gram.	(b) The dry whole milk has a direct microscopic clump count exceeding 100 million per gram.	We propose editorial changes to provide consistency with other dairy product standards.
(c) Fails to meet the requirements for any optional tests as specified in Section 58.2707, when such tests have been performed.	(c) The dry whole milk fails to meet the requirements of any optional tests when test have been made.	We propose editorial changes to provide consistency with other dairy product standards.

Current Standard	Proposed	Discussion
(d) Produced in a plant, found on inspection to be using unsatisfactory manufacturing practices, equipment, or facilities, or to be operating under unsanitary plant conditions.	(d) The dry whole milk produced in a plant found on inspection to be using unsatisfactory manufacturing practices, equipment, or facilities, or to be operating under unsanitary plant conditions.	We propose editorial changes to provide consistency with other dairy product standards.
(e) Produced in a plant which is not USDA approved.	Delete	We propose delete this item because requirement contained in 7CFR Part 58, Subpart A, sufficiently addresses this issue.
Test Methods.	No change.	N/A.
All required tests, and optional tests when specified, shall be performed in accordance with	No change.	N/A.
(a) "All required tests, and optional tests when specified, shall be performed in accordance with Methods of Laboratory Analysis", DA Instruction No. 918-103 (dry milk products series), Dairy Grading Branch, AMS, U.S. Department of Agriculture, Washington, DC 20250; and "Official Methods of Analysis of the Association of Analytical Chemists", 13th Ed. or latest revision.	(a) Scorched particle content and solubility index shall be determined by the methods contained in the latest revision of 918-RL, Laboratory Methods and Procedures, USDA/AMS/ Dairy Programs, Dairy Grading Branch, Room 2746-S, 14th and Independence Ave. S.W. Washington, DC 20250-0230.	We propose to limit the use of USDA specific test methods contained in 918-RL to the evaluation of scorched particle content and solubility index only. This is necessary because a test method for scorched particles and solubility are not provided by the Association of Official Analytical Chemists, the Standard Methods for the Examination of Dairy Products, or the International Dairy Federation.

Current Standard	Proposed	Discussion
	(b) All other tests shall be performed by the methods contained in the latest edition of the "Official Methods of Analysis of the Association of Official Analytical Chemists", published by the Association of Official Analytical Chemists International, 481 North Frederick Avenue, Suite 500, Gaithersburg, MD 20877-2504; by the methods provided in the latest edition of the "Standard Methods for the Examination of Dairy Products", available from the American Public Health Association, 1015 Fifteenth Street NW, Washington, DC 20005, or by methods published by the International Dairy Federation, available from the International Dairy Federation, 41 Square Vergate, B-1030 Brussels, Belgium.	We also propose to identify three sources of test methods that can be used to analyze dry whole milk for determination of U.S. grade. Reference to these sources will eliminate the need for USDA to maintain a separate document to provide this test method information.
Explanation of Terms.	No change.	N/A.
(a) With respect to flavor:	No change.	N/A.
(1) Slight. An attribute which is barely identifiable and present only to a small degree.	(1) Sight. Detectable only upon critical examination.	We propose to change the wording to provide consistency with other U.S. grade standards for dry milk products.
(2) Definite. An attribute which is readily identifiable and present to a substantial degree.	(2) Definite. Not intense but detectable.	We propose to change the wording to provide consistency with other U.S. grade standards for dry milk products.

Current Standard	Proposed	Discussion
(3) Undesirable. Those flavors in excess of the intensity permitted or those flavors not otherwise listed.	No change.	NA
(4) Bitter. Similar to taste of quinine and produces puckery sensation.	(4) Bitter. Distasteful, similar to taste of quinine.	We propose to change the wording to provide consistency with other U.S. grade standards for dry milk products.
(5) Cooked. Similar to a custard flavor and imparts a smooth aftertaste.	No change.	N/A.
(6) Feed. Feed flavors (such as alfalfa, sweet-clover, silage, or similar feed) in milk carried through into the dry whole milk.	No change.	
(7) Oxidized. A flavor resembling cardboard and sometimes referred to as "cappy" or "tallowy".	No change.	N/A.
(8) Scorched. A more intensified flavor than "cooked" and imparts a burnt aftertaste.	No change.	N/A.
(9) Stale or Storage. Lacking in freshness and imparting a "rough" or "harsh" aftertaste.	No change.	N/A.
(10) Sweet. The lack of detectable acidity.	No change.	N/A.

Current Standard	Proposed	Discussion
(b) With respect to physical appearance:	No change.	N/A.
(1) Practically free. Is barely identifiable upon examination and present to a very small degree.	(1) Practically free. Present only upon very critical examination	We propose to change the wording to provide consistency with other U.S. Grade Standards for dry milk products.
(2) Reasonably free. Is easily identifiable upon examination and present to a small degree.	(2) Reasonably free. Present only upon critical examination.	We propose to change the wording to provide consistency with other U.S. Grade Standards for dry milk products.
(3) Slight pressure. Lumps fall apart with only light touch.	(3) Slight pressure. Only sufficient pressure to readily disintegrate the lumps.	We propose to change the wording to provide consistency with other U.S. Grade Standards for dry milk products.
(4) Moderate pressure. Only sufficient pressure to disintegrate the lumps readily.	(4) Moderate pressure. Only sufficient pressure to disintegrate the lumps easily.	We propose to change the wording to provide consistency with other U.S. Grade Standards for dry milk products.
(5) Grainy. Minute particles of undissolved powder appearing in a thin film on the surface of a glass or tumbler.	No change.	N/A.
(6) Unnatural color. A color that is more intense than light cram and/or is brownish, dull or grey-like.	(8) Unnatural color. A color that is more intense than light cream and/or is brownish, dull or grey-like.	We propose to renumber this term in order to alphabetize the listing of characteristics.
(7) Lumps. Loss of powdery consistency but not caked into hard chunks.	(6) Lumps. Loss of powdery consistency but not caked into hard chunks	We propose to renumber this term in order to alphabetize the listing of characteristics.

Current Standard	Proposed	Discussion
(8) Visible dark particles. The presence of scorched or discolored specks readily visible to the eye.	(9) Visible dark particles. The presence of scorched or discolored specks readily visible to the eye.	We propose to renumber this term in order to alphabetize the listing of characteristics.
	(7) Uniform color. Free from variations in shades or intensity of color.	We propose to include wording to define uniform color, and to provide consistency with other U.S. Grade Standards for dry milk products.

Authority: 7 U.S.C. 1621–1627.

Dated: July 21, 2000.

Kathleen A. Merrigan,

Administrator, Agricultural Marketing Service.

[FR Doc. 00–18987 Filed 7–27–00; 8:45 am]

BILLING CODE 3410–02–C

DEPARTMENT OF AGRICULTURE

Forest Service

McKean County, PA; Intent To Prepare Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice of intent.

SUMMARY: The Forest Service, Allegheny National Forest, Bradford Ranger District will prepare a Draft Environmental Impact Statement to disclose the environmental consequences of the proposed Lewis Run Project. The Forest Service is proposing to move from the existing condition towards the Desired Future Condition, as detailed in the Allegheny National Forest Land and Resource Management Plan.

Proposed activities to meet the Desired Future Condition are: (1) Regeneration harvest consisting of shelterwood/removal cuts, removal cuts, 2-age harvest, and salvage shelterwood/removal cut; (2) Intermediate harvest consisting of thinning and salvage; (3) Reforestation treatment consisting of herbicide application, site preparation, fertilization, and cleaning and weeding (non-commercial timber stand improvement); (4) Wildlife habitat improvement consisting of conifer/mast underplanting, commercial release, opening construction/seeding, apple trees pruning, planting in openings, non-commercial release, and enhancing vernal pond; (5) Transportation activities consisting of road reconstruction, closing roads and seeding, limestone surfacing, installing gates, and pit expansion.

DATES: Comments and suggestions concerning the scope of the analysis should be submitted (postmarked) by August 28, 2000 to ensure timely consideration.

ADDRESSES: Submit written, oral, or e-mail comments by: (1) mail—Lewis Run Project, ID Team Leader, Star Route 1 Box 88, Bradford, PA 16701; (2) phone—814–362–4613; (3) e-mail—anf/r9_allegheny@fs.fed.us (**Please note:** when commenting by e-mail be sure to list Lewis Run EIS in the subject line and include a US Postal Service address so we may add you to our mailing list).

FOR FURTHER INFORMATION CONTACT: Andrea Hille or Ruth Miller, Bradford Ranger District, at 814–362–4613.

SUPPLEMENTARY INFORMATION: The Allegheny Forest Plan provides for management of forest resources. Management objectives include producing a sustainable supply of high-quality sawtimber and wood products, developing and maintaining a wide array of wildlife habitats, and providing a range of recreation settings and experiences. Specific objectives are defined for each Management Area, and the Lewis Run Project is located entirely within Management Area 3.0, which emphasizes timber harvest as a means for making desired changes to forest vegetation and satisfying the public demand for wood products.

Preliminary Issues were developed based on past projects in the area (environmental assessments), issues developed for similar projects, and Forest Service concerns and opportunities identified in the Project Area. These issues are listed below:

1. Road Management—The Forest Service will complete a Roads Analysis, which includes evaluating all roads in the Project Area for effects to the ecosystem. The proposed action requires examining the road system to determine if the existing road system is adequate (or if improvements are needed), and if any roads need to be closed for resource protection or other reasons (*e.g.,* water quality, wildlife, or recreation opportunities).

2. Even-Aged/Uneven-Aged Management—The Forest Plan provides direction regarding the primary silvicultural system to be used in each management area; for Management Area 3.0 it is even-aged management. Uneven-aged management is an option considered for inclusions such as riparian areas, wet soils, or visually sensitive areas. A court decision (10/15/97) determined that the Forest should more fully explore the use of uneven-aged management techniques.

3. Threatened and Endangered Species—The Forest Service is mandated to protect all proposed, threatened, endangered and sensitive (PETS) species. Suitable Indiana and Northern long-eared bat habitat was sampled within the project area in 1999; although no bats were detected or captured, the project area is assumed to provide occupied habitat for both species. All treatments in the proposed action would adhere to terms and conditions set forth in the 6/1/99 Biological Opinion issued by the US Fish and Wildlife Service.

Commenting: A range of alternatives will be considered after public comments are received and analyzed. One of these will consider No Action for the Project Area. The Draft EIS is expected to be filed with the Environmental Protection Agency and available for public review by January 2001. At that time the Environmental Protection Agency will publish a Notice of Availability of the document in the **Federal Register** (this will begin the 45-day comment period on the Draft EIS). After the comment period ends on the Draft EIS, the comments will be analyzed and considered by the Forest Service in preparing the final environmental impact statement. The Final EIS is scheduled for release in June 2001.

Comments received, including names and addresses of those who comment, will be considered part of the public record and may be subject to public disclosure. Any person may request the Agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality.

The Forest Service believes it is important to give reviewers notice at this early stage of several court ruling related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions (*Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519 553 [1978]). Also, environmental objection that could be raised at the draft environmental impact statement state but that are not raised until after completion of the final environmental impact statement stage may be waived or dismissed by the courts (*City of Angoon* v. *Hodel*, 803 f.2nd 1016, 1022 [9th Cir. 1986] and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 [E.D. Wis. 1980]).

Because of the above rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments are made available to the Forest Service at a time when they can be meaningfully considered and responded to in the final environmental impact statement. Comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages, sections, 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 Council on Environmental Quality *Regulations for implementing the procedural provisions of the National Environmental Policy Act* at CFR 1503.3 in addressing these points.

This decision will be subject to appeal under 36 CFR 215. The responsible official is John R. Schultz, Bradford Ranger District, Star Route 1 Box 88, Bradford, PA 16701.

Dated: July 17, 2000.

John R. Schultz,

District Ranger.

[FR Doc. 00–18520 Filed 7–27–00; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Sixshooter Project, Boise National Forest, Valley County, Idaho

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to prepare an Environmental Impact Statement.

SUMMARY: The Emmett Ranger District of the Boise National Forest will prepare an environmental impact statement (EIS) for project in the Six Mile subswatershed, a tributary to the Middle Fork Payette River drainage. The project area is located about 70 road miles north of Boise, Idaho.

The Forest Service is seeking information and comments from Federal, State, tribal, and local agencies, as well as individuals and organizations who may be interested and/or affected by the proposed action. The agency invites written comments and suggestions on the issues related to the proposal and the area being analyzed. The information received will be used in preparing the draft and final EIS.

Proposed Action: Three objections have been identified for the project: (1) Reduce forest susceptibility to damaging insects and/or pests and to severe wildfire; (2) reduce management induced sediment in Six Mile and West Fork Creek by up to 9 percent over current levels; and (3) provide forest products (*i.e.,* commercial timber) that support local sawmills, employment opportunities, and economies.

The proposal action would treat, with timber harvest, about 9,000 acres, through ground-based (2,300 acres), skyline/cable (4,500 acres), or helicopter (2,000 acres) yarding systems. The proposed action would employ a variety of silvicultural systems. Silvicultural prescriptions for the proposed action are clearcut with reserve (32 acres), commercial thinning (3,474 acres), and shelterwood (5,469 acres).

The existing transportation system would be improved to facilitate the harvest operation and reduce sedimentation. Changing the existing transportation system would require 16 miles of road relocation, 15 miles of new road construction, reconstruction of over 30 miles of existing road by adding drainage structures and additional hard surfacing, relocating Six Mile road (No. 670) and closing over 30 miles of existing roads. The proposed haul route would be up West Fork Creek (No. 600) road and Six Mile Creek (No. 670) road to the 662 road and then out the 417B road to Highway 55. Portions of the following roads would be closed: 600C (3.2 miles), portions of 621, (1.4 miles), and portions of 670A, (2.9 miles). Portions of the 670 road would be relocated (5.3 miles). This change in the road system targets those areas that contribute the greatest amount of sediment delivery to the watershed. The motorized access to the following roads would be maintained during the snow free season: West Fork Creek 600, Six Mile-Round Valley 670, and Middle Fork Payette Ridge 662.

Preliminary Issues: None have been identified at this time.

Possible Alternatives to the Proposed Action: The following alternative to the proposed action has been discussed thus far and will be considered in the draft environmental impact statement: a no action alternative.

Decisions to be made: The Boise National Forest Supervisor will decide the following: (1) Should roads be constructed and reconstructed and timber harvested within the Sixshooter project area at this time; and if so, where within the project area, and how many miles of road should be constructed and/or reconstructed; and (2) should other roads be relocated and/or closed to meet watershed restoration objectives.

Public Involvement and Comments: Written comments concerning the proposed project should be postmarked within 30 days from the day after publication of this announcement in the **Federal Register**.

Comments received in response to this solicitation, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available to public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR 215 or 217. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that, under FOIA, confidentiality might be granted in only limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester the comments may be resubmitted with or without name and address within 10 days.

ADDRESSES: Comments should be addressed to Morris Huffman, District Ranger, Emmett Ranger District, 1805 Highway 16, Emmett, ID 83617.

FOR FURTHER INFORMATION CONTACT: Jeffery Clark, Project Team Leader, at the address above or by telephone at 208–365–7000.

Schedule: The draft EIS is anticipated to be available for public review and comment in November 2000; the final EIS is anticipated to be available in the spring of 2001.

SUPPLEMENTARY INFORMATION: The comment period on the draft EIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to giver reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of the draft EIS must structure their participation in the environmental review of the proposal so it is meaningful and alerts an agency to the reviewer's position and contentions, (*Vermont Yankee Nuclear Corp.* v. *NRDC*, 435 U.S. 519, 533 (1978)). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts, (*City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980)). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be 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 EIS 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.

Responsible Official: David D. Rittenhouse, Forest Supervisor, Boise National Forest is the responsible official, 1249 South Vinnell Way, Suite 200, Boise, Idaho 83709.

Dated: July 21, 2000.

David D. Rittenhouse,

Forest Supervisor.

[FR Doc. 00–19075 Filed 7–27–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Ray's Valley Road Realignment, Uinta National Forest, Utah County, Utah

AGENCY: Forest Service, USDA.

ACTION: Revision to 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. This is a revision to the Notice of Intent published in the **Federal Register** (Vol. 65, No. 104, pp. 34436–34437) on May 30, 2000.

DATES: Comments should be received in writing by August 30, 2000.

ADDRESSES: Comments should be mailed to Renee Flanagan, Ray's Valley EIS Team Leader, Uinta National Forest, 88 West 100 North, PO Box 1428, Provo, Utah 84601 or sent by e-mail to rflanagan@fs.fed.us.

SUPPLEMENTARY INFORMATION: A Notice of Intent for this project was originally published in the **Federal Register** (Volume 65, Number 104, pp. 34436 to 34437) on May 30, 2000. The May 20th NOI contained an error in the scoping dates. This Revision to the NOI provides for another scoping comment period, revises the anticipated completion dates for the Draft and Final environmental impact statements, and updates the name of the project leader and contact.

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 of 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 the majority of the existing Ray's Valley Road would be constructed on a new alignment and a small portion would be reconstructed on the existing alignment. The new alignment would be located on more stable soils, and away from streams and riparian areas. The abandoned portions of the existing alignment would be closed and rehabilitated. This proposal would result in approximately 3.6 miles of a double lane road with a crushed aggregate surface. 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 Revised Notice of Intent extends the scoping process. As part of the scoping period, the Forest Services 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 Forests ''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 viewed 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 considered and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying 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 environment 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—August 30, 2000; Draft EIS—December, 2000; Final EIS and Record of Decision—April 2001.

Responsible Official: Jack A. Blackwell, USDA Forest Service Intermountain Regional Forester, 324 25th Street, Ogden, Utah 84401.

For Further Information Contact: Renee Flanagan, (801) 342–5100 or at the address listed previously.

Dated: July 17, 2000.

Peter W. Karp,

Forest Supervisor.

[FR Doc. 00–19062 Filed 7–27–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Changes to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Ohio

AGENCY: Natural Resources Conservation Service (NRCS) in Ohio, Department of Agriculture.

ACTION: Notice of availability of proposed changes in Section IV of the FOTG of the NRCS in Ohio for review and comment.

SUMMARY: It is the intention of NRCS in Ohio to issue revised conservation practice standards in Section IV of the FOTG. The proposed standard revisions are Nutrient Management (Code 590) and Waste Utilization (Code 633). These practices may be used in conservation systems that involve ''Comprehensive Nutrient Management Plans''.

DATES: Comments will be received on or before August 28, 2000.

FOR FURTHER INFORMATION CONTACT: Inquire in writing to Paul DeArman, Assistant State Conservationist, Natural Resources Conservation Service (NRCS), 200 North High Street Room 522, Columbus, Ohio 43215. Copies of these standards will be made available upon written request. You may submit electronic requests and comments to *paul.dearman@oh.nrcs.usda.gov*

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after the enactment of the law to NRCS State technical guides used to carry out highly erodible land and wetland provisions of the law shall be made available for public review and comment. For the next 30 days the NRCS will receive comments relative to the proposed changes. Following that period a determination will be made by the NRCS regarding the disposition of those comments and a final determination of change will be made.

Dated: July 5, 2000.

J. Kevin Brown,

State Conservationist, Columbus, Ohio.

[FR Doc. 00–19056 Filed 7–27–00; 8:45 am]

BILLING CODE 3410–16–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled

ACTION: Additions to and Deletions from the Procurement List.

SUMMARY: This action adds to the Procurement List commodities and a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List commodities previously furnished by such agencies.

DATES: *Effective Date:* August 28, 2000.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot (703) 603–7740.

SUPPLEMENTARY INFORMATION: On June 9 and 16, 2000, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (65 FR 36663 and 37757) of proposed additions to and deletions from the Procurement List:

Additions

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and service and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and service to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and service.

3. The action will result in authorizing small entities to furnish the commodities and service to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and service proposed for addition to the Procurement List.

Accordingly, the following commodities and service are hereby added to the Procurement List:

Commodities

Logo, BDU Coat and Shirt
8455–00–NSH–0001 (Coat)
8455–00–NSH–0002 (Shirt)

Service

Janitorial/Custodial for the following locations:
Veterans Center #401, 1766 Fort Street, Lincoln Park, Michigan.
Veterans Center #402, 4161 Cass, Detroit, Michigan

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Deletion

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will not have a severe economic impact on future contractors for the commodities.

3. The action may result in authorizing small entities to furnish the commodities to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities deleted from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Accordingly, the following commodities are hereby deleted from the Procurement List:

Enamel
8010–00–079–3758
8010–00–079–3760

Louis R. Bartalot,

Deputy Director (Operations).

[FR Doc. 00–19161 Filed 7–27–00; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletion from procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List a commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete commodities previously furnished by such agencies.

DATES: Comments must be received on or before August 28, 2000.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot (703) 603–7740

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and services to the Government.

2. The action will result in authorizing small entities to furnish the commodity and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodity and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

Line, Multi-Loop
1670–01–062–6304
NPA: Industrial Opportunities, Inc., Marble, North Carolina.

Services

Grounds Maintenance, Base Housing, Marine Corps Air Station, Cherry Point, North Carolina.
NPA: CETC Employment Opportunities, Inc., New Bern, North Carolina.

Hearing/Grievance Examiner Services, The Corporation for National and Community Service, 1201 New York Avenue, NW, Washington, DC.
NPA: Federal Dispute Resolution Center, Alexandria, Virginia.

Parking Facility Attendant, VA Medical Center, 2215 Fuller Road, Ann Arbor, Michigan.
NPA: Washtenaw County Community Mental Health Board, Ann Arbor, Michigan.

Switchboard Operation, Harry S. Truman Memorial Veterans' Hospital, Columbia, Missouri.
NPA: Alphapointe Association for the Blind, Kansas City, Missouri.

Warehouse Operation, Department of Transportation, Ardmore East Business Center, 3341 Q 75th Avenue, Landover, Maryland.
NPA: Fairfax Opportunities Unlimited, Inc., Alexandria, Virginia.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will result in authorizing small entities to furnish the commodities to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for deletion from the Procurement List.

The following commodities have been proposed for deletion from the Procurement List:

Stepladder
5440–00–514–4483
5440–00–514–4485
5440–00–514–4487

Louis R. Bartalot,

Deputy Director (Operations).

[FR Doc. 00–19162 Filed 7–27–00; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–838]

Termination of Suspended Antidumping Duty Investigation on Honey From the People's Republic of China

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

ACTION: Notice of final results of five-year (''Sunset'') review, termination of suspended antidumping duty investigation on honey from the People's Republic of China.

SUMMARY: On July 3, 2000, the Department of Commerce (''the Department'') initiated a sunset review of the suspended antidumping duty investigation on honey from the People's Republic of China (''China''). Because no domestic party responded to the sunset review notice of initiation of the suspended antidumping duty investigation by the applicable deadline, the Department is terminating this suspended investigation.

EFFECTIVE DATE: August 16, 2000.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit or James P Maeder, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482–5050 or (202) 482–3330, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 16, 1995, the Department suspended the antidumping duty investigation on honey from China (60 FR 42521). Pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department initiated a sunset review of this suspended investigation by publishing notice of the initiation in the **Federal Register**, July 3, 2000 (65 FR 41054). In addition, as a courtesy to interested parties, the Department sent letters, via certified and registered mail, to each party listed on the Department's most current service list for this proceeding to inform them of the automatic initiation of the sunset review on this suspended investigation.

In the sunset review of the suspended antidumping investigation on honey from China, we received notice of intent to participate from the American Honey Producers Association and the American Beekeeping Federation, Inc. However, on July 21, 2000, each of these domestic interested parties withdrew their notice. Therefore, the Department has determined that no domestic interested party intends to participate in the sunset review of this suspended investigation.

Determination To Terminate

Pursuant to section 751(c)(3)(A) of the Act and § 351.218(d)(1)(iii)(B)(3) of the *Sunset Regulations* (19 CFR 351.218(d)(i)(iii)(B)(3)), if no domestic interested party responds to the notice of initiation, the Department shall issue a final determination, within 90 days after the initiation of the review, revoking the finding or order or terminating the suspended investigation. Because no domestic interested party responded to the notice of initiation by the applicable deadline, July 18, 2000, we are terminating this suspended antidumping investigation.

Effective Date of Termination

The termination of the suspended investigation is effective as to all entries, or withdrawals from warehouse of the subject merchandise on or after August 16, 2000.

Dated: July 24, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–19156 Filed 7–27–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–813 and A–560–802]

Certain Preserved Mushrooms From India and Indonesia: Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of extension of time limit for preliminary results of antidumping duty administrative review.

EFFECTIVE DATE: July 28, 2000.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Katherine Johnson, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4136 and (202) 482–4929 respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (''the Department's'') regulations are to 19 CFR part 351 (1999).

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order/finding for which a review is requested, and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 365 days and for the final determination to 180 days (or 300 days if the Department does not extend the time limit for the preliminary determination) from the date of publication of the preliminary determination.

Background

On March 30, 2000, the Department published a notice of initiation of

administrative reviews of the antidumping duty orders on Certain Preserved Mushrooms from India and Indonesia, covering the period August 5, 1998, through January 31, 2000 (65 FR 16875). The preliminary results for each review are currently due no later than October 31, 2000.

Extension of Time Limit for Preliminary Results

The Department has determined that it is not practicable to complete the Indian and Indonesian reviews within the time limit mandated by section 751(a)(3)(A) of the Act. Following initiation of these administrative reviews, we received allegations of sales below cost of production for certain respondents in both the India and Indonesia reviews. We have completed our analysis of the cost allegations and are in the process of conducting the cost investigations for these respondents, and of analyzing the cost of production and/or constructed value data submitted by the remaining respondents. In addition, we are conducting concurrently an administrative review and a new shipper review of the antidumping duty order on Certain Preserved Mushrooms from the People's Republic of China. Given the number of respondents involved in all of these reviews, the potential complexity of the issues, and the administrative constraints on the Department, we are unable to complete our preliminary analyses of the India and Indonesia reviews before the current deadline. Therefore, the Department is extending the time limit for the preliminary results in these two reviews to February 28, 2001. The Department intends to issue the final results of the reviews 120 days after the publication of the preliminary results. This extension of the time limit is in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2).

Dated: July 24, 2000.

Susan Kuhbach,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 00–19157 Filed 7–27–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

[Docket No. 000717210–0210–01]

RIN 0694–XX13

Summary of Secretarial Report Under Section 232 of the Trade Expansion Act of 1962, As Amended, on the Effect of Imports of Crude Oil on the National Security

AGENCY: Bureau of Export Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On March 24, 2000, President William J. Clinton reviewed and approved the Secretary of Commerce's finding that imports of crude oil threaten to impair the national security. The President determined that no action is necessary to adjust imports of petroleum under Section 232 of the Trade Expansion Act, as amended, because on balance the costs to the economy of an import adjustment outweigh the benefits and that existing policies to enhance conservation and limit the dependence on foreign oil be continued. Such policies include, *inter alia*, proposals for additional tax credits to promote renewable, more efficient energy sources and further investments in energy-saving technologies and alternative energy sources. Included herein is the Executive Summary of the Department's November 1999 report to the President.

ADDRESSES: Copies of the complete report may be requested from: Bureau of Export Administration, Office of Administration, U.S. Department of Commerce, Room 6883, 14th and Constitution Avenue, NW, Washington, DC 20230; (202) 482–0637. This component does not maintain a separate public inspection facility. Requesters should first view BXA's website (which can be reached through *http://www.bxa.doc.gov*). If requesters cannot access this, please call the number above for assistance.

FOR FURTHER INFORMATION CONTACT: Scott Hubinger, Senior Policy Analyst, Office of Nonproliferation Controls and Treaty Compliance, Bureau of Export Administration, U.S. Department of Commerce, (703) 605–4416.

SUPPLEMENTARY INFORMATION: On March 11, 1999, fifteen U.S. Senators, in a letter to the President, requested that he take immediate action to address the threat of increasing oil imports to our national security. Subsequently, on March 12, 1999, eleven U.S. Senators and a member of the House of Representatives, in two separate letters to the Secretary of Commerce, raised similar concerns and directly requested that he initiate an expedited review and investigation into the impact of low oil prices and ever increasing oil imports on the United States national security under the authority of Section 232 of the Trade Expansion Act of 1962, as amended.

On April 28, 1999, the Department of Commerce self-initiated an investigation under Section 232 of the Trade Expansion Act of 1962, as amended, to determine the effects on the national security of imports of crude oil and petroleum products. The investigation focused on two issues. One, are imports of oil and petroleum products threatening to impair the national security of the United States and two, if a positive finding can be found that imports of crude oil and petroleum products do threaten the national security, is a trade adjustment, as provided for under Section 232, the appropriate means to address the threat?

In conducting the investigation, the Department chaired an interagency working group that included the Departments of Energy, Interior, State, Treasury, and Defense, the Office of Management and Budget, and the Council of Economic Advisors. The Department and the interagency working group drew upon an extensive body of data and analyses on the current and prospective status of the domestic petroleum industry and the world oil market. The Department also utilized written comments solicited from and provided by interested parties in response to a **Federal Register** notice published on May 4, 1999. In view of the extensive amount of interagency and public comment information available to it, the Department determined that an industry survey or public hearing was not necessary.

On November 2, 1999, Secretary William Daley concluded his investigation and submitted a report to the President. While concluding that some improvements in U.S. energy security have occurred since previous investigations in 1988 and 1994, the Department found that petroleum imports continue to threaten to impair the national security. As in previous investigations, the Department did *not* recommend the adjustment of oil imports under Section 232 because the economic costs of such a move outweigh the benefits, but rather recommended continued efforts to achieve the policy goals set forth in the Department of Energy's April 1998 *Comprehensive National Energy Strategy.* The Executive Summary of the

Secretary's November 1999 report to the President entitled, the Effect on the National Security of Imports of Crude Oil and Refined Petroleum Products, is reproduced below.

Dated: July 18, 2000.

R. Roger Majak,

Assistant Secretary for Export Administration.

Executive Summary

Introduction

On March 11, 1999, Senators Domenici, Hutchinson, Inhofe, Nighthorse-Campbell, Roberts, Sessions, Crapo, Nickels, Murkowski, Craig, Burns, McConnell, DeWine, Brownback, and Bunning, in a letter to the President, requested that he take immediate action to address the threat of increasing oil imports to our national security. On March 12, 1999, Senators Bingaman, Breaux, Landrieu, Conrad, Enzi, Lincoln, Lott, Dorgan, Baucus, Murkowski, and Burns, in a letter to Secretary Daley, raised similar concerns and directly requested that the Department of Commerce initiate an expedited review and investigation into the impact of low oil prices and ever increasing oil imports on the United States national security under the authority of Section 232 of the Trade Expansion Act of 1962, as amended. Representative Istook made a similar request.

In their letter to Secretary Daley, the Senators quoted from a 1999 survey by the Independent Petroleum Association of America, which alleged that, since November of 1997, 193,000 marginal oil and gas wells have been shut down with a loss in oil production of 360,000 barrels per day. The Senators stated that 24,000 domestic jobs have already been lost in the oil industry and another 17,000 job cuts are expected. Finally, the Senators addressed the concern that low priced crude oil imports could lead to the permanent loss of a significant portion of the United States domestic oil production capacity and resource base.

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Under Section 232, The Department has 270 days from the date of initiation of an investigation to submit a report of findings and recommendations to the President. Based upon an initiation date of April 28, 1999, the Department has until January 29, 2000 to complete its investigation and submit its report to the President.

Methodology

The Department chaired an interagency working group that included the Departments of Energy, Interior, State, Treasury, and Defense, the Office of Management and Budget, and the Council of Economic Advisers. This report is based on a number of agreed-upon economic assumptions including, *inter alia,* crude oil price levels, U.S. crude oil reserves and production rates, economic growth rates, and inflation.

In determining whether petroleum imports threaten to impair the national security, the Department reviewed key factors from the 1994 investigation as a starting point to determine whether they improved or deteriorated. These factors include: (1) Domestic oil reserves; (2) Domestic oil production; (3) Exploration and industry employment; (4) Impact of low oil prices on the economy; (5) Current status of the domestic oil industry; (6) Oil import dependence; (7) Vulnerability to a supply disruption; (8) Foreign policy flexibility; (9) U.S. military requirements; (10) Status of OPEC; (11) Transparency of oil markets; (12); Breakup of the Soviet Union. The Department also reviewed new factors that have emerged since the 1994 investigation, including: (1) Temporary economic decline in East Asia; (2) Iraqi oil exports; and (3). Non-OPEC offshore drilling.

The Department made use of the extensive data and analyses that were already available regarding the current and prospective status of the domestic petroleum industry and the world oil market. In addition, the Department reviewed the Department of Energy's Comprehensive National Energy Strategy, which, issued in April 1998, outlines five major energy goals of the Administration. In view of this extensive body of available data, the Department determined that an industry survey was not necessary. The Department also drew upon the written comments solicited from and provided by interested parties in response to a **Federal Register** notice published on May 4, 1999.

Review of Key Factors From the 1994 Investigation

1. Domestic Oil Reserves

Since the 1994 investigation, U.S. proven crude oil reserves declined by an estimated 0.5 billion barrels from 23.0 billion barrels in 1993 to 22.5 billion barrels in 1998. The underlying physical reality is that the United States has already developed the bulk of its known and easily accessible low cost deposits and has decided against developing other geological prospects such as the Arctic National Wildlife Refuge and certain portions of the Outer Continental Shelf . The reserves base reflects the structural geological and geophysical reality, given present technology and economics.

2. Domestic Oil Production

The production outlook remains essentially the same as in the 1994 investigation. The United States is a high cost producer compared to other countries because it has already depleted its known low cost reserves. U.S. production of crude oil declined by 0.42 million barrels per day (MMB/D) between 1994 and 1998 (from 6.66 to 6.24 MMB/D) and fell below 6 MMB/D in early 1999. To offset this decline in production and increasing consumption, imports have increased dramatically since 1994, rising by 1.64 MMB/D (1998 basis).

3. Exploration and Industry Employment

The Department did find some change in U.S. drilling and in oil and gas industry employment between 1994 and early 1999. Levels of employment in the extraction industry varied from a high of 337,000 in 1994 and a low in 1995 of 320,000, but increased again to 339,000 in 1997 and 338,000 in early 1998. Industry commenters provided anecdotal information showing additional steep drops in employment and drilling activity during 1998 and early 1999 due to the oil price decline. In addition, Department of Labor statistics indicate a decrease in extraction industry employment starting in the last half of 1998 (falling from 325,000 to 308,000) and continuing into 1999 (229,000 in January and 291,000 in February). However, the total footage of exploratory drilling, the number of well completions, and the number of rotary rigs in use for oil and gas exploration increased between 1994 and 1998, albeit with significant variations from year to year.

Low oil prices are *not* the only reason for the long term historical decline in industry employment, exploratory

drilling, and well completions. U.S. companies are drilling less because they have made substantial gains in total productivity by employing new exploration and drilling technology and by focusing on the most promising geological sites based upon improved geological science and technology. In addition, the high cost of off-shore exploration and drilling, where most of the domestic exploratory activity is occurring today, strongly favors the development and use of advanced seismic mapping and analysis techniques in order to maximize drilling productivity. Companies are also continuing to realize productivity gains due to improvements in operations management.

4. Impact of Low Oil Prices on the Economy

The Department found that the economic consequences of low prices resulted in positive benefits to the U.S. economy. Because the United States is a net importer of oil, lower prices on balance helped the economy. The public benefitted from lower prices for transportation fuels and heating oil. For the economy as a whole, low oil prices contributed to a reduction in inflation, a rise in real disposable income, and an increase in the Gross Domestic Product.

5. Current Status of the Domestic Oil Industry

Low oil prices starting in November of 1997 and continuing through early 1999 exacerbated the chronic cost-price squeeze problems faced by independent producers who account for the largest share of lower 48 states oil production (40 percent). Consequences for the 7000 independents who operate in the U.S. include: assuming more debt; scaling-down exploration activities; reducing their work force of skilled labor; and shutting-in temporarily or abandoning certain oil and gas producing wells.

The impact of low oil prices is particularly hard on small producers operating stripper or marginal wells with an average production of 15 barrels per day or less. These wells, which represent over 300 million barrels of annual production, could be permanently lost during a sustained period of low oil prices and high operating costs.

The Department's efforts to analyze the impact of the 1998 price decline on the smaller producers was complicated by the commenters' failure to provide specific economic and technical information. Various commenters argued strongly for the U.S. Government to provide financial incentives to smaller producers, but no company or trade association submitted economic and financial data regarding levels of profitability and tax burden under various oil price scenarios. Nevertheless, the 1998 through early 1999 price drop, although temporary, did have a severe impact on marginal oil and gas wells and raised concerns about the ability of the United States to stabilize domestic oil production and to achieve its natural gas expansion goals. Since the November 1997 price collapse, 136,000 oil wells are believed to have been shut-in (non-producing), representing about 24 percent of all producing oil wells. In addition, 57,000 gas wells are believed to have been shut-in, about 19 percent of all gas wells. This data is based on anecdotal information provided by industry (Independent Petroleum Association of America). Note: About 20 percent of the U.S. gas supply (''associated gas'') is associated with oil production and is therefore also impacted by low oil prices.

6. Oil Import Dependence

The Department found that net U.S. imports have grown from 8.1 MMB/D in 1994 to 9.7 MMB/D in 1998 and currently account for 51 percent of domestic consumption compared to 45 percent in 1994. Imports from Persian Gulf countries, which increased from 1.7 MMB/D in 1994 to 2.1 MMB/D in 1998, currently account for 22 percent of all U.S. petroleum imports. The majority of U.S. imports, over 50 percent, are sourced from reliable Western Hemispheric countries such as Canada, Mexico, and Venezuela.

The Department found that the energy provisions of the recent trade agreements between the United States and Canada have enhanced U.S. energy security. Specifically, Article 605 of the North American Free Trade Agreement (NAFTA) provides a number of reciprocal benefits that provide for energy security in the event of a supply interruption. These mutual benefits include: (1) Each country will not impose restrictions on the delivery of energy and basic petrochemical supplies during a supply interruption; (2) any shortfall in supply will be shared equally among U.S. and Canadian markets based on historical percentages; (3) each party will not impose higher export prices than those charged domestically; and (4) there will not be a disruption of the prevailing proportion of energy goods supplied, such as, for example, between crude oil and refined products and among different categories of crude oil and refined products. This unprecedented energy cooperation provides significant security benefits for both nations, and clearly demonstrates that the United States and Canada are developing an integrated and secure North American energy market.

U.S. demand for imported oil is expected to continue growing because of declining production by high cost small producers, who account for the largest share of lower 48 states oil production, and continued economic growth. The Energy Information Administration of the U.S. Department of Energy (EIA/DOE) projects that, based on current forcasts, net imports should increase to 12.2 MMB/D by 2005 and account for approximately 58 percent of domestic consumption.

To the extent that the United States and other countries import more oil in the future, EIA/DOE projects that they will turn increasingly to OPEC countries located in the Persian Gulf which have the largest amount of known low cost reserves and excess production capacity. The OPEC producers in the Persian Gulf region, representing 42 percent of world crude oil exports in 1994, will account for approximately 49 percent by 2010.

7. Vulnerability to a Supply Disruption

The Department found that unresolved socio-political and economic issues in some Persian Gulf countries increase the probability of future supply disruptions in the Persian Gulf region. However, the Persian Gulf's largest producer, Saudi Arabia, has pursued oil policies, including diversification of export routes and maintenance of considerable excess production capacity, that serve to mitigate some of these risks. Disruptions are possible in other regions, but the risks to the United States and other importing countries are comparatively less severe given the magnitude of Persian Gulf production and because oil production facilities elsewhere are not as concentrated as they are in the Persian Gulf.

The capability of the United States and the OECD countries to offset a major oil supply disruption has not improved since 1994. The U.S. is still vulnerable because: (1) Most of the spare production capacity is still in the Persian Gulf region; (2) U.S. and OECD government oil stocks today provide less protection from an interruption than was the case in 1988 or 1994; and (3) There is currently no substitute for liquid transportation fuels which account for approximately two-thirds of all oil consumption in the United States. During a major oil supply disruption, there could be substantial economic austerity as a result of the decreased availability of oil. This, in turn, could pose a hardship for the U.S. economy.

8. Foreign Policy Flexibility

In both the 1988 and 1994 investigations, the Department found that the dependence of our allies and trading partners on potentially insecure sources of oil might affect their willingness to cooperate with the United States during a major supply disruption. Some of these concerns are mitigated by the participation of the United States in the International Energy Agency (IEA), which groups together 24 members of the Organization for Economic Cooperation and Development (OECD). The principle purpose of the IEA is to fashion a collective response to energy emergencies, which may include the coordinated release of the emergency oil stocks that all IEA members are required to maintain. However, increased market share forecasted for some OPEC countries, and some Persian Gulf States, over the next 20 years, could make cooperation by some oil consumers more difficult.

9. U.S. Military Requirements

The Department of Defense advises the Department that, under current planning scenarios, the United States will be able to meet both its direct and indirect military requirements for petroleum products in the event of two nearly simultaneous major regional conflicts or a major peacetime supply disruption.

10. Status of OPEC

Low world oil prices are only partially due to the fact that OPEC members have been unable, until very recently, to coordinate production levels among themselves. The urgent financial requirements of some OPEC members has led them to compete for revenue and market share even if this has meant accepting a lower per-unit price for their oil. However, by mid-1998, declining prices set in motion renewed OPEC efforts to reduce excess oil supplies. For the remaining months of 1998, announced and realized production cuts were not clearly synchronized, and efforts to reduce production had only modest success. More recently, OPEC members have been more effective at reducing world production to increase prices. Ten members of OPEC, excluding Iraq, pledged in March 1999 to cut production by 2.1 MMB/D. The compliance of these ten OPEC members with announced production cuts was about 89 percent in July 1999. Oil prices have steadily increased since then due to these production cuts and stronger overall worldwide demand. The Department of Energy's Energy Information Administration projects that the cost for imported oil (Refiner Acquisition Cost) will be $22.50 and $23.50 per barrel, respectively, for November and December of 1999 and average $21.85 per barrel in 2000.

11. Transparency of Oil Markets

The growth of the futures market into a full-fledged commodity market has made crude oil prices more transparent and less subject to manipulation by foreign governments or OPEC. Prices are now determined by the New York Mercantile Exchange (NYMEX), the International Petroleum Exchange (IPE), the Singapore Mercantile Exchange (SIMEX), and other commodity markets. The use of computerized trading, options, and forward contracts has connected crude oil and refined product markets and suppliers more closely than was the case in 1988 or 1994. However, commodity markets, like all markets, are subject to volatility and have the potential to react in ways which can harm U.S. oil production.

12. Breakup of the Soviet Union

The end of the Cold War and the breakup of the Soviet Union has reduced tensions around the world, including the Middle East. The advancement of the Middle East Peace Process has also contributed to a reduction of tensions in the region. Both of these developments have reduced the probability of a conventional war that could have jeopardized access to Middle East oil. In addition, oil production in the former Soviet Union, primarily in the Caspian Sea area, is expected to reach 7.6 MMB/D by 2005 and 13 MMB/D by 2020. Based on projected demand, the region could become a net exporter of oil at approximately 7.9 MMB/D by 2020. These additions to the world oil supply and as well as reduced tensions in the Persian Gulf region help to assure that there will be stable supplies of oil and reasonable oil prices into the future.

Review of New Factors Since the 1994 Investigation

The Department also evaluated several new factors which have or will significantly affect worldwide petroleum supply and demand since the 1994 investigation. Foremost among these factors are the following:

1. Economic Decline in East Asia

An economic crisis in East Asia started in the summer of 1997 and continued to deepen throughout 1998. This, in combination with the already weak economy in Japan, significantly reduced worldwide demand for crude oil and petroleum products. The economic decline in turn led to sharply reduced worldwide oil prices in 1998 and early 1999 and a significant oversupply of crude. These factors contributed to the decrease in U.S. production seen during the same time period.

2. Iraqi Oil Exports

As of August 1, 1999, the United Nations Security Council, within the framework of UN-imposed sanctions on Iraq (mandated by UNSCR 661, August 1990), has established the ''Oil-for-Food'' program ''as a temporary measure to provide for the humanitarian needs of the Iraqi people'' (UNSCR 986, April 1995). Thus, the United Nations Security Council, within the framework of UN-imposed sanctions on Iraq, allows, since February 1998, Iraq to export up to $5.256 billion worth of oil in a six month period, up from $2 billion per six month period prior to that date. Increased Iraqi oil exports, in total on the order of 2.0 MMB/D, were among the supply and demand variables which led to appreciably lower oil prices for much of 1998 and early 1999. However, the U.S. supports UN efforts to meet the identified humanitarian needs of the Iraqi people and neither the U.S. nor the UN attempt to influence world oil prices or markets via sanctions regimes.

3. Non-OPEC Offshore Drilling

Offshore oil exploration and production projects off the coasts of the United States, South America, Mexico, Eastern Canada, and Western Africa, and in the Gulf of Mexico, the Caspian Sea, and the South China Sea are expected to produce significant volumes of oil and natural gas early in the next century. Because drilling platforms are reserved so far in advance, most of the worldwide projects are proceeding on schedule even at relatively low oil prices. These increased sources, while harmful to U.S. domestic production to the extent that they increase world supplies and therefore possibly lower worldwide oil prices, increase U.S. energy security by broadening the mix of possible exporters beyond the control of individual countries or coalitions.

Conclusion

Since the previous Section 232 petroleum finding in 1994, there have been some improvements in U.S. energy security. The continued erosion of external threats to the Middle East and the continued increase in non-OPEC production have enhanced U.S. energy security. Additional discoveries of both inland and offshore oil reserves outside

of the Persian Gulf region have at least slowed OPEC's market share growth.

Lower oil prices on balance benefit the U.S. economy. However, reduced oil reserves, falling domestic production, and the relatively high cost of U.S. production all point toward a contraction in the U.S. oil extraction industry and increasing dependence on foreign imports. Growing import dependence, in turn, *increases* U.S. and OECD vulnerability to a supply disruption because non-OPEC non-Persian Gulf sources lack significant excess production capacity. Furthermore, there are at present no substitutes for oil-based transportation fuels.

Finding

The Department finds that petroleum imports threaten to impair the national security.

Recommendations

The Department does *not* recommend that the President use his authority under Section 232 to adjust oil imports. Ongoing programs and activities crafted by the Administration to improve U.S. energy security based upon other statutes and executive authorities are more appropriate and cost effective than an import adjustment.

Section 232 requires the Secretary of Commerce and the President to recognize the close relationship between the economic welfare of the Nation and U.S. national security. As energy security affects the economic welfare of the United States, energy security must be considered in determining the effects on the national security of petroleum imports.

The Department concurs with the conclusions of the 1994 and 1988 studies that, on balance, the costs to the national security of an oil import adjustment outweigh the potential benefits. For example, an oil import adjustment such as a tariff could result in the loss of a significant number of jobs in many non-petroleum sectors. This, in turn, would reduce real Gross Domestic Product (GDP). An import adjustment would also diminish the competitiveness of our energy-intensive export companies and strain relations with our close trading partners who would most likely seek relief under North America Free Trade Agreement (NAFTA) or World Trade Organization (WTO) rules.

The Clinton Administration recognizes the importance of U.S. energy security. Since 1993, it has pursued the energy policy of reliance on markets to allocate resources with selective government intervention to ensure that certain highly valued societal needs—including the need for energy security, environmental quality, and energy research—are met. The policy recognizes that no cost-effective government action could eliminate U.S. dependence on foreign oil entirely, but that the following supply enhancement, energy conservation, and critical research policies help to preserve our current oil and gas productive capacity and limit that dependence. Accordingly, the Department recommends continuing the policy goals set forth in the Department of Energy's April 1998 *Comprehensive National Energy Strategy* as described below.

Goal #1—Improve the efficiency of the national energy system by making the most productive use of energy resources, enhance overall economic performance, and protect the environment: The Administration is working to achieve a more productive and efficient use of energy resources, including electricity infrastructure, fossil fuel reserves, and productive capacity for clean alternative fuels. The twin goals of comprehensive electricity reform, as detailed in the Comprehensive Electricity Competition Act (CECA) submitted to Congress on April 15, 1999, and increasing energy efficiencies in the transportation, industrial, and housing sectors and in the generation and distribution of electric power maximize the productive use of energy through market competition and technological innovation. When implemented, these measures will result in a more productive and efficient use of energy and a decreased U.S. consumption of oil.

Goal #2—Prevent the disruption or decline of world energy supplies and protect the U.S. economy from the harmful effects of a short-term supply interruption or infrastructure failure: The Administration is continuing its strong emphasis on emergency preparedness efforts and the need to stabilize domestic oil production, including: arresting the decline in domestic oil production by 2005; maintaining the readiness of the Strategic Petroleum Reserve (SPR) to respond to threats of disruption in world oil supplies; making unutilized SPR storage capacity available for the mid-to long-term storage of commercial oil; coordinating responses to supply disruptions through continued cooperation with the member countries of the International Energy Agency (IEA); diversifying sources of oil by working with industry to increase the supplies of oil available to the world market; and ensuring the integrity of the oil and natural gas supply infrastructure with respect to emergency response capabilities.

Goal #3—Promote U.S. domestic energy production and use in ways that respect national health & environmental values and improve public health and local, regional, and global environments: The Administration has pursued a balanced program to increase domestic energy production in an environmentally responsible manner by: supporting policies to allow the annual domestic natural gas supply to increase by as much as 6 trillion cubic feet (2.9 MMB/D oil equivalent) by 2010; supporting research, design, and development to promote the use of advanced technologies to recover more oil and gas from existing reservoirs without environmental degradation; supporting the suspension, by the Department of the Interior, of production requirements for stripper wells producing less than 15 barrels per day on federal onshore lands when oil prices are extremely low (this suspension temporarily expired on July 26, 1999, when West Texas Intermediate (WTI) crude stayed above $15/bbl for 90 days); supporting the Petroleum Technology Transfer Council's ten regional centers and their December 1998 Industry Crisis Action Plan to teach independent operators strategies for improving cost efficiencies and identifying best practices; and accelerating the development and market adoption of environmentally friendly technologies through a combination of increased investments in research, development, and early deployment programs.

The combination of increased natural gas utilization, the increased use of renewable electrical technologies, the accelerated development of biomass liquids fuel technology, and the recovery of more oil and gas from existing reservoirs and the preservation of those reservoirs will collectively reduce oil consumption and limit our dependence on imported oil.

Goal #4—Expand future energy choices by pursuing continued progress in science and technology to provide future generations with a portfolio of clean and reasonably priced energy sources: Advances in science and technology are essential in terms of the United States achieving its economic, environmental and energy security objectives. Technological innovation can significantly decrease the domestic finding and development costs for natural gas and oil, thereby preserving and expanding the domestic resource base and improving the economics of extraction. These programs include: accelerating the advanced oil recovery

program; increased support for the natural gas supply program, especially for the new emerging resource program in methane hydrates; conducting basic research to provide the foundation for technological breakthroughs that are beneficial to energy development and environmental protection; and continued budgetary increases over current levels for technology partnerships with the private sector.

Goal #5—Cooperate internationally on global issues and develop the means to address global economic, security, and environmental concerns: The United States should continue its active and sustained participation in multilateral and regional forums as well as bilateral contacts with key suppliers, such as our NAFTA partners Canada and Mexico, Norway, Nigeria, Venezuela, Saudi Arabia, and other major oil producers. Achievement of this objective requires: promoting the development of open, competitive international energy markets through U.S. participation in multilateral groups such as the International Energy Agency, the Summit of the America's Hemispheric Energy Initiative, and the Asian Pacific Economic Council (APEC) energy working group; working with our reliable neighbors in Canada and Mexico to establish an efficient and integrated North American natural gas and electricity system; promoting the development of worldwide crude oil and natural gas transportation networks to move South American, Caspian Basin, and Central Asian oil and natural gas, for example, to world markets to further diversify world energy supplies; and emphasize free trade and the promotion of American exports to help develop the world's free market economy and prevent over reliance on any single region of the world.

Other Issues

Regulatory Reform

The Department of Commerce's Bureau of Export Administration (BXA) is in the process of reviewing its crude oil short supply regulations and identifying reforms that would allow U.S. firms to be on equal footing with their foreign competitors. BXA is reviewing a number of changes, including: (1) Creating a license exception to allow the export of crude oil to Canada and Mexico without an individual license; and (2) establishing a license exception to allow the export of California heavy crude oil sold, as part of bunker fuel oil mixtures, to foreign ships visiting U.S. ports. The interagency group recommends that BXA proceed expeditiously with its short supply reform package.

Industry Proposals

During the review, the Department received comments from oil companies and trade associations about several possible modifications to the Federal Tax Code that the commenters believe would provide support for the domestic oil industry. The Department did not evaluate these proposals as part of its Section 232 investigation. Instead, the Department recommends that the National Economic Council evaluate the industry proposals.

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DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Visiting Committee on Advanced Technology

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Request for nominations of members to serve on the Visiting committee on Advanced Technology.

SUMMARY: NIST invites and requests nomination of individuals for appointment to the Visiting Committee on Advanced Technology (VCAT). The terms of some of the members of the VCAT will soon expire. NIST will consider nominations received in response to this notice for appointment to the Committee, in addition to nominations already received.

DATES: Please submit nominations on or before August 14, 2000.

ADDRESSES: Please submit nominations to Dr. Brian C. Belanger, Executive Director, Visiting Committee on Advanced Technology, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 1004, Gaithersburg, MD 20899–1004. Nominations may also be submitted via FAX to 301–948–1224.

Additional information regarding the Committee, including its charter, current membership list, and executive summary may be found on its electronic home page at: http://www.nist.gov/director/vcat/vcat.htm.

FOR FURTHER INFORMATION CONTACT: Dr. Brian C. Belanger, Executive Director, Visiting Committee on Advanced Technology, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 1004, Gaithersburg, MD 20899–1004; telephone 301–975–4720, fax 301–948–1224; or via email at brian.belanger@nist.gov.

SUPPLEMENTARY INFORMATION:

I. VCAT Information

The VCAT was established in accordance with 15 U.S.C. 278 and the Federal Advisory Committee Act (5 U.S.C. app. 2).

Objectives and Duties

1. The Committee shall review and make recommendations regarding general policy for NIST, its organization, its budget, and its programs, within the framework of applicable national policies as set forth by the President and the Congress.

2. The Committee functions solely as an advisory body, in accordance with the provisions of the Federal Advisory Committee Act.

3. The Committee

Shall report to the Director of NIST.

4. The Committee shall provide a written annual report, through the Director of NIST, to the Secretary of Commerce for submission to the Congress on or before January 31 each year. Such report shall deal essentially, though not necessarily exclusively, with policy issues or matters which affect the Institute, or with which the Committee in its official role as the private sector policy adviser of the Institute is concerned. Each such report shall identify areas of research and research techniques of the Institute of potential importance to the long-term competitiveness of United States industry, which could be used to assist United States enterprises and United States industrial joint research and development ventures. The Committee shall submit to the Secretary and the Congress such additional reports on specific policy matters as it deems appropriate.

Membership

1. The Committee is composed of fifteen members that provide representation of a cross-section of traditional and emerging United States industries. Members shall be selected solely on the basis of established records of distinguished service and shall be eminent in one or more fields such as business, research, new product development, engineering, labor, education, management consulting, environment, and international relations. No employee of the Federal Government shall serve as a member of the Committee.

2. The Director of the National Institute of Standards and Technology shall appoint the members of the committee, and they will be selected on

a clear, standardized basis, in accordance with applicable Department of Commerce guidance.

Miscellaneous

1. Members of the VCAT are not paid for their service, but will, upon request, be allowed travel expenses in accordance with 5 U.S.C. 5701 *et seq.,* while attending meetings of the Committee or of its subcommittees, or while otherwise performing duties at the request of the chairperson, while away from their homes or a regular place of business.

2. Meetings of the VCAT take place in the Washington, DC metropolitan area, usually at the NIST headquarters in Gaithersburg, Maryland, and once each year at the NIST headquarters in Boulder, Colorado. Meetings are one or two days in duration and are held quarterly.

3. Committee meetings are open to the public except for approximately one hour, usually at the beginning of the meeting, a closed session is held in accordance with 5 U.S.C. 552b(c)(6), because divulging information discussed in those portions of the meetings is likely to reveal information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. All other portions of the meetings are open to the public.

II. Nomination Information

1. Nominations are sought from all fields described above.

2. Nominees should have established records of distinguished service and shall be eminent in fields such as business, research, new product development, engineering, labor, education, management consulting, environmental and international relations. The category (field of eminence) (for which the candidate is qualified should be specified in the nomination letter. Nominations for a particular category should come from organizations or individuals within that category. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on federal advisory boards and federal employment. In addition, each nomination letter should state that the person agrees to the nomination, acknowledge the responsibilities of serving on the VCAT, and will actively participate in good faith in the tasks of the VCAT. Besides participation at meetings, it is desired that members be able to devote the equivalent of two days between meetings to either developing or researching topics of potential interest, and so forth in furtherance of their Committee duties.

3. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse VCAT membership.

Dated: July 21, 2000.

Karen H. Brown,

Deputy Director.

[FR Doc. 00–19088 Filed 7–27–00; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Board of Overseers of the Malcolm Baldrige National Quality Award

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Request for nominations of members to serve on the Board of Overseers of the Malcolm Baldrige National Quality Award.

SUMMARY: NIST invites and requests nomination of individuals for appointment to Board of Overseers of the Malcolm Baldrige National Quality Award (Board). The terms of some of the members of the Board will soon expire. NIST will consider nominations received in response to this notice for appointment to the Committee, in addition to nominations already received.

DATES: Please submit nominations on or before August 14, 2000.

ADDRESSES: Please submit nominations to Harry Hertz, Director, National Quality Program, NIST, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, MD 20899–1020. Nominations may also be submitted via FAX to 301–948–3716. Additional information regarding the Committee, including its charter, current membership list, and executive summary may be found on its electronic home page at: http://www.quality.nist.gov.

FOR FURTHER INFORMATION CONTACT: Harry Hertz, Director, National Quality Program and Designated Federal Official, NIST, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, MD 20899–1020; telephone 301–975–2361; FAX: 301–948–3716; or via e-mail at harry.hertz@nist.gov.

SUPPLEMENTARY INFORMATION:

I. Board of Overseers of the Malcolm Baldrige National Quality Award Information

The Board was established in accordance with 15 U.S.C. 3711a(d)(2)(B), pursuant to the Federal Advisory Committee Act (5 U.S.C. app.2).

Objectives and Duties

1. The Board shall review the work of the private sector contractor(s), which assists the Director of the National Institute of Standards and Technology (NIST) in administering the Award. The Board will make such suggestions for the improvements of the Award process as it deems necessary.

2. The Board shall provide a written annual report on the results of Award activities to the Secretary of Commerce, along with its recommendations for the improvement of the Award process.

3. The Board will function solely as an advisory committee under the Federal Advisory Committee Act.

4. The Board will report to the Director of NIST and the Secretary of Commerce.

Membership

1. The Board will consist of approximately eleven members selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance, and for their preeminence in the field of quality management. There will be a balanced representation from U.S. service and manufacturing industries, education and health care. The Board will include members familiar with the quality improvements operations of manufacturing companies, service companies, small businesses, education, and health care. No employee of the Federal Government shall serve as a member of the Board of Overseers.

2. The Board will be appointed by the Secretary of Commerce and will serve at the discretion of the Secretary. The term of office of each Board member shall be three years. All terms will commence on March 1 and end on February 28 of the appropriate year.

Miscellaneous

1. Members of the Board shall serve without compensation, but may, upon request, be reimbursed travel expenses, including per diem, as authorized by 5 U.S.C. 5701 *et seq.*

2. The Boards will meet twice annually, except that additional meetings may be called as deemed necessary by the NIST Director or by the Chairperson. Meetings are one day in duration.

3. Board meetings are open to the public. Board members do not have access to classified or proprietary information in connection with their Board duties.

II. Nomination Information

1. Nominations are sought from the private sector as described above.

2. Nominees should have established records of distinguished service and shall be familiar with the quality improvement operations of manufacturing companies, service companies, small businesses, education, and health care. The category (field of eminence) for which the candidate is qualified should be specified in the nomination letter. Nominations for a particular category should come from organizations or individuals within that category. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on federal advisory boards and federal employment. In addition, each nomination letter should state that the person agrees to the nomination, acknowledges the responsibilities of serving on the Board, and will actively participate in good faith in the tasks of the Board. Besides participation at meetings, it is desired that members be able to devote the equivalent of seven days between meetings to either developing or researching topics of potential interest, and so forth, in furtherance of their Board duties.

3. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse Board membership.

Dated: July 21, 2000.

Karen H. Brown,

Deputy Director.

[FR Doc. 00–19089 Filed 7–27–00; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Judges Panel of the Malcolm Baldrige National Quality Award

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Request for nominations of members to serve on the Judges Panel of the Malcolm Baldrige National Quality Award.

SUMMARY: NIST invites and requests nomination of individuals for appointment to the Judges Panel of the Malcolm Baldrige National Quality Award (Judges Panel). The terms of some of the members of the Judges Panel will soon expire. NIST will consider nominations received in response to this notice for appointment to the Committee, in addition to nominations already received.

DATES: Please submit nominations on or before August 14, 2000.

ADDRESSES: Please submit nominations to Harry Hertz, Director, National Quality Program, NIST, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, MD 20899–1020. Nominations may also submitted via FAX to 301–948–3716. Additional information regarding the Committee, including its charter, current membership list, and executive summary may be found on its electronic home page at: http://www.quality.nist.gov.

FOR FURTHER INFORMATION CONTACT: Harry Hertz, Director, National Quality Program and Designated Federal Official, NIST, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, MD 20899–1020; telephone 301–975–2361; FAX 301–948–3716; or via e-mail at harry.hertz@nist.gov.

SUPPLEMENTARY INFORMATION:

I. Judges Panel Information

The Judges Panel was established in accordance with 15 U.S.C. 3711a(d)(1), the Federal Advisory Committee Act (5 U.S.C. app. 2), The Malcolm Baldrige National Quality Improvement Act of 1987 (Public Law 101–107).

Objectives and Duties

1. The Judges Panel will ensure the integrity of the Malcolm Baldrige National Quality Award selection process by reviewing the results of examiners' scoring of written applications, and then voting on which applicants merit site visits by examiners to verify the accuracy of quality improvements claimed by applicants.

2. The Judges Panel will ensure that individuals on site visit teams for the Award finalists have no conflict of interest with respect to the finalists. The Panel will also review recommendations from site visits, and recommend Award recipients.

3. The Judges Panel will function solely as an advisory body, and will comply with the provisions of the Federal Advisory Committee Act.

4. The Panel will report to the Director of NIST.

Membership

1. The Judges Panel is composed of nine members selected on a clear, standardized basis, in accordance with applicable Department of Commerce Guidance. There will be a balanced representation from U.S. service and manufacturing industries, education, and health care and will include members familiar with quality improvement in their area of business. No employee of the Federal Government shall serve as a member of the Judges Panel.

2. The Judges Panel will be appointed by the Secretary of Commerce and will serve at the discretion of the Secretary. The term of office of each Panel member shall be three years. All terms will commence on March 1 and end on February 28 of the appropriate year.

Miscellaneous

1. Members of the Judges Panel shall serve without compensation, but may, upon request, be reimbursed travel expenses, including per diem, as authorized by 5 U.S.C. 5701 *et seq.*

2. The Judges Panel will meet four times per year. Additional meetings may be called as deemed necessary by the NIST Director or by the Chairperson. Meetings are one to four days in duration. In addition, each Judge must attend an annual three-day Examiner training course.

3. Committee meetings are closed to the public pursuant to Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409, and in accordance with Section 552b(c)(4) of title 5, United States Code. Since the members of the Judges Panel examine records and discuss Award applicant data, the meeting is likely to disclose trade secrets and commercial or financial information obtained from a person may be privileged or confidential.

II. Nomination Information

1. Nominations are sought from all U.S. service and manufacturing industries, education, and health care as described above.

2. Nominees should have established records of distinguished service and shall be familiar with the quality improvement operations of manufacturing companies, service companies, small businesses, education and health care organizations. The category (field of eminence) for which the candidate is qualified should be specified in the nomination letter. Nominations for a particular category should come from organizations or individuals within that category. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on

federal advisory boards and federal employee. In addition, each nomination letter should state that the person agrees to the nomination, acknowledge the responsibilities of serving on the Judges Panel, and will actively participate in good faith in the tasks of the Judges Panel. Besides participation at meetings, it is desired that members be able to devote the equivalent of seventeen days between meetings to either developing or researching topics of potential interest, reading Baldrige applications, and so forth, in furtherance of their Committee duties.

3. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse Judges Panel membership.

Dated: July 21, 2000.

Karen H. Brown,

Deputy Director.

[FR Doc. 00–19090 Filed 7–27–00; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Notice of Government Owned Inventions Available for Licensing

SUMMARY: The inventions listed below are owned in whole or in part by the U.S. Government, as represented by the Department of Commerce. The Department of Commerce's ownership interest in the inventions is available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 to achieve expeditious commercialization of results of Federally funded research and development.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on these inventions may be obtained by writing to: National Institute of Standards and Technology, Office of Technology Partnerships, Building 820, Room 213, Gaithersburg, MD 20899; Fax 301–869–2751. Any request for information should include the NIST Docket No. and Title for the relevant invention as indicated below.

SUPPLEMENTARY INFORMATION: NIST may enter into a Cooperative Research and Development Agreement (''CRADA'') with the licensee to perform further research on the inventions for purposes of commercialization. The inventions available for licensing are:

NIST Docket Number: 99–018US

Title: Humidity Chamber For Scanning Stylus Atomic Force Microscope With Cantilever Tracking.

Abstract: The present invention provides a novel humidity chamber suitable for use with an atomic force microscope (AFM).The humidity chamber of the present invention employs an intricate geometrical design which can accommodate a scanned-stylus AFM with an optical lever. This geometrical design allows the invention to enclose one or more of the AFM scanner, tip assembly, optical lever detection system, sample and an optical microscope objective lens, without degrading the ability to operate the AFM or the related systems. The invention is comprised of two major pieces: a chamber within which the AFM scanning head assembly is placed, and an integrated sample platform and spring-loaded base-plate that allows samples to be loaded and unloaded without removal of the chamber from the AFM scanning head assembly. The sample platform, which extends up from the base-plate and is inserted into the chamber and the bottom portion of the sample platform to secure the sample platform and base-plate. The spring-loaded base allows the z-directional motors of the AFM to be used to position the sample just below the probe prior to scanning, while at the same time providing an essentially air-tight fit between the chamber and the AFM scanning head. An embodiment of the present invention is suitable for use with one or both of a means for sensing relative humidity and a means for controlling relative humidity.

NIST Docket Number: 99–021US

Title: A Rotating-Wheel Refreshable Braille Reader.

Abstract: This invention would produce computer-refreshable Braille text for tactile reading by the blind and visually impaired, thus improving accessibility to computer services such as electronic books, e-mail and other network access, and general computer use. Cost and mechanical reliability are the two main impediments to widespread use of refreshable Braille devices. This device utilizes a rotating-wheel and is designed to be mechanically simpler than existing refreshable Braille devices, while providing much of their functionality as well as additional features. It is believed that this design will allow for greatly lowered cost and improved reliability in comparison to existing systems. It is believed that this device can be implemented in such a way as to provide refreshable Braille text to the user at a ''typical'' reading rate of 125 words per minute, and also at a ''high'' reading rate of 250 words per minute.

NIST Docket Number: 97–038US

Title: Micron-Scale Differential Scanning Calorimeter On A Chip.

Abstract: A differential scanning microcalorimeter produced on a silicon chip enables microscopic scanning calorimetry measurements of small samples and thin films. The chip may be fabricated using standard CMOS processes. The microcalorimeter includes a reference zone and a sample zone. The reference and sample zones may be at opposite ends of a suspended platform or may reside on separate platforms. An integrated polysilicon heater provides heat to each zone. A thermopile consisting of a succession of thermocouple junctions generates a voltage representing the temperature difference between the reference and sample zones. Temperature differences between the zones provide information about the chemical reactions and phase transitions that occur in a sample placed in the sample zone.

Dated: July 21, 2000.

Karen H. Brown,

Deputy Director.

[FR Doc. 00–19087 Filed 7–27–00; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

Evaluation of Coastal Zone Management Programs

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice of intent to evaluate.

SUMMARY: The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of the Maine and Washington Coastal Management Programs.

These evaluations will be conducted pursuant to section 312 of the Coastal Zone Management Act of 1972 (CZMA), as amended, and regulations at 15 CFR Part 928.

The CZMA requires a continuing review of the performance of states with respect to coastal program implementation. Evaluation of Coastal Zone Management Programs require findings concerning the extent to which a state has met the national objectives, adhered to its coastal program document approved by the Secretary of Commerce, and adhered to the terms of financial assistance awards funded under the CZMA.

The evaluation will include a site visit, consideration of public comments,

and consultations with interested Federal, State, and local agencies and members of the public. Public meetings will be held as part of the site visits.

Notice is hereby given of the dates of the site visits for the listed evaluations, and the dates, local times, and locations of the public meetings during the site visits.

The Maine Coastal Zone Management Program evaluation site visit will be from September 11–15, 2000. One public meeting will be held during the week. The public meeting will be held on Wednesday, September 13, 2000, at 7 P.M., in the Council Chambers at Rockland City Hall, 270 Pleasant Street, Rockland, Maine.

The Washington Coastal Zone Management Program evaluation site visit will be from September 11–15, 2000. One public meeting will be held during the week. The public meeting will be held on Thursday, September 14, 2000, at 7 P.M., in the Department of Ecology Auditorium, 300 Desmond Drive, Lacey, Washington.

Copies of the States' most recent performance reports, as well as OCRM's notifications and supplemental request letters to the States, are available upon request from OCRM. Written comments from interested parties regarding these Programs are encouraged and will be accepted until 15 days after the public meeting. Please direct written comments to Margo E. Jackson, Deputy Director, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th Floor, Silver Spring, Maryland 20910. When the evaluation is completed, OCRM will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

FOR FURTHER INFORMATION CONTACT: Margo E. Jackson, Deputy Director, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, (301) 713–3155, Extension 114.

(Federal Domestic Assistance Catalog 11.419, Coastal Zone Management Program Administration)

Dated: July 26, 2000.

Ted I. Lillestolen,

Deputy Assistant Administrator for Ocean Services and Coastal zone Management.

[FR Doc. 00–19248 Filed 7–27–00; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Sea Grant Review Panel

AGENCY: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Sea Grant Review Panel. The meeting will have several purposes. Panel members will discuss and provide advice on the National Sea Grant College Program in the areas of program management and evaluation, national strategic investments, education and extension, science and technology programs, and other matters as described below:

DATES: The announced meeting is scheduled during two days: Tuesday, August 8, 8:30 a.m. to 5:30 p.m.; Wednesday, August 9, 8:00 a.m. to 12:00 noon.

ADDRESSES: National Oceanic and Atmospheric Administration, Silver Spring Metro Center III, 1315 East-West Highway, Room 4527, Silver Spring, Maryland 20910.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald C. Baird, Director, National Sea Grant College Program, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Room 11716, Silver Spring, Maryland 20910, (301) 713–2448

SUPPLEMENTARY INFORMATION: The Panel, which consists of a balanced representation from academia, industry, state government and citizens groups, was established in 1976 by Section 209 of the Sea Grant Improvement (Pub. L. 94–461, 33 U.S.C. 1128). The Panel advises the Secretary of Commerce and the Director of the National Sea Grant College Program with respect to operations under the Act, and such other matters as the Secretary refers to them for review and advice. The agenda for the meeting is as follows:

Tuesday, August 8, 2000

8:30 a.m.—Welcoming and Opening Formalities
8:45 a.m.—Department of Commerce Report of Priority Issues
9:15 a.m.—Executive Committee Report
10:00 a.m.—Sea Grant Review Panel Subcommittee Reports Minority Serving Institutions Science and Technology Technology Transfer New Subcommittees
11:30 a.m.—National Extension Review
12:15 p.m.—Lunch
1:00 p.m.—Sea Grant Science Presentation
1:45 p.m.—Congressional Update
2:30 p.m.—Sea Grant Association Report
3:15 p.m.—NOAA and OAR Update
4:00 p.m.—National Sea Grant Office Update
5:30 p.m.—Officer Elections
5:45 p.m.—Adjourn

Wednesday, August 9, 2000

8:30 a.m.—NOAA Science Advisory Board
9:15 a.m.—Program Evaluation
10:45 a.m.—Critical Sea Grant Issues
11:45 a.m.—Wrap-up
12:00 noon—Adjourn

This meeting will be open to the public.

Dated: July 24, 2000.

Francis M. Schuler,

Acting Assistant Administrator, Office of Oceanic and Atmospheric Research.

[FR Doc. 00–19086 Filed 7–27–00; 8:45 am]

BILLING CODE 3510–KA–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Bangladesh

July 24, 2000.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: July 31, 2000.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being increased for the recrediting of unused carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel

Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 64 FR 71982, published on December 22, 1999). Also see 64 FR 68333, published on December 7, 1999.

Richard B. Steinkamp,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 24, 2000.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 1, 1999, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Bangladesh and exported during the twelve-month period which began on January 1, 2000 and extends through December 31, 2000.

Effective on July 31, 2000, you are directed to increase the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
237	560,619 dozen.
334	179,654 dozen.
335	237,365 dozen.
341	2,969,642 dozen.
342/642	585,146 dozen.
351/651	853,229 dozen.
363	30,891,732 numbers.
634	628,526 dozen.
635	400,190 dozen.
641	809,552 dozen.
645/646	428,244 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1999.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Richard B. Steinkamp,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 00–19101 Filed 7–27–00; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Cambodia

July 25, 2000.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: July 31, 2000.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customss.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for swing.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 64 FR 71982, published on December 22, 1999). Also see 64 FR 70217, published on December 16, 1999.

Richard B. Steinkamp,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 25, 2000.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 10, 1999, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Cambodia and exported during the twelve-month period which began on January 1, 2000 and extends through December 31, 2000.

Effective on July 31, 2000, you are directed to adjust the current limits for the following categories, as provided for under the terms of the current bilateral textile agreement between the Governments of the United States and Cambodia:

Category	Adjusted twelve-month limit [1]
331/631	1,216,225 dozen pairs.
338/339	2,850,500 dozen.
340/640	969,900 dozen.
345	121,560 dozen.
347/348/647/648	3,300,600 dozen.
352/652	516,521 dozen.
438	105,067 dozen.
645/646	290,907 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1999.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Richard B. Steinkamp,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 00–19106 Filed 7–27–00; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits and Increase of Guaranteed Access Levels for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

July 21, 2000.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits and increasing guaranteed access levels.

EFFECTIVE DATE: July 31, 2000.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854);

Executive Order 11651 of March 3, 1972, as amended.

The current limits for Categories 433 and 442 are being adjusted for swing.

Upon the request of the Government of the Dominican Republic, the U.S. Government has agreed to increase the current Guaranteed Access Level for textile products in Categories 339/639, 347/348/647/648 and 433.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 64 FR 71982, published on December 22, 1999). Also see 64 FR 50495, published on September 17, 1999.

Richard B. Steinkamp,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 21, 2000.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on September 13, 1999, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Dominican Republic and exported during the twelve-month period which began on January 1, 2000 and extends through December 31, 2000.

Effective on July 31, 2000, you are directed to adjust the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
433	24,007 dozen.
442	81,400 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1999.

Also effective on July 31, 2000, you are directed to increase the Guaranteed Access Levels for the categories listed below for the period beginning on January 1, 2000 and extending through December 31, 2000.

Category	Guaranteed access level
339/639	4,150,000 dozen.
347/348/647/648	9,050,000 dozen.
433	81,000 dozen.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Richard B. Steinkamp,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 00–19102 Filed 7–27–00; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Wool Textile Products Produced or Manufactured in the Former Yugoslav Republic of Macedonia

July 21, 2000.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: July 31, 2000.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being increased for special carryover in accordance with the Memorandum of Understanding (MOU) dated June 2, 2000. This MOU was entered into in recognition of the disruption to the Former Yugoslav Republic of Macedonia's exports in 1999 as a result of the crisis in Kosovo.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 64 FR 71982, published on December 22, 1999). Also see 64 FR 71115, published on December 20, 1999.

Richard B. Steinkamp,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 21, 2000.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 14, 1999, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain wool textile products, produced or manufactured in the Former Yugoslav Republic of Macedonia and exported during the twelve-month period beginning on January 1, 2000 and extending through December 31, 2000.

Effective on July 31, 2000, you are directed to increase the current limits for the following categories, as provided for in the Memorandum of Understanding between the Governments of the United States and the Former Yugoslav Republic of Macedonia dated June 2, 2000:

Category	Adjusted twelve-month limit [1]
433	25,875 dozen.
434	12,640 dozen.
435	39,914 dozen.
448	74,686 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1999.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Richard B. Steinkamp,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 00–19103 Filed 7–27–00; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Man-Made Fiber Textile Products Produced or Manufactured in Pakistan

July 24, 2000.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: July 31, 2000.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for Categories 666-P and 666-S are being increased for special carryforward as allowed under the Memorandum of Understanding dated May 25, 2000 (see **Federal Register** notice 65 FR 41961, published on July 7, 2000).

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 64 FR 71982, published on December 22, 1999). Also see 64 FR 68335, published on December 7, 1999.

Richard B. Steinkamp,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 24, 2000.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 1, 1999, as amended on June 30, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 2000 and extends through December 31, 2000.

Effective on July 31, 2000, you are directed to increase the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Specific limits	
666–P [2]	862,368 kilograms.
666–S [3]	5,359,592 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1999.

[2] Category 666–P: only HTS numbers 6302.22.1010, 6302.22.1020, 6302.22.2010, 6302.32.1010, 6302.32.1020, 6302.32.2010 and 6302.32.2020.

[3] Category 666–S: only HTS numbers 6302.22.1030, 6302.22.1040, 6302.22.2020, 6302.32.1030, 6302.32.1040, 6302.32.2030 and 6302.32.2040.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Richard B. Steinkamp,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 00–19104 Filed 7–27–00; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Restraint Limits for Certain Cotton and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in Thailand

July 24, 2000.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: July 31, 2000.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being reduced for carryforward used. The current limit for Category 603 is being increased for the recrediting of unused carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 64 FR 71982, published on December 22, 1999). Also see 64 FR 68336, published on December 7, 1999.

Richard B. Steinkamp,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 24, 2000.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 1, 1999, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Thailand and exported during the period which began on January 1, 2000 and extends through December 31, 2000, except for the period for Category 603 which began on January 1, 2000 and extends through September 30, 2000.

Effective on July 31, 2000, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
363	23,180,879 numbers.
603	1,784,844 kilograms.
Sublevels in Group II	
338/339	2,110,817 dozen
638/639	2,503,066 dozen.
647/648	1,294,984 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1999.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Richard B. Steinkamp,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 00–19105 Filed 7–28–00; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Intent To Prepare an Environmental Impact Statement (EIS) for the Development of an Air-to-Ground Training Range in the State of Montana

The Air National Guard (ANG), Air National Guard Readiness Center (ANGRC), is preparing an EIS to assess the potential environmental impacts of the proposed development of an air-to-

ground training range in the state of Montana. The EIS will be prepared in accordance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 to 4345) and its implementing regulations (40 CFR 1500 to 1508). The ANG (ANGRC) will act as the lead agency for the EIS process. Cooperating agencies include the State of Montana, Federal Aviation Administration, Bureau of Land Management, and Bureau of Indian Affairs.

The purpose of the proposed range is to enhance combat readiness by improving training efficiency for the 120th Fighter Wing (120 FW) of the Montana ANG (MTANG), based at the Great Falls International Airport. Development of the range would achieve the following objectives: Significantly reduce the distance traveled to conduct required air-to-ground training, thereby resulting in cost savings; significantly increase training time versus time spent in transit, thereby enhancing training effectiveness; ensure availability of training times; and reduce scheduling conflicts with other units who train at ranges currently used by the 120 FW.

The range would provide scoring capability for air-to-ground delivery of inert training munitions. This type of training is necessary to satisfy training requirements for the general-purpose mission of the 120 FW. The target impact area (roughly 1 square mile in size) would be surrounded by a safety buffer zone in order to safely accommodate these activities; the total range size would be 3-by-5 miles, or approximately 9,600 acres. Creation of restricted airspace would occur within the existing Hays Military Operations Area (MOA) to accommodate approximately 1,000 F–16 air-to-ground sorties at the proposed training range.

The range would be comprised of several different elements. About 90 percent of the acreage would remain as open space, functioning as a safety buffer zone for the target areas. Inside the buffer zone would be several targets for training munitions delivery. A series of scoring devices would be placed in the target impact area to allow for assessment of training ordnance accuracy on each delivery. A group of support buildings would provide facilities near the target impact area for personnel involved in the daily operation, maintenance, and security of the range. The proposed action would also involve establishment of one-quarter-acre electronic emitter sites at various off-range locations. These emitter sites would serve as operating locations for mobile electronic emitters that simulate anti-aircraft defensive systems. Each site would consist of a gravel, unfenced parking area designed to support temporary use.

The ANG has initiated a process to identify feasible range siting areas (*i.e.,* alternatives) in Montana that would best support MTANG training and accommodate safe aircraft operations while minimizing impacts on the environment, local communities, and military and civilian airspace. The proposed range location must be within a 150 nautical mile radius from the Great Falls International Airport and on land underlying the Hays MOA. Two of the alternatives initially satisfying these and other important siting criteria are located in the vicinity of the Fort Belknap Reservation in north-central Montana. The MTANG and members of the Fort Belknap Indian Community have discussed the feasibility of potential range development in these areas. Consequently, the Fort Belknap Community Council has identified one alternative location immediately west of the Reservation and one alternative location on the Reservation. The ANG is continuing its effort to identify additional alternative locations for the proposed range. Government agencies and the public are encouraged to assist in this effort during the scoping process. Each feasible alternative, including the No-Action Alternative required by NEPA, will be analyzed in the EIS.

The ANG will initiate a public scoping process to identify relevant issues to be analyzed in the EIS. A series of scoping meetings will be held in five Montana communities. These meetings will provide a forum for interested parties to provide comments (written or oral) on the scope of the EIS and to help identify potential alternative locations for the proposed range. Scoping meetings will be held at the following times and locations:

1. Fort Belknap Agency, MT, August 14, 6 to 9 p.m., Fort Belknap College (Multipurpose Building).
2. Chinook, MT, August 15, 6 to 9 p.m., Blaine County Library (94 4th Street).
3. Hays, MT, August 16, 6 to 9 p.m., John Capture Center (North Mayor Drive).
4. Lodgepole, MT, August 17, 6 to 9 p.m., Medicine Bear Lodge.
5. Great Falls, MT, August 18, 6 to 9 p.m., MTANG Headquarters Building (2800 Airport Avenue B).

Information gathered at these meetings will be used in the development of the Draft EIS. Written comments, which receive the same consideration as oral comments, will also be accepted throughout the scoping period. To ensure that the ANG has sufficient time to consider public input during preparation of the Draft EIS, scoping comments should be submitted by September 11, 2000. You may call 1–800–545–8680 (select option 5, Wing Headquarters) to give oral comments or send written comments to Montana EIS, ANG/CEVP, Attention: Major Tammy Mitnik, 3500 Fetchet Avenue, Andrews Air Force Base, Maryland 20762. Names and addresses will be used to compile a mailing list for distributing future information regarding the EIS. Please be advised that by including your name and address, you are agreeing to this information being part of the environmental process. If you have any questions or require additional information, please contact Major Mitnik at (301) 836–8636 or (301) 836–8065.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 00–19049 Filed 7–27–00; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Army

Army Education Advisory Committee

AGENCY: U.S. Army War College.

ACTION: Notice of meeting.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), announcement is made of the following Committee meeting:

Name of Committee: U.S. Army War College Board of visitors, Committee of the Whole.

Dates of Meeting: August 3 and 4, 2000.

Place: Root Hall, U.S. Army War College, Carlisle Barracks, Pennsylvania.

Time: 8:30 a.m.–5 p.m.

Proposed Agenda: Receive information briefings; conduct discussions with the Commandant, staff and faculty; review USAWC Master's Degree Campaign Plan; plan future membership and composition of the Board of Visitors; and provide guidance regarding accreditation and areas for improvement.

FOR FURTHER INFORMATION CONTACT: To request advance approval or obtain further information, contact Dr. John R. Goss, III, Box 375, U.S. Army War College, Carlisle Barracks, PA 17013 or telephone (717) 245–3365.

SUPPLEMENTARY INFORMATION: This meeting is open to the public. Any interested person may attend, appear

before, or file statements with the Committee after receiving advance approval for participation. To request additional information please contact Dr. John R. Goss III at the above address or phone number.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 00–19127 Filed 7–27–00; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army

Availability of a Novel Target Technology for Exclusive, Partially Exclusive or Non-exclusive Licenses

AGENCY: U.S. Army Research Laboratory, DoD.

ACTION: Notice of availability.

SUMMARY: The Department of the Army announces the general availability of exclusive, partially exclusive or non-exclusive licenses relative to PCT application PCT/US99/02158 filed February 1, 1999 and all national phase applications for the designate countries and any patents issuing therefrom including any and all continuations, continuations-in-part, divisions, reissues, reexaminations, renewals or extensions thereof. The intellectual property shall generally be known as ''Procedure for Detecting Lesion-induced Resonances in DNA using Millimeter or Submillimeter Wave Spectroscopy.'' Licenses shall comply with 35 U.S.C. 209 and 37 CFR 404.

FOR FURTHER INFORMATION CONTACT: Michael Rause, U.S. Army Research Laboratory, Office of Research and Technology Applications, ATTN: AMSRL–CS–TT/Bldg. 434, Aberdeen Proving Ground, Maryland 21005–5425, Telephone (410) 278–5028.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 00–19129 Filed 7–27–00; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Grant an Exclusive or Partially Exclusive License to Whithner Corporation

AGENCY: U.S. Army Research Laboratory, DoD.

ACTION: Notice of Intent.

SUMMARY: In compliance with 37 CFR 404 *et seq.,* the Department of the Army hereby gives notice of its intent to grant to Stevens Institute of Technology, a New Jersey Corporation with principal offices at Castle Point on Hudson, Hoboken, New Jersey 07030, and Technology Holdings, LLC, a limited liability company, organized and existing under the laws of the state of New Jersey, which has been granted a worldwide right to grant sublicenses of the manufacture, use and sale of all patents and copyrights held in the name of Stevens Institute of Technology, with principal offices at One Castle Point Terrace, Hoboken, New Jersey 07030 an exclusive license relative to an ARL technology. The technology to be licensed is PCT application PCT/US99/02158 filed February 1, 1999 and all national phase applications for the designated countries and any patents issuing therefrom including any and all continuations, continuations-in-part, divisions, reissues, reexamination, renewals or extensions thereof. The intellectual property licensed in this agreement shall generally be known as ''Procedure for Detecting Lesion-induced Resonances in DNA using Millimeter or Submillimeter Wave Spectroscopy.''

Anyone wishing to object to the granting of this license has 60 days from the date of this notice to file written objections along with supporting evidence, if any.

FOR FURTHER INFORMATION CONTACT: Michael Rause, U.S. Army Research Laboratory, Office of Research and Technology Applications, ATTN: AMSRL–CS–TT/Bldg. 459, Aberdeen Proving Ground, Maryland 21005–5425, Telephone: (410) 278–5028.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 00–19128 Filed 7–27–00; 8:45 am]

BILLING CODE 5710–08–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Public Meeting and Availability of the Draft Environmental Impact Statement for Construction and Operation of the Marine Corps Heritage Center at Marine Corps Base Quantico, Virginia

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy, United States Marine Corps, has prepared and filed with the U.S. Environmental Protection Agency (EPA) a Draft Environmental Impact Statement (DEIS) for the construction and operation of the Marine Corps Heritage Center at Marine Corps Base (MCB) Quantico, Virginia. A public meeting will be held to receive oral and written comments on the DEIS. Federal, state and local agencies, and interested parties are invited to attend the meeting.

DATES: Comments on the DEIS may be submitted in person to the Marine Corps at the Ramada Inn, 16304 Route 1, Triangle, VA, on August 10, 2000, between 7 p.m. and 9:30 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Hank Riek, Engineering Field Activity-Chesapeake, Naval Facilities Engineering Command, 1314 Harwood Street, SE., Building 212, Washington Navy Yard, DC, 20373–5018, telephone (202) 685–3064, fax (202) 685–3350, e-mail: riekhj@efaches.navfac.navy.mil.

SUPPLEMENTARY INFORMATION: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, as implemented by the Council on Environmental Quality regulations (40 CFR Parts 1500–1508), the Department of the Navy, United States Marine Corps has prepared and filed with the EPA a DEIS for the construction and operation of the Marine Corps Heritage Center on or near MCB Quantico, Virginia.

The proposed Marine Corps Heritage Center would be a large multi-structure museum complex, intended to consolidate operations of the Marine Corps History and Museum Division and enhance the protection and presentation of Marine Corps history and historical collections. The complex would include approximately 20 buildings dispersed over a 100-acre site. Facilities planned for development at the site would include a visitor center, library, workshops, exhibit/display facilities, administrative offices, curation facilities, conference center, theater, restaurant, gift shop, and various related structures. Outdoor areas would be used for exhibits, memorials, ceremonies and demonstrations. Five alternative sites for the Marine Corps Heritage Center are evaluated in the DEIS. All five sites are located adjacent to the Interstate 95/US Route 1 corridor, on or near MCB Quantico, Virginia.

Copies of the DEIS have been mailed to Federal, State, and local agencies, area public libraries, local representatives, and persons or groups that expressed an interest in the proposed action during the EIS scoping process. Requests for copies of, or comments on, the DEIS may be made to the point of contact listed above. Federal, State and local agencies, and

interested parties are invited to attend the scheduled meeting. Oral comments will be recorded at the public meeting, but it is recommended that written statements be submitted to assure accuracy. All comments must be received no later than September 1, 2000.

Dated: July 24, 2000.

J.L. Roth,

Lieutenant Commander, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 00–19042 Filed 7–27–00; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Additional Public Scoping Meeting In Meridian, Mississippi, for the Environmental Impact Statement for Introduction of the Atlantic Fleet F/A–18 E/F Aircraft on the East Coast of the United States

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality regulations (40 CFR Parts 1500–1508), the Department of the Navy (Navy) announced its intent to prepare an Environmental Impact Statement (EIS) to evaluate the potential environmental consequences of the introduction of the Atlantic Fleet F/A–18 E/F aircraft on the East Coast of the United States. The Notice of Intent and Public Scoping Meetings appeared in the **Federal Register** on June 26, 2000 (65 FR 39373). One additional Public Scoping Meeting has been scheduled subsequent to that notice.

DATES: One additional public scoping open house will be held to receive oral and/or written comments on environmental concerns that should be addressed in the EIS. A public scoping open house will be held from 4:00 p.m. to 9:00 p.m. on August 15, 2000.

ADDRESSES: The open house will be held at East Mississippi Electric Power Association, 2128 Highway 39 North, Meridian, Mississippi.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Cecchini (Code 2032), Atlantic Division, Naval Facilities Engineering Command, 1510 Gilbert Street, Norfolk, Virginia 23511; telephone (757) 322–4887, fax (757) 322–4984.

SUPPLEMENTARY INFORMATION: The Navy has decided to purchase F/A–18 E/F aircraft because of its improved capabilities over earlier aircraft models. It is designed to fly farther and carry a heavier payload, which will make it a more effective tool for national defense. An EIS and Record of Decision (ROD) were completed in 1998 for the introduction of F/A–18 E/F aircraft on the West Coast. In 1999, the Navy began a phase-in of the F/A–18 E/F aircraft to NAS Lemoore, California. Introduction of the F/A–18 E/F aircraft in the Atlantic fleet area of responsibility will begin in 2004 and be completed by 2008.

The EIS will address the environmental impacts associated with basing and operation of the Atlantic fleet F/A–18 E/F aircraft on the East Coast, retirement of existing F–14 aircraft and earlier F/A–18 models, and new construction and/or renovation of buildings and other support facilities. In addition, the EIS will assess impacts on each local community and economy associated with relocation of military personnel to the area to support the operation and maintenance of the E/F squadrons.

The Navy is currently evaluating East Coast installations to develop reasonable F/A–18 E/F siting alternatives. To date, four Navy and Marine Corps air stations have been identified as potential receiving sites: Marine Corps Air Station (MCAS) Beaufort, South Carolina; MCAS Cherry Point, North Carolina; Naval Air Station (NAS) Oceana, Virginia; and NAS Meridian, Mississippi. Other siting alternatives are still being considered. The Navy's preferred alternative is to site all the Atlantic Fleet F/A–18 E/F squadrons at one location; however, splitting the squadrons between two bases is not precluded.

The Navy intends to analyze the potential environmental impacts of the introduction of the Atlantic Fleet F/A–18 E/F aircraft on the environment. This includes, but is not limited to air quality, plant and animal habitats, and water resources, such as streams. It will also evaluate potential effects on the surrounding communities, including land use patterns, transportation, housing, and the regional economy. Further, the Navy will examine potential effects on existing airspace, training range use, and on aircraft noise exposure levels in and around the bases.

The Navy has initiated a scoping process to identify community concerns and local issues that will be addressed in the EIS. Federal, state, local agencies, and interested persons are encouraged to provide oral and/or written comments to the Navy to identify environmental concerns that should be addressed in the EIS. To be most helpful, scoping comments should clearly describe the specific issues or topics that the EIS should address.

Written comments must be postmarked by September 8, 2000, and should be mailed to: Commander, Atlantic Division, Naval Facilities Engineering Command, 1510 Gilbert Street, Norfolk, Virginia 23511, Attn: Code 2032 (Mr. Dan Cecchini), telephone (757) 322–4887, fax (757) 322–4984.

Dated: July 25, 2000.

J.L. Roth,

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

[FR Doc. 00–19160 Filed 7–27–00; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.033]

Student Financial Assistance, Federal Work-Study Programs; Notice of the Closing Date for Submission of the Campus-Based Reallocation Form (ED Form E40–4P)

SUMMARY: The Secretary gives notice that institutions of higher education participating in the Federal Work-Study (FWS) Program must submit the Campus-Based Reallocation Form by August 25, 2000 to request supplemental FWS funds for the 2000–2001 award year (July 1, 2000 through June 30, 2001). The information collected is used to determine whether an institution is eligible to receive supplemental FWS funds for the 2000–2001 award year.

DATES: *Closing Date and Method for Submitting a Campus-Based Reallocation Form.* If you participated in the FWS Program for the 1999–2000 award year and want to ensure that you will be considered for supplemental FWS funds for the 2000–2001 award year, you must submit the electronic Campus-Based Reallocation Form by August 25, 2000.

The new Fiscal Operations Report for 1999–2000 and Application to Participate for 2001–2002 (FISAP) software that you received in July 2000 also contains the Campus-Based Reallocation Form (E–40–4P). The Campus-Based Reallocation Form electronic data must be transmitted via the Department's Student Aid Internet Gateway (formerly Title IV Wide Area Network or Title IV WAN). Specific information on this electronic transmission is provided in ''Dear Partner'' letter CB–00–11 that was

issued in July 2000. Transmit the Reallocation Form data to us only if you are releasing 1999–2000 campus-based funds or are requesting supplemental 2000–2001 FWS funds.

Although the FISAP is not due until October 1, 2000, you must complete the Campus-Based Reallocation Form electronic data transmission prior to midnight, Eastern time, on August 25, 2000. (For purposes of this notice, this deadline means that an institution has all of August 25, 2000, to transmit electronically.)

SUPPLEMENTARY INFORMATION: The Department will reallocate unexpended FWS Federal funds from the 1999–2000 award year as supplemental allocations for the 2000–2001 award year under the FWS Program. Supplemental allocations will be issued this fall in accordance with the reallocation procedures contained in the Higher Education Act of 1965, as amended (HEA). Under section 442(d) of the HEA, unexpended FWS funds returned to the Secretary must be reallocated to eligible institutions that used at least 10 percent of the total FWS Federal funds granted to the institution to compensate students employed in community services. Because reallocated FWS funds will be distributed on the basis of fair share shortfall criteria, you must also have a fair share shortfall to receive these funds. A fair share shortfall means that you have an unmet need for FWS funds as determined by the FWS allocation formula in the HEA that uses data reported on the FISAP. You must use all the reallocated FWS Federal funds to compensate students employed in community services. To ensure consideration for supplemental FWS Federal funds for the 2000–2001 award year, you must submit the Campus-Based Reallocation Form data by August 25, 2000.

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) Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants), 34 CFR part 85.

(7) Drug-Free Schools and Campuses, 34 CFR part 86.

FOR FURTHER INFORMATION CONTACT: For technical assistance concerning the Campus-Based Reallocation Form or other operational procedures of the campus-based programs, contact Mr. Milton Thomas, Jr., Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue, SW., Portals Building, Suite 600D, Washington, DC 20202–5353. Telephone (202) 708–9756. 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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To use the PDF version you must have Adobe Acrobat Reader, which is available free at either of the previous sites. If you have questions about using the PDF version, call the U.S. Government Printing Office (GPO), toll free at 1–888–293–6498 or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html

Program Authority: 42 U.S.C. 2752.

Dated: July 24, 2000.

Greg Woods,

Chief Operating Officer, Student Financial Assistance.

[FR Doc. 00–19069 Filed 7–25–00; 10:41 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Availability of the Draft Programmatic Environmental Impact Statement (PEIS) for Accomplishing Expanded Civilian Nuclear Energy Research and Development and Isotope Production Missions in the United States, Including the Role of the Fast Flux Test Facility

AGENCY: Department of Energy.

ACTION: Notice of Availability.

SUMMARY: The Department of Energy (DOE) announces the availability of the Draft Programmatic Environmental Impact Statement for Accomplishing Expanded Civilian Nuclear Energy Research and Development and Isotope Production Missions in the United States, Including the Role of the Fast Flux Test Facility [Nuclear Infrastructure Programmatic Environmental Impact Statement (NI PEIS)] (DOE/EIS–0310D) for public review and comment. This draft PEIS, prepared under the National Environmental Policy Act (NEPA), analyzes the potential environmental impacts of using various irradiation and processing facilities to meet the following projected mission needs over a period of 35 years: (1) Production of medical, research, and industrial isotopes; (2) production of plutonium-238 to support future National Aeronautics and Space Administration (NASA) space missions; and (3) support for U.S. civilian nuclear research and development activities. In addition to a No Action alternative, DOE evaluated other alternatives that include using existing facilities within the DOE complex, constructing and operating a new research reactor, constructing and operating one or two new accelerators, restarting the Fast Flux Test Facility (FFTF) that is currently in stand-by status, and procuring irradiation services at a commercial light water reactor to produce plutonium-238. As a result of comments received from the public during the scoping period, DOE evaluated a fifth alternative to deactivate FFTF permanently without pursuing any further expansion of the infrastructure to accommodate expanded mission areas. As part of the No Action alternative, DOE has also evaluated the option of purchasing plutonium-238 from Russia through an existing contract. The Department has no preferred alternative at this time, but will identify one in the Final PEIS.

DATES: The Department invites the general public, other Federal agencies, and Tribal, State and local Governments to provide comments on this draft PEIS.

The transmittal letter for the draft PEIS and the Summary stated that the comment period would end on September 11, 2000. The comment period has changed and now ends September 18, 2000. To ensure consideration in the preparation of the final PEIS, comments should be transmitted or postmarked by September 18, 2000. Comments submitted after that date will be considered to the extent practicable. The information obtained during the comment period will assist the Department in preparing the final PEIS, which is scheduled to be completed by November 2000.

During the comment period, the Department will hold public hearings to discuss the draft PEIS and to receive oral and written comments on the draft PEIS. Registration will begin at 6:00 p.m. before each meeting (2:00 p.m. in Virginia) and a brief DOE presentation on the draft PEIS will begin at 6:30 p.m. (2:30 p.m. in Virginia). The hearings will include an opportunity for informal discussions with project personnel before and after the DOE presentation. The hearings are scheduled for the following dates, times, and locations:

Tuesday, August 22, 2000
American Museum of Science and Energy, 300 South Tulane Avenue, Oak Ridge, TN 37830, (865) 576–3200

Friday, August 25, 2000
Westcoast Idaho Falls Hotel (formerly Cavanaughs on the Falls), 475 River Parkway, Idaho Falls, ID 83402, (208) 523–8000

Monday, August 28, 2000
Hood River Inn, 1108 E. Marina Way, Hood River, OR 97031, (541) 386–2200

Tuesday, August 29, 2000
Oregon Museum of Science and Technology, 1945 SE Water Avenue, Portland, OR 97214, (503) 797–4671

Wednesday, August 30, 2000
Washington State Convention and Trade Center, 800 Convention Place, Seattle, WA 98101, (206) 694–5111

Thursday, August 31, 2000
Best Western Tower Inn and Conference Center, 1515 George Washington Way, Richland, WA 99352, (509) 946–4121

Wednesday, September 6, 2000
Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, VA 22202, (703) 271–5108

The format for the hearings will include registration, a DOE presentation on the draft PEIS, a question and answer session, and an opportunity to provide comments to DOE staff members. The purpose of registration is to provide handouts to each participant, update the project mailing list, and answer any questions participants may have about the hearings. Registration is not required and there will be no sign-up sheets for the order of speakers. A DOE staff member will give a presentation, about 20 minutes long, followed by a short question and answer period about the presentation. A facilitator will then open the floor to the public for comments. To ensure that all persons wishing to provide comments are given an opportunity, each speaker may be limited to five minutes, including representatives of groups. Elected officials will be given first priority for speaking and each official may be limited to ten minutes. Then the facilitator will select participants at random from the audience to provide their comments. Those commentors who need more time will be invited to speak after everyone has had an initial opportunity to provide their comments. Comments will be transcribed by a comment recorder. Another comment recorder will be available in a separate room to receive comments from participants who may not be able to attend the entire session, or who would like to give their comments and depart. DOE personnel will be available throughout the hearings and will stay until all participants have had a chance to comment. The Department encourages those providing oral comments at the hearings to also submit them in writing. Comment forms will be available at the hearings.

The Department will make transcripts of the draft PEIS hearings available to the public at the following public reading rooms about one month after the public hearings have been held. References for the draft PEIS are available in the public reading rooms listed below.

U.S. Department of Energy, Freedom of Information Reading Room, Forrestal Building, Room 1E–190, 1000 Independence Avenue, SW., Washington, DC 20585–0117, Telephone: (202) 586–3142

Idaho National Engineering and Environmental Laboratory, DOE-Idaho Operations Office Public Reading Room, 1776 Science Center Drive, Idaho Falls, Idaho 83415, Telephone: (208) 526–0271

Portland State University, Branford Price Millar Library, Government Documents Section, 951 Southwest Hall, Portland, Oregon 97207, (503) 725–3690

U.S. Department of Energy, Public Reading Room, 230 Warehouse Road, Building 1916–T–2, Suite 300, Oak Ridge, Tennessee 37831, (865) 241–4780

Richland Public Library, 955 Northgate Drive, Richland, Washington, 99352, Telephone: (509) 942–7457

U.S. Department of Energy, DOE Public Reading Room, 2770 University Drive, CIC, Room 101L, Richland, Washington 99352, Telephone: (509) 372–7443

University of Washington, Suzzallo Library, Government Publications Room, Seattle, Washington 98195, Telephone: (206) 543–1937

Gonzaga University, Foley Center Library, East 502 Boone, Spokane, Washington 99258, Telephone: (509) 323–6532

ADDRESSES: Written comments on the draft PEIS, requests for special arrangements to enable participation in the hearings (*e.g.,* an interpreter for the hearing impaired), requests to be placed on the final PEIS distribution list, and questions concerning the proposed action should be sent to: Ms. Colette Brown, PEIS Document Manager, Office of Nuclear Energy, Science and Technology, U.S. Department of Energy, NE–50, 19901 Germantown Road, Germantown, Maryland 20874–1290.

Comments, questions and special requests may also be submitted by toll-free facsimile to (877) 562–4592, or by electronic mail to Nuclear.Infrastructure-PEIS@hq.doe.gov.

FOR FURTHER INFORMATION CONTACT: For further information about the proposed action, contact Ms. Colette E. Brown as above under **ADDRESSES,** or call her toll-free at (877) 562–4592. For general information on the Department's National Environmental Policy Act (NEPA) process, please contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (EH–42), Office of Environment, Safety and Health, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0119; or telephone (202) 586–4600 or leave a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION: Under the authority of the Atomic Energy Act of 1954, as amended, DOE is responsible for ensuring the availability of isotopes for medical, industrial and research applications, meeting the nuclear material needs of other Federal agencies, and undertaking research and development activities related to development of nuclear power for civilian use. To meet these responsibilities, DOE maintains nuclear infrastructure capabilities that support various missions in these areas. These

infrastructure capabilities include those of nuclear research and test facilities, such as reactors and accelerators, as well as shielded ''hot cell'' and glovebox facilities used to prepare nuclear materials for testing and/or to perform postirradiation processing of materials.

To continue to maintain sufficient irradiation facilities to meet its obligations under the Atomic Energy Act, DOE must assess the need for expanding its nuclear infrastructure in light of its commitments to ongoing programs, its commitment to other agencies for nuclear materials support, and its role in supporting civilian nuclear research and development programs.

The Nuclear Energy Research Advisory Committee (NERAC), established in 1998 by DOE to provide independent, expert advice on complex science and technical issues that arise in the planning, management, and implementation of DOE's civilian nuclear energy research programs, informed the Secretary of Energy that ''(a) there is an urgent sense that the Nation must rapidly restore an adequate investment in basic and applied research in nuclear energy if it is to sustain a viable United States capability in the 21st Century, (b) the most important role for DOE in the nuclear energy area at the present time is to ensure that the education system and its facility infrastructure are in good shape, and (c) of particular need over the longer term are dependable sources of research isotopes and reactor facilities providing high volume flux irradiation for nuclear fuels and materials testing'' (letter dated June 13, 2000, from J.J.Duderstadt, Chair, Nuclear Energy Research Advisory Committee to The Honorable W. Richardson, Secretary of Energy).

Under the guidance of NERAC, DOE has completed an assessment of its existing nuclear facility infrastructure capabilities (U.S. Department of Energy Nuclear Science and Technology Infrastructure Roadmap, Draft, Revision 1 Summary, March 2000). The basic finding of this assessment was that the capabilities of currently operating DOE facilities will not meet projected U.S. needs for nuclear materials production and testing, research, and development. As demand continues to increase for steady-state neutron sources needed for isotope production and nuclear research and development, DOE's nuclear infrastructure capabilities to support this demand have not improved. Over the years, DOE's nuclear facility infrastructure has diminished because of the shutdown of old facilities, including the High Flux Beam Reactor at Brookhaven National Laboratory, New York, and the Cyclotron Facility at Oak Ridge National Laboratory, Tennessee. This has hampered DOE's ability to satisfy increasing demands in various mission areas. The Department's facilities at the Savannah River Site, previously used for plutonium-238 production for the space program, are also no longer available.

Consistent with these findings, DOE recognizes that adequate nuclear research reactor, accelerator, and associated support facilities must be made available in order to implement and maintain a successful nuclear energy program. To continue meeting its responsibilities under the Atomic Energy Act and to satisfy projected increases in the future demand for isotope products and irradiation services, DOE proposes to enhance its existing nuclear facility infrastructure to: (1) Produce isotopes for medical, research, and industrial uses, (2) produce plutonium-238 for use in advanced radioisotope power systems for future NASA space exploration missions, and (3) support the Nation's nuclear research and development needs for civilian applications.

The NI PEIS evaluates a No Action Alternative and five action alternatives. The action alternatives focus on the use of irradiation facilities that are currently operating, those that could be brought online, or those that could be constructed and operated to meet DOE's nuclear facility infrastructure requirements.

No Action Alternative (maintain status quo): Ongoing operations at existing facilities would continue. DOE would not establish a domestic plutonium-238 production capability, but could, instead, purchase Russian plutonium-238 to meet the needs of future U.S. space missions. However, the existing contract, which expires in 2002, would have to be renegotiated or a new contract would have to be established. FFTF at Hanford would be maintained in standby status.

Alternative 1—Restart FFTF: FFTF at Hanford would be restarted to irradiate targets for medical and industrial isotope production, plutonium-238 production, and nuclear research and development irradiation requirements for a period of 35 years. Ongoing operations at other existing facilities would continue.

Alternative 2—Use Only Existing Operational Facilities: DOE would use existing operating DOE reactors or U.S. commercial light water reactors to produce plutonium-238 for future space missions. The production of medical and industrial isotopes and support of nuclear research and development in DOE reactors and accelerators would continue at the No Action Alternative levels. Other ongoing operations at existing facilities would continue. FFTF at Hanford would be permanently deactivated.

Alternative 3—Construct New Accelerator(s): One or two new accelerators would be constructed for target irradiation and operated for a period of 35 years. The new accelerator(s) would be constructed at an existing DOE site and would be used to irradiate all of the targets for production of plutonium-238, isotopes for medical and industrial uses, and materials testing for research and development. Other ongoing operations at existing facilities would continue. FFTF at Hanford would be permanently deactivated.

Alternative 4—Construct New Research Reactor: A new research reactor would be constructed for target irradiation and operated for a period of 35 years. The new research reactor would be constructed at an existing DOE site, and would be used to irradiate all targets for production of plutonium-238, isotopes for medical and industrial uses, and materials testing for research and development. Other ongoing operations at existing facilities would continue. FFTF at Hanford would be permanently deactivated.

Alternative 5—Permanently Deactivate FFTF (with no new missions): FFTF at Hanford would be permanently deactivated and no enhancements to DOE's nuclear facilities infrastructure would be made. Plutonium-238 would not be produced or purchased. Ongoing operations, such as medical and industrial isotope production and nuclear research and development missions, at existing facilities would continue.

The environmental impact analysis addresses the full range of natural and human resource areas pertinent to the sites considered for the nuclear infrastructure alternatives. Impacts are assessed for human health, land resources, noise, air quality, water resources, geology and soils, ecological resources, cultural and paleontological resources, socioeconomics, and waste management. A region of influence for each resource area is identified and analyzed for each candidate site.

Baseline conditions at the three DOE sites assessed in the NI PEIS, the Oak Ridge Reservation, Idaho National Engineering and Environmental Laboratory, and Hanford, as well as an existing generic commercial light water reactor, include present and reasonably foreseeable future actions at each site.

Sitewide data set forth in the No Action Alternative define the baseline conditions used in the analysis of action alternatives for each site and are the data upon which incremental impacts for action alternatives were imposed to determine overall impacts.

The Department does not have a preferred alternative at this time, but a preferred alternative will be identified in the final PEIS. The environmental analysis in the PEIS, public comments, the findings of a separate cost study and a nonproliferation report that are being prepared concurrently with the PEIS, as well as other program and policy factors, will be considered in making a decision. The Record of Decision to be published in the **Federal Register** will be issued no sooner than 30 days after the U.S. Environmental Protection Agency's notice of availability of the final PEIS has been published in the **Federal Register**.

Issued in Washington, D.C., this 24th day of July 2000.

R. Shane Johnson,

Acting Associate Director for Technology and International Cooperation, Office of Nuclear Energy, Science and Technology.

[FR Doc. 00–19092 Filed 7–27–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Docket No. RP98–40–000]

Panhandle Eastern Pipeline Company; Notice of Informal Settlement Conference

July 24, 2000.

On July 31, 2000, an informal settlement conference in the above-docketed proceeding respecting the Kansas *ad valorem* issues will be held at the offices of Shook, Hardy & Bacon, 1 Kansas City Place, 1200 Main Street, Kansas City, Missouri. The conference will begin at 10:45 a.m. in Conference Room 31A. All interested parties in the above docket are requested to attend the informal settlement conference. If a party has any questions respecting the conference, please call Richard Miles, the Director of the Dispute Resolution Service. His telephone number is 1 877 FERC ADR (337–2237) or 202–208–0702 and his e-mail address is *richard.miles@ferc.fed.us.*

David P. Boergers,

Secretary.

[FR Doc. 00–19060 Filed 7–27–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–2668–009, et al.]

Duke Energy Moss Landing LLC, et al.; Electric Rate and Corporate Regulation Filings

July 20, 2000.

Take notice that the following filings have been made with the Commission:

1. Duke Energy Moss Landing LLC and Duke Energy Oakland LLC

[Docket Nos. ER98–2668–009, ER99–1127–007, and ER98–4300–006; ER98–2669–008, ER99–1128–007, and ER98–4296–006]

Take notice that on July 13, 2000, Duke Energy Moss Landing, LLC and Duke Energy Oakland, LLC tendered for filing a revised compliance report regarding refunds as required by the Commission's Order issued January 28, 2000 approving the Final Offer of Settlement filed in the above-captioned proceeding on November 16, 1999. This revised compliance report substitutes for the compliance report noticed by the Commission on April 18, 2000 in the above-captioned proceedings.

Comment date: August 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. Lowell Cogeneration Company Limited Partnership

[Docket No. ER97–2414–003]

Take notice that on July 17, 2000, Lowell Cogeneration Company Limited Partnership (Lowell), tendered for filing a three year update to its market power study in compliance with the Commission's Order in Docket No. ER97–2414–000 granting Lowell market based rate authority.

Comment date: August 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

3. Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma, and Southwestern Electric Power Company

[Docket Nos. ER99–1659–006 and ER99–1660–006]

Take notice that on July 17, 2000, Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma, and Southwestern Electric Power Company (for the purposes of this filing, the CSW Operating Companies), tendered for filing a refund report pursuant to the Commission's June 1, 2000 order in the above-captioned docket regarding refunds to Northeast Texas Electric Cooperative, Inc., and East Texas Electric Cooperative, Inc., on their network service agreements under the CSW Operating Companies' open access transmission service tariff.

A copy of this filing has been served on each person designated on the official service list compiled by the Secretary in this proceeding, each of the affected wholesale customers, and on the Arkansas Public Service Commission, the Louisiana Public Service Commission, the Oklahoma Corporation Commission and the Public Utility Commission of Texas.

Comment date: August 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

4. PPL Electric Utilities Corporation

[Docket No. ER00–1712–001]

Take notice that on July 17, 2000, PPL Utilities Corporation (PPL Utilities), tendered for filing an updated market power analysis pursuant to Ordering Paragraph (D) of the Commission's order in Pennsylvania Power & Light Company, 80 FERC ¶ 61,053 (1997).

PPL Utilities has served a copy of this filing on the parties on the Commission's official service list for this docket.

Comment date: August 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. Wisconsin Electric Power Company

[Docket No. ER00–3161–000]

Take notice that July 17, 2000, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an amendment to its electric service agreement (SA) with Badger Power Marketing Authority of Wisconsin (BPMA). The SA is under Wisconsin Electric's FERC Electric Tariff Third Revised Volume No. 1 and is Service Agreement No. 25.

Wisconsin Electric respectfully requests an effective date of July 17, 2000.

Copies of the filing have been served on BPMA, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: August 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. Cinergy Services, Inc.

[Docket No. ER00–3162–000]

Take notice that on July 17, 2000, Cinergy Services, Inc. (Cinergy), tendered for filing a Non-Firm Point-To-Point Service Agreement under Cinergy's Open Access Transmission Service Tariff (OATT) entered into between Cinergy and Indianapolis Power & Light Company (IPL).

Cinergy and IPL are requesting an effective date of June 19, 2000.

Comment date: August 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. Cinergy Services, Inc.

[Docket No. ER00–3163–000]

Take notice that on July 14, 2000, Cinergy Services, Inc. (Cinergy), tendered for filing a Non-Firm Point-To-Point Service Agreement under Cinergy's Open Access Transmission Service Tariff (OATT) entered into between Cinergy and FPL Energy Power Marketing, Inc., (FPL).

Cinergy and FPL are requesting an effective date of June 19, 2000.

Comment date: August 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. Cinergy Services, Inc.

[Docket No. ER00–3164–000]

Take notice that on July 17, 2000, Cinergy Services, Inc. (Cinergy), tendered for filing a Firm Point-To-Point Service Agreement under Cinergy's Open Access Transmission Service Tariff (OATT) entered into between Cinergy and FPL Energy Power Marketing, Inc., (FPL).

Cinergy and FPL are requesting an effective date of June 19, 2000.

Comment date: August 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Cinergy Services, Inc.

[Docket No. ER00–3165–000]

Take notice that on July 17, 2000, Cinergy Services, Inc. (Cinergy), tendered for filing a Non-Firm Point-To-Point Service Agreement under Cinergy's Open Access Transmission Service Tariff (OATT) entered into between Cinergy and H.Q. Energy Services (U.S.) Inc., (HQES).

Cinergy and HQES are requesting an effective date of June 19, 2000.

Comment date: August 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. Cinergy Services, Inc.

[Docket No. ER00–3166–000]

Take notice that on July 17, 2000, Cinergy Services, Inc. (Cinergy), tendered for filing a Firm Point-To-Point Service Agreement under Cinergy's Open Access Transmission Service Tariff (OATT) entered into between Cinergy and Indianapolis Power & Light Company (IPL).

Cinergy and IPL are requesting an effective date of June 19, 2000.

Comment date: August 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. Cinergy Services, Inc.

[Docket No. ER00–3167–000]

Take notice that on July 17, 2000, Cinergy Services, Inc. (Cinergy), tendered for filing a Firm Point-To-Point Service Agreement under Cinergy's Open Access Transmission Service Tariff (OATT) entered into between Cinergy and H.Q. Energy Services (U.S.) Inc., (HQES).

Cinergy and HQES are requesting an effective date of June 19, 2000.

Comment date: August 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. North Central Missouri Electric Cooperative Inc.

[Docket No. ER00–3170–000]

Take notice that on July 17, 2000, North Central Missouri Electric Cooperative, Inc. (North Central), tendered for filing an Agreement Covering Purchase of Electric Power & Energy between North Central Missouri Electric Cooperative, Inc. and City of Milan, Missouri, (Milan Agreement), a Joint Use and Rental Agreement between North Central Missouri Electric Cooperative, Inc. and Grundy Electric Cooperative, Inc. (Grundy Agreement), and a Facilities Lease Agreement between North Central Missouri Electric Cooperative, Inc. and City of Unionville, Missouri (Unionville Agreement). North Central's filings were made pursuant to § 205 of the Federal Power Act (FPA), 16 U.S.C. 824d, and § 35.12 of the Regulations of the Federal Energy Regulatory Commission (Commission), 18 CFR 35.12. North Central's filing is available for public inspection at its offices in Milan, Missouri.

North Central requests that the Commission accept the agreements with an effective date of July 18, 2000 or such later date as North Central becomes subject to the Commission's jurisdiction.

Comment date: August 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. Alliant Energy Corporate Services, Inc.

[Docket No. ER00–3171–000]

Take notice that on July 17, 2000, Alliant Energy Corporate Services, Inc. (Alliant Energy), tendered for filing an executed Service Agreement for short-term firm point-to-point transmission service, establishing Cinergy Services, Inc., as a point-to-point Transmission Customer under the terms of the Alliant Energy Corporate Services, Inc. transmission tariff.

Alliant Energy Corporate Services, Inc., requests an effective date of July 7, 2000, and accordingly, seeks waiver of the Commission's notice requirements.

A copy of this filing has been served upon the Illinois Commerce Commission, the Minnesota Public Utilities Commission, the Iowa Department of Commerce, and the Public Service Commission of Wisconsin.

Comment date: August 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

14. Madison Gas and Electric Company

[Docket No. ER00–3172–000]

Take notice that on July 17, 2000, Madison Gas and Electric Company (MGE), tendered for filing service agreements under MGE's Market-Based Power Sales Tariff with:

- British Columbia Power Exchange Corporation—''Powerex''.
- Wisconsin Public Service Corporation.

MGE requests the agreements be effective on the date they were filed with the FERC.

Comment date: August 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

15. South Carolina Electric & Gas Company

[Docket No. ER00–3173–000]

Take notice that on July 17, 2000, South Carolina Electric & Gas Company (SCE&G), tendered for filing a service agreement establishing Cargill-Alliant, LLC as a firm point-to-point customer under the terms of SCE&G's Open Access Transmission Tariff.

SCE&G requests an effective date of one day subsequent to the filing of the service agreement. Accordingly, SCE&G requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Cargill-Alliant, LLC and the South Carolina Public Service Commission.

Comment date: August 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

16. South Carolina Electric & Gas Company

[Docket No. ER00–3174–000]

Take notice that on July 17, 2000, South Carolina Electric & Gas Company (SCE&G), tendered for filing a service agreement establishing Allegheny Energy Supply Company, LLC as a firm point-to-point customer under the terms of SCE&G's Open Access Transmission Tariff.

SCE&G requests an effective date of one day subsequent to the filing of the service agreement. Accordingly, SCE&G requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Allegheny Energy Supply Company, LLC and the South Carolina Public Service Commission.

Comment date: August 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–19057 Filed 7–27–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–3175–000, et al.]

Jersey Central Power & Light Company, et al.; Electric Rate and Corporate Regulation Filings

July 21, 2000.

Take notice that the following filings have been made with the Commission:

1. Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company

[Docket No. ER00–3175–000]

Take notice that on July 18, 2000, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (individually doing business as GPU Energy), tendered for filing a Notice of Cancellation of the Service Agreement between GPU Service Corporation and Duke/Louis Dreyfus L.L.C., FERC Electric Tariff, Original Volume No. 1, Service Agreement No. 47.

GPU Energy requests that cancellation be effective September 18, 2000.

Comment date: August 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company

[Docket No. ER00–3176–000]

Take notice that on July 18, 2000, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (individually doing business as GPU Energy), tendered for filing a Notice of Cancellation of the Service Agreement between GPU Energy and Engage Energy US, L.P., FERC Electric Tariff, Second Revised Volume No. 1, Service Agreement No. 94.

GPU Energy requests that cancellation be effective September 18, 2000.

Comment date: August 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

3. Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company

[Docket No. ER00–3177–000]

Take notice that on July 18, 2000, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (individually doing business as GPU Energy), tendered for filing a Notice of Cancellation of the Service Agreement between GPU Service, Inc. and American Energy Solutions, Inc., FERC Electric Tariff, Original Volume No. 1, Service Agreement No. 85.

GPU Energy requests that cancellation be effective September 18, 2000.

Comment date: August 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

4. Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company

[Docket No. ER00–3178–000]

Take notice that on July 18, 2000, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (individually doing business as GPU Energy), tendered for filing a Notice of Cancellation of the Service Agreement between GPU Energy and CNG Retail Services Corporation (Peoples Plus), FERC Electric Tariff, Original Volume No. 1, Service Agreement No. 80.

GPU Energy requests that cancellation be effective September 18, 2000.

Comment date: August 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company

[Docket No. ER00–3179–000]

Take notice that on July 18, 2000, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (individually doing business as GPU Energy), tendered for filing a Notice of Cancellation of the Service Agreement between GPU Service Corporation and Energy Transfer Group, L. L. C., FERC Electric Tariff, Original Volume No. 1, Service Agreement No. 57.

GPU Energy requests that cancellation be effective September 18, 2000.

Comment date: August 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company

[Docket No. ER00–3180–000]

Take notice that on July 18, 2000, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (individually doing business as GPU Energy), tendered for filing a Notice of Cancellation of the Service Agreement between GPU Service Corporation and CNG Power Services Corporation, FERC Electric Tariff, Original Volume No. 1, Service Agreement No. 6.

GPU Energy requests that cancellation be effective September 18, 2000.

Comment date: August 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company

[Docket No. ER00–3181–000]

Take notice that on July 18, 2000, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (individually doing business as GPU Energy), tendered for filing a Notice of Cancellation of the Service Agreement between GPU Service Corporation and CMEX Energy, Inc., FERC Electric Tariff, Original Volume No. 1, Service Agreement No. 25.

GPU Energy requests that cancellation be effective September 18, 2000.

Comment date: August 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company

[Docket No. ER00–3182–000]

Take notice that on July 18, 2000, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (individually doing business as GPU Energy), tendered for filing a Notice of Cancellation of the Service Agreement between GPU Service Corporation and Engelhard Power Marketing, Inc., FERC Electric Tariff, Original Volume No. 1, Service Agreement No. 14.

GPU Energy requests that cancellation be effective September 18, 2000.

Comment date: August 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Cinergy Services, Inc.

[Docket No. ER00–3183–000]

Take notice that on July 18, 2000, Cinergy Services, Inc. (Cinergy), tendered for filing a Market-Based Service Agreement under Cinergy's Market-Based Power Sales Standard Tariff-MB (the Tariff) entered into between Cinergy and Quest Energy, L.L.C. (Quest).

Cinergy and Quest are requesting an effective date of June 19, 2000.

Comment date: August 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. Public Service Company of Oklahoma

[Docket No. ER00–3184–000]

Take notice that on July 18, 2000, Public Service Company of Oklahoma (PSO), tendered for filing an Interconnection Agreement between PSO and Kiowa Power Partners, LLC (Kiowa).

PSO requests an effective date for the Interconnection Agreement of sixty (60) days from the date of the filing.

PSO states that a copy of the filing was served on Kiowa and the Oklahoma Corporation Commission.

Comment date: August 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. Cinergy Services, Inc.

[Docket No. ER00–3185–000]

Take notice that on July 18, 2000, Cinergy Services, Inc. (Cinergy), tendered for filing a Service Agreement under Cinergy's Resale, Assignment or Transfer of Transmission Rights and Ancillary Service Rights Tariff (the Tariff) entered into between Cinergy and Aquila Energy Marketing Corporation (Aquila). This Service Agreement has been executed by both parties and is to replace the existing unexecuted Service Agreement.

Comment date: August 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. Cargill-Alliant, LLC

[Docket No. ER00–3186–000]

Take notice that on July 18, 2000, Cargill-Alliant, LLC (CA), pursuant to Section 35.13 of the Commission's Regulations under the Federal Power Act, 18 CFR 35.13, and Section 205 of the Commission's Rules of Practice and Procedure, 18 CFR 385.205, tendered for filing revisions to its Rate Schedule FERC No. 1, the purpose of which is to permit CA to resell Firm Transmission Rights.

Comment date: August 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. Arizona Public Service Company

[Docket No. ER00–3187–000]

That notice that on July 18, 2000, Arizona Public Service Company (APS) tendered for filing a revised Contract Demand Exhibit I to APS-FERC Rate Schedule No. 192 between APS and the City of Williams (Williams) for the Operating Year 2000.

Current rate levels are unaffected, revenue levels are unchanged from those currently on file with the Commission, and no other significant change in service to these or any other customer results from the revisions proposed herein. No new or modifications to existing facilities are required as a result of these revisions.

Copies of this filing have been served on the City of Williams and the Arizona Corporation Commission.

Comment date: August 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

14. MI Energy, LLC

[Docket No. ER00–3190–000]

Take notice that on July 17, 2000, MI Energy, LLC, tendered for filing pursuant to Rules 205 and 207 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure 18 CFR 385.205 and 385.207, and Section 35.12 of the Commission's Regulations 18 CFR 35.12, an application for blanket authorization and certain waivers under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1 to be effective the earlier of 60 days from the date of filing or the date of a Commission order granting approval of this Rate Schedule.

MI Energy intends to engage in electric power and energy transactions as a marketer and a broker. In transactions where MI Energy purchases power, including capacity and related services from electric utilities, qualifying facilities and independent power producers, and resells such power to other purchasers, MI Energy will be functioning as a marketer. In MI Energy's marketing transactions, MI Energy does not take this title to the electric power and/or energy, MI Energy will be limited to the role of a broker and will charge a fee for its services. MI Energy is not in the business of producing nor does it contemplate acquiring title to any electric power transmission facilities.

Comment date: August 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

15. Wisconsin Electric Power Company

[Docket No. ER00–3206–000]

Take notice that on July 14, 2000, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an electric service agreement under its Market Rate Sales Tariff (FERC Electric Tariff, Original Volume No. 8) with Edison Mission Marketing & Trading, Inc.

Wisconsin Electric respectfully requests an effective date of July 14, 2000 to allow for economic transactions.

Copies of the filing have been served on Edison Mission Marketing & Trading, Inc., the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: August 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

16. California Power Exchange Corporation

[Docket No. ER00–3212–000]

Take notice that on July 18, 2000, the California Power Exchange Corporation (CalPX), tendered for filing tariff sheets in compliance with the Commission's June 23, 2000 order in this proceeding. The tariff sheets filed on July 18, 2000 incorporate the changes accepted by the Commission's June 23, 2000 order into the CalPX's First Revised Volume No. 2 of its FERC Electric Tariff. First Revised Volume No. 2 was filed in Docket No. ER00–2736–000 in compliance with the Commission's Order No. 614. The tariff sheets filed on July 18, 2000 do not propose any substantive changes in the tariff sheets accepted on June 23, 2000 but only adapt those tariff sheets to the format of the First Revised Volume No. 2.

Comment date: August 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

17. California Power Exchange Corporation

[Docket No. ER00–3213–000]

Take notice that on July 18, 2000, the California Power Exchange Corporation (CalPX), on behalf of its CalPX Trading Services Division (CTS), tendered for filing revised tariff sheets in compliance with the Commission's June 23, 2000 order in this proceeding accepting Amendment No. 3. CTS has adapted Amendment No. 3 to the format and pagination of its Second Revised Rate Schedule FERC No. 1, filed in Docket No. ER00–2737–000 in compliance with the Commission's Order No. 614. The compliance filing made on July 18, 2000 in this proceeding does not make any substantive changes in Amendment No. 3 as it was accepted by the June 23, 2000 order. The compliance filing only adapts Amendment No. 3 to the format and pagination of the Second Revised Rate Schedule FERC No. 1.

Comment date: August 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

18. Rumford Cogeneration Company Limited Partnership

[Docket No. QF86–291–003]

Take notice that on July 7, 2000 and July 19, 2000, Rumford Cogeneration Company Limited Partnership filed supplements to its May 16, 2000 Application for Commission Recertification as a Qualifying Cogeneration Facility. The supplements clarify certain information regarding the cogeneration facility and the proposed change in ownership of the facility.

Comment date: August 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

19. Pedricktown Cogeneration Limited Partnership

[Docket No. QF87–407–005]

Take notice that on July 13, 2000 and July 19, 2000, Pedricktown Cogeneration Limited Partnership filed supplements to its May 16, 2000 Application for Commission Recertification as a Qualifying Cogeneration Facility. The supplements provide additional information regarding the cogeneration facility and the proposed change in ownership of the facility.

Comment date: August 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

20. Gregory Power Partners, L.P.

[Docket No. QF99–32–002]

Take notice that on July 12, 2000 and July 19, 2000, Gregory Power Partners, L.P. filed supplements to its May 16, 2000 Application for Commission Recertification as a Qualifying Cogeneration Facility. The supplements provide additional information regarding the cogeneration facility and the proposed change in ownership of the facility.

Comment date: August 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–19059 Filed 7–27–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–2382–004, et al.]

Montana Power Company, et al.; Electric Rate and Corporate Regulation Filings

July 24, 2000.

Take notice that the following filings have been made with the Commission:

1. Montana Power Company

[Docket No. ER98–2382–004]

Take notice that on July 19, 2000, Montana Power Company (Montana) tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13 a compliance report showing Montana refunded amounts, including interest, collected in excess of the settled Energy Imbalance Schedule amounts in the above-referenced dockets.

A copy of the filing was served upon the state commissions within whose jurisdiction the wholesale customers distribute and sell electric energy at retail.

Comment date: August 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. Boston Edison Company

[Docket No. ER00–2067–002]

Take notice that on July 19, 2000, Boston Edison Company (BECo), tendered for filing an executed Related Facilities Agreement (Agreement) between BECo and ANP Bellingham Energy Company (ANP). The Agreement complies with the directives of the Commission in its order issued on May 30, 2000 in *Boston Edison Company*, 91 FERC ¶ 61,187, regarding an unexecuted form of the Agreement, and contains certain other changes that reflect the negotiations of the parties.

BECo requests that the Agreement be accepted for filing effective July 18, 2000, the date that ANP executed the Agreement.

Comment date: August 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

3. Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC

[Docket Nos. ER00–2696–000 ER00–2773–000]

Take notice that on July 19, 2000, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC tendered for filing a request for an exception to waiver of notice requirements in the above-referenced dockets.

Copies of the filing have been provided to the customer, the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, and the West Virginia Public Service Commission.

Comment date: August 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

4. Sierra Pacific Power Company and Nevada Power Company

[Docket No. ER00–3188–000]

Take notice that on July 19, 2000, Sierra Pacific Power Company (Sierra) and Nevada Power Company (Nevada Power), tendered for filing pursuant to Section 205 of the Federal Power a

revised Joint Open Access Transmission Tariff. This filing is intended to implement retail access in Nevada and to make certain other changes to reflect the current status of operations.

Sierra and Nevada Power request that the revised tariff be made effective on the date that retail access commences in the state of Nevada.

Comment date: August 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. Western Resources, Inc.

[Docket No. ER00–3189–000]

Take notice that on July 19, 2000, Western Resources, Inc. (WR), tendered for filing a Letter Agreement and a Control Area Service Agreement between WR and Missouri Joint Municipal Electric Utility Customers (MJMEUC). WR states that the purpose of these agreements is to permit the City to take Scheduling, System Control, and Dispatch Services from WR.

These agreements are proposed to be effective June 1, 2000.

Copies of the filing were served upon the City and the Kansas Corporation Commission.

Comment date: August 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC

[Docket No. ER00–3191–000]

Take notice that on July 19, 2000, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply), tendered for filing Service Agreement No. 81 to add one (1) new Customer to the Market Rate Tariff under which Allegheny Energy Supply offers generation services.

Allegheny Energy Supply requests a waiver of notice requirements to make service available as of July 18, 2000 to Southern Indiana Gas and Electric Company.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: August 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. Duke Energy Corporation

[Docket No. ER00–3192–000]

Take notice that on July 19, 2000, Duke Energy Corporation (Duke), tendered for filing a Service Agreement with Dynegy Power Marketing, Inc., for Transmission Service under Duke's Open Access Transmission Tariff.

Duke requests that the proposed Service Agreement be permitted to become effective on June 6, 2000.

Duke states that this filing is in accordance with Part 35 of the Commission's Regulations and a copy has been served on the North Carolina Utilities Commission.

Comment date: August 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. Duke Energy Corporation

[Docket No. ER00–3193–000]

Take notice that on July 19, 2000, Duke Energy Corporation (Duke), tendered for filing a Service Agreement with Dynegy Power Marketing, Inc., for Transmission Service under Duke's Open Access Transmission Tariff.

Duke requests that the proposed Service Agreement be permitted to become effective on June 6, 2000.

Duke states that this filing is in accordance with Part 35 of the Commission's Regulations and a copy has been served on the North Carolina Utilities Commission.

Comment date: August 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Duke Energy Corporation

[Docket No. ER00–3194–000]

Take notice that on July 19, 2000, Duke Energy Corporation (Duke), tendered for filing a Service Agreement with Dynegy Power Marketing, Inc., for Transmission Service under Duke's Open Access Transmission Tariff.

Duke requests that the proposed Service Agreement be permitted to become effective on July 18, 2000.

Duke states that this filing is in accordance with Part 35 of the Commission's Regulations and a copy has been served on the North Carolina Utilities Commission.

Comment date: August 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. Duke Energy Corporation

[Docket No. ER00–3195–000]

Take notice that on July 19, 2000, Duke Energy Corporation (Duke), tendered for filing a Service Agreement with Dynegy Power Marketing, Inc., for Transmission Service under Duke's Open Access Transmission Tariff.

Duke requests that the proposed Service Agreement be permitted to become effective on June 6, 2000.

Duke states that this filing is in accordance with Part 35 of the Commission's Regulations and a copy has been served on the North Carolina Utilities Commission.

Comment date: August 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. Duke Energy Corporation

[Docket No. ER00–3196–000]

Take notice that on July 19, 2000, Duke Energy Corporation (Duke), tendered for filing a Service Agreement with Dynegy Power Marketing, Inc., for Transmission Service under Duke's Open Access Transmission Tariff.

Duke requests that the proposed Service Agreement be permitted to become effective on June 6, 2000.

Duke states that this filing is in accordance with Part 35 of the Commission's Regulations and a copy has been served on the North Carolina Utilities Commission.

Comment date: August 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. Duke Energy Corporation

[Docket No. ER00–3197–000]

Take notice that on July 19, 2000, Duke Energy Corporation (Duke), tendered for filing a Service Agreement with Carolina Power & Light Company, for Transmission Service under Duke's Open Access Transmission Tariff.

Duke requests that the proposed Service Agreement be permitted to become effective on May 15, 2000.

Duke states that this filing is in accordance with Part 35 of the Commission's Regulations and a copy has been served on the North Carolina Utilities Commission.

Comment date: August 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. Duke Energy Corporation

[Docket No. ER00–3198–000]

Take notice that on July 19, 2000, Duke Energy Corporation (Duke), tendered for filing a Service Agreement with Carolina Power & Light Company, for Transmission Service under Duke's Open Access Transmission Tariff.

Duke requests that the proposed Service Agreement be permitted to become effective on June 5, 2000.

Duke states that this filing is in accordance with Part 35 of the Commission's Regulations and a copy has been served on the North Carolina Utilities Commission.

Comment date: August 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

14. Duke Energy Corporation

[Docket No. ER00–3199–000]

Take notice that on July 19, 2000, Duke Energy Corporation (Duke), tendered for filing a Service Agreement with Carolina Power & Light Company, for Transmission Service under Duke's Open Access Transmission Tariff.

Duke requests that the proposed Service Agreement be permitted to become effective on May 19, 2000.

Duke states that this filing is in accordance with Part 35 of the Commission's Regulations and a copy has been served on the North Carolina Utilities Commission.

Comment date: August 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

15. Duke Energy Corporation

[Docket No. ER00–3200–000]

Take notice that on July 19, 2000, Duke Energy Corporation (Duke), tendered for filing a Service Agreement with Reliant Energy Services, Inc., for Transmission Service under Duke's Open Access Transmission Tariff.

Duke requests that the proposed Service Agreement be permitted to become effective on June 5, 2000.

Duke states that this filing is in accordance with Part 35 of the Commission's Regulations and a copy has been served on the North Carolina Utilities Commission.

Comment date: August 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

16. Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company

[Docket No. ER00–3201–000]

Take notice that on July 19, 2000, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (individually doing business as GPU Energy), tendered for filing a Notice of Cancellation of the Service Agreement between GPU Service Corporation and Cenergy, Inc., FERC Electric Tariff, Original Volume No. 1, Service Agreement No. 32.

GPU Energy requests that cancellation be effective September 18, 2000.

Comment date: August 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

17. Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company

[Docket No. ER00–3202–000]

Take notice that on July 19, 2000, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (individually doing business as GPU Energy), tendered for filing a Notice of Cancellation of the Service Agreement between GPU Service, Inc. and Cleveland Electric Illuminating Company, FERC Electric Tariff, Original Volume No. 1, Service Agreement No. 51.

GPU Energy requests that cancellation be effective September 18, 2000.

Comment date: August 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

18. Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company

[Docket No. ER00–3203–000]

Take notice that on July 19, 2000, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (individually doing business as GPU Energy), tendered for filing a Notice of Cancellation of the Service Agreement between GPU Service Corporation and Dayton Power & Light Company, FERC Electric Tariff, Original Volume No. 1, Service Agreement No. 33.

GPU Energy requests that cancellation be effective September 18, 2000.

Comment date: August 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

19. Wisconsin Public Service Corporation

[Docket No. ER00–3204–000]

Take notice that on July 19, 2000, Wisconsin Public Service Corporation (WPSC), tendered for filing an executed Service Agreement with Minnesota Municipal Power Agency providing for transmission service under FERC Electric Tariff, Volume No. 1.

Comment date: August 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

20. Wisconsin Public Service Corporation

[Docket No. ER00–3205–000]

Take notice that on July 19, 2000, Wisconsin Public Service Corporation (WPSC), tendered for filing an executed Service Agreement with Minnesota Municipal Power Agency providing for transmission service under FERC Electric Tariff, Volume No. 1.

Comment date: August 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

21. Commonwealth Edison Company

[Docket No. ER00–3208–000]

Take notice that on July 19, 2000, Commonwealth Edison Company (ComEd), tendered for filing an executed service agreement for Public Service Company of Colorado (PSC) under ComEd's FERC Electric Market Based-Rate Schedule for power sales.

ComEd requests and effective date of July 13, 2000 for the service agreement and accordingly seeks waiver of the Commission's notice requirements.

Copies of this filing were served on PSC.

Comment date: August 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

22. MidAmerican Energy Company

[Docket No. ER00–3209–000]

Take notice that on July 19, 2000, MidAmerican Energy Company (MidAmerican), tendered for filing with the Commission a Notice of Cancellation pursuant to Section 35.15 of the Commission's Regulations.

MidAmerican requests that the following rate schedule be canceled effective March 31, 1998.

1. Full Requirements Power Agreement dated December 16, 1987, between Iowa Public Service Company (a predecessor company of MidAmerican) and City of Denver, Iowa. This Agreement has been designated as MidAmerican Rate Schedule Electric Tariff No. 7, Service Agreement No. 3.

MidAmerican requests a waiver of Section 35.15 to the extent that this Notice of Cancellation has not been filed within the time required by such section. MidAmerican inadvertently failed to submit the Notice of Cancellation upon expiration of the agreement. The expired agreement was supplanted by a new agreement, the ''Power Sales Agreement'' and has been designated as MidAmerican Rate Schedule Electric Tariff No. 5, Service Agreement No. 29 and 30.

MidAmerican has mailed a copy of this filing to City of Denver, IA, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities commission.

Comment date: August 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

23. Columbia Falls Aluminum Company, PPL Montana LLC, Alcoa, Inc. and Kaiser Aluminum & Chemical Corporation

[Docket No. ER00–3210–000]

Take notice that on July 19, 2000, Columbia Falls Aluminum Company, PPL Montana LLC, Alcoa, Inc., and Kaiser Aluminum & Chemical Corporation, tendered for filing member signature pages of the Northeast Regional Transmission Association Agreement and also a letter stating that Northwest Power Enterprises Inc., relinquishes its membership in the Northwest Regional Transmission Association.

Comment date: August 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–19058 Filed 7–27–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Notice of Floodplain Involvement for the Blythe Energy Project

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Floodplain Involvement.

SUMMARY: Western Area Power Administration (Western) has been approached by Wisvest Corporation, a non-regulated subsidiary of Wisconsin Energy Corporation, to interconnect the power to be generated by the Blythe Energy Project (Project) to Western's transmission system. The Project, as proposed, is a 520-megawatt (MW) natural gas-fired thermal power plant that is intended to serve competitive regional markets in southern California and Arizona. The Project is intended as a ''merchant plant,'' which means that the Project would be independent of other generators and that the power generated would serve the open market rather than any particular utility or load.

The Project would occupy approximately 15 acres of a 76-acre parcel of private land located just east of the Blythe Airport. Water for cooling and steam generation would be obtained from groundwater wells at approximately 2,200 gallons per minute. The plant would be a ''zero discharge'' facility, meaning that there would be no wastewater discharge from the plant. Instead, wastewater would be handled by evaporation ponds on site. Natural gas would be fed to the plant by new pipelines that would tap existing major interstate gas pipelines in the vicinity. One option is to pipe gas from the Arizona side of the Colorado River through a new 11.5-mile pipeline. A review of the flood hazard maps for Riverside County, California, indicates that the plant site would reside outside the 100-year floodplain of the Colorado River and McCoy Wash, a nearby intermittent drainage. However, the proposed pipeline route would cross the Colorado River and the Palo Verde Valley just south of the City of Blythe. The crossing of the Colorado River would involve horizontal directional, or microbore drilling, which would place the pipeline under the River. This technique would be used for any crossings of irrigation canals and drains as the pipeline crosses the Valley.

In accordance with the U.S. Department of Energy (DOE) Floodplain/Wetland Review Requirements (10 CFR part 1022), Western will prepare a floodplain assessment and will perform the proposed actions in a manner so as to avoid or minimize potential harm to or within the affected floodplain. The floodplain assessment will be included in the Environmental Assessment/Staff Assessment being prepared jointly by Western and the California Energy Commission on the project, in accordance with the provisions of the DOE National Environmental Policy Act Implementing Procedures (10 CFR part 1021).

DATES: Comments on the proposed floodplain action are due to the address below no later than August 25, 2000.

ADDRESSES: Comments should be addressed to Mr. Nick Chevance, Environmental Project Manager, Western Area Power Administration, P.O. Box 281213, Lakewood, CO, 80228–8213, FAX: 720–962–2630, email chevance@wapa.gov; or Mr. John Holt, Environment Manager, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005–6457, FAX: 602–352–2630, email holt@wapa.gov.

FOR FURTHER INFORMATION CONTACT: For Project information contact: Mr. Nick Chevance, telephone 720–962–7254, or Mr. John Holt, telephone 602–352–2592, at the addresses and faxes listed above. For further information on DOE Floodplain/Wetlands Environmental Review Requirement contact: Ms. Carol M. Borgstrom, Director, NEPA Policy and Compliance, EH–42, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, telephone 202–586–4600 or 800–472–2756.

SUPPLEMENTARY INFORMATION: The proposed Blythe Energy Project would involve construction activities within the floodplain of the Colorado River, including the construction of the natural gas pipeline and the microbore drilling. The floodplain assessment would examine the impacts of this construction on the Colorado River floodplain. The Blythe Energy Project would involve the floodplain in both Riverside County, California, Townships 6 and 7 South, Ranges 22 and 23 East, and La Paz County, Arizona, Township 3 North, Range 22 West. Maps and further information are available from the contacts above.

Dated: July 19, 2000.

Michael S. Hacskaylo,

Administrator.

[FR Doc. 00–19091 Filed 7–27–00; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6841–5]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Confidentiality Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces

that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Confidentiality Rules, EPA ICR No. 1665.03, OMB Control No. 2020–0003, expiration date August 31, 2000. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before August 28, 2000.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR, contact Sandy Farmer at EPA by phone at (202) 260–2740 or by email at farmer.sandy@epamail.epa.gov, or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1665.03. For technical questions about the ICR, contact Rebecca Moser in EPA's Office of Information Collection by phone at (202) 260–6780, by fax at (202) 260–8550, or by email at *Moser.Rebecca@epa.gov.*

SUPPLEMENTARY INFORMATION:

Title: Confidentiality Rules (OMB Control No. 2020–0003; EPA ICR No. 1665.03), expiring August 31, 2000. This is a request for extension of a currently approved collection.

Abstract: EPA administers a number of environmental protection statutes which require it to collect data from thousands of facilities. Businesses often claim the data they submit as confidential business information (CBI). EPA developed the regulations at 40 CFR part 2, subpart B to protect CBI, as well as the rights of the public under the Freedom of Information Act (FOIA). When EPA must determine whether information is entitled to confidential treatment, it provides the affected business with an opportunity to submit comments (a substantiation). EPA then considers the business's comments in determining whether the previously submitted information should be protected as CBI. This ICR relates to the collection of information that will assist EPA in making confidentiality determinations.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The Federal Register document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on April 12, 2000 (65 FR 19750); comments were received from one organization.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 4.8 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: 1330.

Estimated Number of Responses: 1101.

Frequency of Response: on occasion.

Estimated Total Annual Hour Burden: 6432 hours.

Estimated Total Annualized Capital and Operating & Maintenance Cost Burden: $0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1665.03 and OMB Control No. 2020–0003 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania Ave, NW., Washington, DC 20460; and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: July 19, 2000.

Joseph Retzer,

Director, Collection Services Division.

[FR Doc. 00–19121 Filed 7–27–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6842–6]

Inadequacy Status of the Portneuf Valley, Pocatello, ID; Submitted Particulate Matter (PM10) Air Quality Improvement Plan for Transportation Conformity Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of inadequacy.

SUMMARY: In this document, EPA is notifying the public that we have found that the motor vehicle emissions budget for PM10 in the Portneuf Valley, Pocatello, Idaho submitted PM10 Air Quality Improvement Plan is inadequate for conformity purposes. On March 2, 1999, the D.C. Circuit Court ruled that submitted SIPs cannot be used for conformity determinations until EPA has affirmatively found them adequate. As a result of our finding, Portneuf Valley cannot use the motor vehicle emissions budget from the submitted PM–10 Air Quality Improvement Plan for future conformity determinations.

DATES: This finding is effective August 14, 2000.

FOR FURTHER INFORMATION CONTACT: The finding and the response to comments will be available at EPA's conformity website: *http://www.epa.gov/oms/traq,* (once there, click on the ''Conformity'' button, then look for ''Adequacy Review of SIP Submissions for Conformity''). You may also contact Wayne Elson, U.S. EPA, Region 10 (OAQ–107), 1200 Sixth Ave, Seattle WA 98101; (206) 553–1463 or *elson.wayne@epa.gov.*

SUPPLEMENTARY INFORMATION:

Background

Today's document is simply an announcement of a finding that we have already made. EPA Region 10 sent a letter to Idaho Division of Environmental Quality on June 8, 2000 stating that the motor vehicle emissions budget in the Portneuf Valley submitted Particulate Matter (PM-10) Air Quality Improvement Plan is inadequate. This finding is based on the exceedences of the PM10 National Ambient Air Quality Standards recorded in December 1999, and the need to re-visit the planning effort for the Portneuf Valley PM10 nonattainment area. This finding will also be announced on EPA's conformity website: *http://www.epa.gov/oms/traq,* (once there, click on the ''Conformity'' button, then look for ''Adequacy Review of SIP Submissions for Conformity'').

Transportation conformity is required by section 176(c) of the Clean Air Act.

EPA's conformity rule requires that transportation plans, programs, and projects conform to state air quality implementation plans (SIPs) and establishes the criteria and procedures for determining whether or not they do. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which we determine whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). Please note that an adequacy review is separate from EPA's completeness review.

We've described our process for determining the adequacy of submitted SIP budgets in guidance (May 14, 1999 memo titled ''Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision''). We followed this guidance in making our adequacy determination.

Authority: 42 U.S.C. 7401–7671 q.

Dated: July 18, 2000.

Chuck Findley,

Acting Regional Administrator, Region 10.

[FR Doc. 00–19120 Filed 7–27–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6609–5]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7157 or www.epa.gov/oeca/ofa

Weekly Receipt of Environmental Impact Statements
Filed July 17, 2000
Through July 21, 2000
Pursuant to 40 CFR 1506.9

EIS No. 000253, Draft EIS, AFS, MN, Little East Creek Fuel Reduction Project, Plan to Grant Access Across Federal Land to Non-Federal Landowners, Implementation, LaCroix Ranger District, Superior National Forest, Saint Louis County, MN, Due: September 11, 2000, Contact: Jim Thompson (218) 666–0020.

EIS No. 000254, Draft EIS, AFS, ID, South Fourth of July Ecosystem Restoration Project, Implementation, Salmon-Cobalt Ranger District, Salmon-Challis National Forest, Lemhi County, ID, Due: September 11, 2000, Contact: Doug Weaver (208) 756–5219.

EIS No. 000255, Final EIS, FRC, CA, UT, AZ, NM, Southern Trails Pipeline Project (CP99–163–000), Conversion of an Existing Crude Oil Pipeline (known as the ARCO Four Corners Pipeline Line 90 System), Construction and Operation, CA, AZ, UT and NM, Due: August 28, 2000, Contact: Paul McKee (202) 208–1066.

EIS No. 000256, Draft EIS, COE, NJ, Meadowlands Mills Project, Construction of a Mixed-Use Commercial Development, Permit Application Number 95–07–440–RS for Issuance of a USCOE Section 404 Permit, Boroughs of Carlstadt and Monnachie, Township of South Hackensack, Bergen County, NJ, Due: September 11, 2000, Contact: Steven Schumach (212) 264–0183.

EIS No. 000257, Draft EIS, USN, CA, Point Mugu Sea Range Naval Air Warfare Center Weapons Division (NAWCWPWS), Proposes To Accommodate TMD Testing and Training, Additional Training Exercises, Ventura, Los Angeles, Santa Barbara, San Diego and San Luis Obispo Counties, CA, Due: September 11, 2000, Contact: Cora Fields (888) 217–9045.

EIS No. 000258, Draft EIS, DOE, TN, WA, ID, Programmatic—Accomplishing Expanded Civilian Nuclear Energy Research and Development and Isotope Production Missions in the United States, Including the Role of the Fast Flux Test, ID, TN, WA, Due: September 18, 2000, Contact: Colette E. Brown (877) 562–4593.

EIS No. 000259, Draft EIS, SFW, CA, Bolsa Chica Lowlands Restoration Project, Creation of Wetland Habitat Areas, Approval and Issuance of USCOE Section 404 and USCGD Bridge Permits, Orange County, CA, Due: September 11, 2000, Contact: Jack Fancher (760) 431–9440. USFWS and USCOE are Joint Lead Agencies for the above EIS.

Dated: July 25, 2000.

Ken Mittelholtz,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. 00–19155 Filed 7–27–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6609–6]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in the **Federal Register** dated April 14, 2000 (65 FR 20157).

Draft EISs

ERP No. D–FHW–D40307–VA Rating EC2, Coalfields Expressway Location Study, Improvements from Route 23 near Pound, VA to the WV State Line east of Slate, VA, Funding and COE Section 404 Permit, Wise, Dickerson and Buchanan, VA.

Summary: EPA expressed concerns about the direct impact to forests, streams and wetlands. EPA recommends that VDOT and FHWA consider flexibility in the design standards of this road to allow for contact sensitive design and that the right-of-way limits and clearing be kept to a minimum.

ERP No. D–RUS–E39053–KY Rating EC2, Jackson County Lake Project, Implementation, To Provide Adequate Water Supplies for the Projected Residential, Commercial and Industrial Needs, Funding and Possible COE Section 10 and 404 Permits, Jackson County, KY.

Summary: EPA expressed environmental concerns due to long-term water quality implications of the proposal and request additional information regarding project purposed/need.

ERP No. DS–FTA–C40046–NY Rating LO, Buffalo Inner Harbor Development Project, Waterfront Redevelopment, Funding and COE Section 10 and 404 Permit Issuance, New Information in Response to a Court Order concerning Historic Preservation, Eric County, NY.

Summary: EPA has no objection to implementation of the proposed project.

FINAL EISs

ERP No. F–BLM–K67049–CA Soledad Canyon Sand and Gravel Mining Project, Proposal to Mine, Produce and Sell, ''Split Estate'' Private Owned and Federally Owned Lands, Transit Mixed Concrete, Los Angeles County, CA.

Summary: EPA concurred with BLM's conformity determination and is satisfied that air quality standards will be protected. EPA expressed continuing concerns that a jurisdictional analysis has not yet been conducted for waters of the U. S., and potential impacts and appropriate mitigation measures remain uncertain.

ERP No. F–DOE–A08031–00 Transmission System Vegetation Management Program, Implementation, Managing Vegetation, Site Specific, Right-of-Way Grant, CA, ID, MT, OR, UT, WA and WY.

Summary: EPA expressed lack of objections with the proposed action.

ERP No. F–DOE–E09806–TN Treating Transuranic (TRU)/Alpha Low-Level Waste at the Oak Ridge National Laboratory, Construct, Operate, and Decontaminate/Decommission of Waste Treatment Facility, Oak Ridge, TN.

Summary: EPA continues to have environmental concerns about potential process releases and project impacts, due to the magnitude and scope of the project.

ERP No. F–FHW–C40147–NY Stewart Airport Access Transportation Improvement Project, A New Interchange on I–84 at Drury Lane, Reconstruction of Drury Lane and a new East-West Connector Road from Drury Lane to Stewart International Airport, Funding, Towns of Montgomery, Newburgh and New Windsor, Orange County, NY.

Summary: While EPA has no objection to the proposed action, EPA would like to review the wetlands avoidance and minimization measures prior to the release of the ROD. EPA also requested that the information, and the wetland mitigation/monitoring plan be included in the Department of Army Section 404 permits.

ERP No. F–FHW–E40781–FL FL–423 (John Young Parking), Improvements from FL–50 to FL–434, City of Orlando, Orange County, FL.

Summary: EPA continues to be concerned regarding the need to monitor storm water and that the entire project should have a delineated bike lane.

ERP No. F–FHW–F40386–OH Meigs–124–21.16 Transportation Corridor, Relocating existing OH–124 and US 33, Meigs County, OH.

Summary: EPA has no objection to the proposed action, since the selected alternative avoids impacts to threatened and endangered species, historic sites, Section 4(f) areas and other important resources in the area, while also minimizing adverse impacts on the area's wetlands.

ERP No. F–FHW–K40220–CA CA–125 South Route Location, Adoption and Construction, between CA–905 on Otay Mesa to CA–54 in Spring Valley, Funding and COE Section 404 Permit, San Diego County, CA.

Summary: EPA believes the FEIS remains inadequate for purposes of public disclosure under the National Environmental Policy Act. Pursuant to CEQ's NEPA implementing Regulations, EPA strongly recommended that FHWA prepare a Supplemental EIS to address several actions related to, and/or connected to, State Route 125 which would not proceed without construction of the roadway.

ERP No. F–FHW–L40201–WA US 101 Highway Aberdeen-Hoquiam Corridor Project, Improvements, US Coast Guard and COE Section 404 Permit, Grays Harbor County, WA.

Summary: No formal comment letter was sent to the lead agency.

ERP No. F–IBR–H39007–00 Republican River Basin Long-Term Water Supply Contract Renewals for Five Irrigation Districts, Frenchman-Cambridge, Frenchman Valley and Bostwick Irrigation District in Nebraska and Bostwick No.2 and Almena Irrigation Districts on Kansas, NE and KS.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. FS–FHW–H40136–KS South Lawrence Trafficway Construction, Kansas Turnpike, I–70 to KS–10/Noria Road, New Information concerning KS–10 on the East and US 59 on the West, Funding, COE Section 404 Permit and Right-of-Way Acquisition, Douglas County, KS.

Summary: No formal comment letter was sent to the preparing agency.

Dated: July 25, 2000.

Ken Mittelholtz,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. 00–19199 Filed 7–27–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6842–4]

Regulatory Reinvention (XL) Pilot Projects

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of the Project XL Proposed Final Project Agreement: Buncombe County Leachate Recirculation/Gas Recovery (Bioreactor) Project.

SUMMARY: EPA is requesting comments on a proposed Project XL Final Project Agreement (FPA) for Buncombe County. The FPA is a voluntary agreement developed collaboratively by Buncombe County, the North Carolina Department of Environment and Natural Resources (NCDENR), and EPA. Project XL, announced in the **Federal Register** on May 23, 1995 (60 FR 27282), gives regulated entities the flexibility to develop alternative strategies that will replace or modify specific regulatory or procedural requirements on the condition that they produce greater environmental benefits. EPA has set a goal of implementing fifty XL projects undertaken in full partnership with the states.

In the draft Final Project Agreement, Buncombe County proposes to use certain bioreactor techniques (*e.g.,* leachate recirculation) at its municipal solid waste landfill (MSWLF), to accelerate the biodegradation of landfill waste and decrease the time it takes for the waste to stabilize in the landfill. The principal objectives of this bioreactor XL project are to evaluate performance of an alternative landfill liner and to assess waste decomposition when recirculated leachate is added to the landfill. To achieve the objectives of the project, Buncombe County proposes to recirculate leachate in MSWLF cells to be constructed with a liner that differs in certain respects from the liner design specified in the Subtitle D regulations. In order to carry out this project, Buncombe County would need relief from current Resource Conservation and Recovery Act (RCRA) Subtitle D regulations (40 CFR part 258), which set forth design and operating criteria. This criteria currently precludes the recirculation of leachate in Subtitle D landfill cells not constructed with the standard Subtitle D composite liner system. Buncombe County desires to construct the remainder of its landfill cells with an approved alternative liner while implementing this leachate recirculation/gas recovery project. Buncombe County is also seeking regulatory flexibility from the prohibition in 40 CFR 258.28, Liquid Restrictions, which currently precludes the addition of useful bulk or non-containerized liquid amendments. During periods of low leachate generation, Buncombe County desires to supplement the leachate flow with water from the adjoining French Broad River to maintain moisture levels in the landfill.

Some of the superior environmental benefits that Buncombe County expects to achieve with this project include: improved leachate quality; reduction in

the potential for uncontrolled releases of leachate to contaminate the groundwater, or gas to contaminate the air during the post-closure phase (should a containment system failure occur); increased gas yield and capture; rapid waste biodegradation and stabilization; increased lifespan of the landfill resulting in less need for construction of additional landfills; reduced post-closure costs; and faster reclamation of land for future use.

The Buncombe County proposal is one of several bioreactor XL project proposals currently being considered by EPA. This proposed project to allow recirculation of leachate using an alternative landfill liner design will apply only to the Buncombe County Landfill in Asheville, North Carolina and the specific landfill cells at that landfill which are being considered under this proposal.

The terms and conditions pertaining to this XL pilot project are contained in the draft Final Project Agreement (FPA), on which EPA is requesting comment today. The draft FPA sets forth the intentions of EPA, Buncombe County, and the State of North Carolina with regard to the implementation of the project and the expected benefits. After review of the comments received during the public comment period and revision of the FPA, as appropriate, the FPA will be signed by representatives from the EPA, the State of North Carolina, and Buncombe County.

The legal implementing mechanism for this project will be a site-specific rule. The draft rule is scheduled for publication in the **Federal Register** for public review and comment in late August 2000. The proposed rule would be ''conditional'' and would depend on implementation of the alternative design proposed today. Upon completion of the rulemaking, this design would be enforceable in the same way that current RCRA standards for landfills are enforceable to ensure that management of nonhazardous solid waste is performed in a manner that is protective of human health and the environment. The Final Project Agreement and the site-specific rule will not in any way affect the provisions or applicability of any other existing or future regulations.

DATES: The period for submission of comments ends on August 28, 2000.

ADDRESSEES: All comments on the proposed Final Project Agreement should be sent to: Ms. Michelle Cook, US EPA, Region 4, 61 Forsyth Street, Atlanta, GA 30303, or Ms. Sherri Walker, US EPA, Ariel Rios Building, Mail Code 1802, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460. Comments may also be faxed to Michelle Cook (404) 562–8063 or Sherri Walker (202) 260–3125. Comments may also be received via electronic mail sent to: *cook.michelle@epa.gov* or *walker.sherri@epa.gov.*

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the Project Fact Sheet or the proposed Final Project Agreement, contact: Michelle Cook, US EPA, Region 4, 61 Forsyth Street, Atlanta, GA 30303, or Sherri Walker, US EPA, Mail Code 1802, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460. The FPA and related documents are also available via the Internet at the following location: *http://www.epa.gov/ProjectXL.* In addition, the proposed FPA is available at the Buncombe County General Services Department, 30 Valley Street, Asheville, NC. Questions to EPA regarding the documents can be directed to Michelle Cook at (404) 562–8674 or Sherri Walker at (202) 260–4295. To be included on the Buncombe County Project XL mailing list about future public meetings, XL progress reports and other mailings from Buncombe County on the XL project, contact Bob Hunter, Director, Buncombe County General Services Department, (828) 250–5466. For information on all other aspects of the XL Program, contact Christopher Knopes at the following address: Office of Policy and Environmental Innovation, US EPA, Mail Code 1802, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460. Additional information on Project XL, including documents referenced in this notice, other EPA policy documents related to Project XL, regional XL contacts, application information, and descriptions of existing XL projects and proposals, is available via the Internet at http://www.epa.gov/Projectxl.

Dated: July 24, 2000.

Christopher A. Knopes,

Acting Director, Office of Environmental Policy Innovation.

[FR Doc. 00–19119 Filed 7–27–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6842–7]

Whole Effluent Toxicity Test Methods Guidance; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: Today, EPA is announcing the availability of a document titled, ''Method Guidance and Recommendations for Whole Effluent Toxicity (WET) Testing (40 CFR Part 136).'' This guidance document updates recommendations and suggestions (with additional technical clarification) regarding WET test methods published by EPA and incorporated by reference into regulations. The document includes specific technical guidance on nominal error rate adjustments, confidence intervals, concentration-response relationships, dilutions series selection, and dilution water.

DATES: This notice will become effective July 28, 2000.

ADDRESSES: A copy of the guidance document and supporting materials are available for review at the EPA Water Docket at EPA Headquarters at Waterside Mall, Room EB57, 401 M Street, S.W., Washington, DC 20460. For access to the Water Docket, call (202) 260–3027 between 9:00 a.m. and 3:30 p.m. Eastern Standard Time for an appointment.

FOR FURTHER INFORMATION CONTACT: Marion Kelly at the U.S. Environmental Protection Agency, Office of Water, Engineering and Analysis Division (4303), 1200 Pennsylvania Avenue, NW, Ariel Rios Building, Washington, DC 20460, call (202) 260–7117, or E-mail kelly.marion@epamail.gov; or John Fox at the U.S. Environmental Protection Agency, Office of Water, Engineering and Analysis Division (4303), 1200 Pennsylvania Avenue, NW, Ariel Rios Building, Washington, DC 20460, call (202) 260–9889, or E-mail fox.john@epamail.gov.

SUPPLEMENTARY INFORMATION: In 1995, EPA amended the ''Guidelines Establishing Test Procedures for the Analysis of Pollutants,'' at 40 CFR part 136, to add WET test methods to the list of Agency approved methods in Tables IA and II, for CWA data gathering and compliance monitoring programs (60 FR 53529, October 16, 1995). Known as the ''WET Methods rule,'' the 1995 action amended 40 CFR 136.3 by standardizing analytical methods that employ freshwater, marine, and estuarine vertebrates, invertebrates, and plants to directly measure the acute and short-term chronic toxicity of effluents and receiving waters. The WET Methods rule incorporated the following three technical documents by reference: *Methods for Measuring the Acute Toxicity of Effluents and Receiving Water to Freshwater and Marine Organisms;* Fourth Edition, August 1993 (EPA/600/4–90/027F); *Short-Term*

Methods for Estimating the Chronic Toxicity of Effluents and Receiving Water to Freshwater Organisms, Third Edition, July 1994 (EPA/600/4–91/002); and *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Water to Marine and Estuarine Organisms,* Second Edition, July 1994 (EPA/600/4–91/003). In 1999, EPA promulgated technical corrections that incorporated an errata document into the WET Methods rule. EPA intended that the errata document correct minor errors and omissions, provide clarification, and establish consistency among the WET rule and test manuals (64 FR 4975, February 2, 1999).

Today's notice announces the availability of an additional document, ''Method Guidance and Recommendations for Whole Effluent Toxicity (WET) Testing (40 CFR Part 136),'' EPA/821/B–00/004. This guidance document provides clarification and recommendations to EPA Regional, State, Tribal and local regulatory authorities; regulated entities; and environmental laboratories regarding specific recommended and/or suggested technical elements of the WET test methods. The document provides specific guidance on nominal error rate assumption adjustments, confidence intervals, concentration-response relationships, dilution series selection, and dilution water. EPA prepared the document as part of a settlement agreement to resolve litigation challenging the rulemaking that standardized the testing procedures. The complete text of this **Federal Register** notice and the subject guidance document may be viewed or downloaded on the Internet at http://www.epa.gov/OST/WET/.

Dated: July 24, 2000.

Linda B. Wilbur,

Acting Director, Office of Science and Technology.

[FR Doc. 00–19116 Filed 7–27–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

July 21, 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, 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 September 26, 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 Commissions, 445 12th Street, SW., Room 1–A804, 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: 3060–0937.

Title: Establishment of a Class A Television Service, MM Docket No. 00–10.

Form Number: None.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 1,000.

Estimated time per response: 0.017 hours–52 hours (depending on requirements, this time is split between respondent, and legal and engineering consultants).

Total annual burden: 396,251.

Total annual costs: $2,284,000.

Needs and Uses: The Report and Order in MM Docket No. 00–10 adopted rules for Class A LPTV broadcasters. Class A LPTV broadcasters are subject to the Commission's operating rules for full-service television stations. The Report and Order modified all pertinent Part 73 rules to indicate their applicability to Class A LPTV licensees. The information collections contained within this Report and Order ensure that the integrity of the TV spectrum is not compromised. It will also ensure that unacceptable interference will not be caused to existing radio services and that statutory requirements are met. These rules will ensure that the stations are operated in the public interest.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–19043 Filed 7–27–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

July 21, 2000.

SUMMARY: The Federal Communications Commissions, 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 August 28, 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 Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at (202) 418–0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0798.

Title: FCC Application for Wireless Telecommunications Bureau Radio Service Authorization.

Form No: FCC Form 601.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households, businesses or other for-profit, not-for-profit institutions, and state, local or tribal governments.

Number of Respondents: 240,320.

Estimate Time Per Response: 1.25 hours.

Frequency of Response: On occasion reporting requirement, third party disclosure requirement.

Total Annual Burden: 210,280 hours.

Total Annual Cost: $48,364,000.

Needs and Uses: The FCC Form 601 is used as a general application (long form) for market based licensing and site-by-site licensing in the Wireless Telecommunications Radio Service. The purpose of this revision is to make the necessary changes to collect licensing information for the 700 MHz auction winners, to make the necessary adjustments to the form and instructions for implementation of Land Mobile Radio Services to ULS, and to further clarify various instructions for the applicants. As use of the FCC Form 601 progresses after implementation of each service, we are discovering ways to ease the burden of filing on our respondents by making further changes to the form (*i.e.,* ''fine tuning''). These changes do not affect the total estimated number of respondents or the total estimated average annual burden. The information will be used by the Commission to determine whether the applicant is legally, technically and financially qualified to be licensed. Without such information, the Commission could not determine whether to issue the licenses to the applicants that provides telecommunications services to the public and therefore fulfill its statutory responsibilities in accordance with the Communications Act of 1934, as amended. It will also be used to update the database and provide for proper use of the frequency spectrum.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–19044 Filed 7–27–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted to OMB for Review and Approval

July 20 2000.

SUMMARY: The Federal Communications Commissions, 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, 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 August 28, 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 1–A804, 445 12th 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: 3060–0783.

Title: 47 CFR Section 90.176, Coordination Notification Requirements on Frequencies Below 512 MHz

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 15.

Estimate Time Per Response: 0.25 hours (multiple responses/annum).

Frequency of Response: On occasion reporting requirements; Third party disclosure.

Total Annual Burden: 975 hours.

Total Annual Costs: None.

Needs and Uses: The reporting requirement in 47 CFR Section 90.176 is a result of comments sought in the Report and Order and Further Notice of Proposed Rule Making in PR Docket No. 92–235 and requires each Private Land Mobile frequency coordinator to provide, within one business day, a listing of their frequency recommendations to all other frequency coordinators in their respective pool, and, if requested, an engineering analysis. This requirement is necessary to avoid situations where harmful interference is created because two or more coordinators recommend the same frequency in the same area at approximately the same time to different applicants.

OMB Control Number: 3060–0806.

Title: Universal Service—Schools and Libraries Universal Service Program.

Form Numbers: FCC 470 and 471.

Type of Review: Extension of a currently approved collection.

Respondents: Not-for-profit institutions; Business or other for-profit entities; and State, local, or Tribal Government.

Number of Respondents: 60,000.

Estimate Time Per Response: 7.3 hours (avg.).

Frequency of Response: Recordkeeping; On occasion reporting requirements; Third party disclosure.

Total Annual Burden: 440,000 hours.

Total Annual Costs: None.

Needs and Uses: The Commission adopted rules providing support for all telecommunications services, Internet access, and internal connections for all eligible schools and libraries. To participate in the program, schools and libraries must submit a description of the services desired to the Administrator via FCC Form 470. FCC Form 471 is submitted by schools and libraries that have ordered telecommunications services, Internet access, and internal connections.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–19045 Filed 7–27–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 11, 2000.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Burl Dawin Hobson, Sr., Crockett, Texas; Burl Dawin Hobson, Jr., Crockett, Texas; and Rae-Patrice Dean, Crockett, Texas (as trustees of the Citizens National Bank Employee Stock Ownership Plan, Crockett, Texas, and individually); to acquire additional voting shares of Citizens Bancorp, Inc., Crockett, Texas, and thereby indirectly acquire additional voting shares of Citizens National Bank, Crockett, Texas.

Board of Governors of the Federal Reserve System, July 24, 2000.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 00–19079 Filed 7–28–00; 8:45 am]

BILLING CODE 6210–01–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 August 21, 2000.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Community Bancshares Spring Green and Plain, Inc., Spring Green, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of Community Bank Spring Green and Plain, Spring Green, Wisconsin.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. ENB Bankshares, Inc., Dallas, Texas, and ENB Delaware Bankshares, Inc., Wilmington, Delaware; to become bank holding companies by acquiring 100 percent of the voting shares of Eagle National Bank, Dallas, Texas.

Board of Governors of the Federal Reserve System, July 24, 2000.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 00–19078 Filed 7–28–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10 a.m., Wednesday, August 2, 2000.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: July 26, 2000.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 00–19225 Filed 7–26–00; 11:58 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Public Health and Science; Office of the Secretary

Request for Nominations for Members of the Chronic Fatigue Syndrome Coordinating Committee

The Office of Public Health and Science (OPHS), Department of Health and Human Services (DHHS), requests nominations for representatives to serve on the Chronic Fatigue Syndrome Coordinating Committee (CFSCC). Nominations are solicited for one biomedical research scientist with demonstrated achievements in biomedical research relating to chronic fatigue syndrome (CFS); and, one individual who is a representative of a voluntary organization concerned with the problems of individuals with CFS.

DHHS has a strong interest in ensuring that women, minority groups, and physically challenged individuals are adequately represented on the Committee and, therefore, encourages nominations of qualified candidates from these groups. DHHS also encourages geographic diversity in the composition of the Committee.

Information Required: A nominations package must include the following information for each nominee.

A. A letter of nomination stating the name, affiliation, and contact information for the nominee, the basis for the nomination (*i.e.,* what specific attributes recommend him/her for service in this capacity), and the nominee's area of expertise;

B. A biographical sketch of the nominee and a copy of his or her curriculum vitae; and

C. The name, return address, and daytime telephone number at which the nominator can be contacted. Organizational nominators must identify a principal contact person in addition to contact information. Optimally, a nomination package would also include a statement by the nominee that he/she is willing to accept an appointment to Committee membership.

All nomination information for a nominee must be provided in a complete single package within 45 days of the publication of this notice. Incomplete nominations cannot be considered. The nomination letter must bear an original signature; facsimile transmissions or copies are not acceptable.

DATES: All nominations must be received at the address below no later than 4 p.m. EDT on or before September 11, 2000.

ADDRESSES: All nomination packages shall be submitted to Janice C. Ramsden, Executive Secretary, CFSCC, Office of the Acting Director, NIH, Building 1, Room 235, 1 Center Drive, MSC 0159, Bethesda, Maryland 20892–0159.

FOR FURTHER INFORMATION CONTACT: Janice C. Ramsden at the above address or at 301–496–0959, or e-mail at jr52h@nih.gov.

Dated: July 20, 2000.

Janice C. Ramsden,

Executive Secretary, CFSCC, Office of the Director, NIH.

[FR Doc. 00–19131 Filed 7–27–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention (CDC)

Citizens Advisory Committee on Public Health Services Activities and Research at Department of Energy Sites: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Public Law 92–463) of October 6, 1972, that the Citizens Advisory Committee on Public Health Services Activities and Research at Department of Energy Sites of the Department of Health and Human Services, has been renewed for a 2-year period beginning July 7, 2000, through July 7, 2002.

For further information, contact Ron Valdiserri, M.D., Executive Secretary, Citizens Advisory Committee on Public Health Services Activities and Research at Department of Energy Sites, 1600 Clifton Road, NE, m/s E–07, Atlanta, Georgia 30333. Telephone 404/639–8002, or fax 404/639–8600.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: July 20, 2000.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 00–19071 Filed 7–27–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Government-Owned Inventions; Availability for Licensing

AGENCY: Centers for Disease Control and Prevention, Technology Transfer Office, Department of Health and Human Services

ACTION: Notice of availability.

ADDRESSES: Send all inquiries concerning this notice in writing to Beverly Ashton, Centers for Disease Control and Prevention, National Immunization Program, 1600 Clifton Road, Mailstop E62, Atlanta, Georgia 30333.

SUMMARY: The National Immunization Program (NIP), Centers for Disease Control and Prevention (CDC), has developed a software component that can examine an individual's immunization history and determine which specific immunizations the individual needs as of any specified date, according to the recommendations of the Advisory Committee on Immunization Practices. The component is written in the C++ programming language and is exposed as an ActiveX object.

The NIP would like to make this component available to developers of immunization registry software and other applications that have immunization management functions. NIP would like to establish a mechanism which would allow a software vendor or vendors to provide technical maintenance and support for the component. One possibility would be for NIP to post a list of interested vendors (including their addresses and telephone numbers) on the NIP/Registry website *(www.CDC.gov/NIP/Registry).* Developers who want to implement the component in their systems would then contract with the vendor of their choice, independently, to obtain technical support.

Vendor support would consist of:

Assistance with the installation of the component.
Assistance with day-to-day operational problems.
Correction of software bugs.
Update of parameterized rules to implement new ACIP recommendations.
Enhancements of the component's functionality.

NIP will make the component available to the vendor free of charge, and the vendor will marshal the resources necessary to provide the support to developers, under contracts negotiated between the vendor and the individual developer. CDC will not be a party to these contracts.

Vendors should describe their experience and available resources in providing this kind of software support. Vendors interested in this opportunity with NIP should write to: Centers for Disease Control and Prevention, Attn: Beverly Ashton, National Immunization Program, Mail Stop E–62, 1600 Clifton Road, Atlanta, GA 30333.

Joseph R. Carter,

Associate Director for Management and Operations, Centers for Disease Control and Prevention.

[FR Doc. 00–19073 Filed 7–27–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee for Injury Prevention and Control (ACIPC): Family and Intimate Violence Prevention Subcommittee: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following subcommittee meeting.

Name: ACIPC Family and Intimate Violence Prevention Subcommittee.

Times and Dates: 10 a.m.–4:30 p.m., August 15, 2000.

Place: The Westin Atlanta Airport, 4736 Best Road, College Park, Georgia 30337.

Status: Open to the public, limited only by the space available.

Purpose: To provide and make recommendations to ACIPC and the Director, National Center for Injury Prevention and Control (NCIPC), regarding feasible goals for prevention and control of family and intimate violence and sexual assault. The Subcommittee will make recommendations regarding policies, strategies, objectives and priorities.

Matters To Be Discussed: The Subcommittee will review, and discuss, the clarification of roles (*e.g.,* cross-cutting) among CDC's funded research and resource center projects, and Changing Social Norms. The Subcommittee will be provided an update on CDC's future surveillance activities for collecting national and state data on violence against women (VAW) for fiscal year 2001–2002. The Subcommittee will also be provided an update on the Division of Violence Prevention's (DVP) reorganization and how DVP will maintain visibility of family and intimate violence prevention programs.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Ileana Arias, Ph.D., Team Leader, Family and Intimate Violence Prevention Team, DVP, NCIPC, CDC, 4770 Buford Highway, NE, M/S K60, Atlanta, Georgia 30341–3724, telephone 770/488–4410.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: July 20, 2000.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 00–19072 Filed 7–27–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Agency Recordkeeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget (OMB)

Title: Head Start Family and Child Experiences Survey (FACES).

OMB No.: Revision of a currently approved collection (OMB No. 0970–0151).

Description: The Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF) of the Department of Health and Human Services (DHHS) is requesting comments on plans to extend the Head Start Family and Child Experiences Survey (FACES). This study is being conducted under contract with Westat, Inc. (with Ellsworth Associates and the CDM Group as their subcontractors) (#105–96–1912) to collect information on Head Start performances measures. This revision is intended to extend the current design to a national probability sample of 43 additional Head Start programs in order to ascertain what progress has been made since 1997 in meeting Head Start program performance goals.

FACES currently involves seven phases of data collection. The first phase was a Spring 1997 Field test in which approximately 2400 parents and children were studied in a nationally stratified random samples of 40 Head Start programs. The second and third phases occurred in Fall 1997 (Wave 1) and Spring 1998 (Wave 2) when data were collected on a sample of 3200 children and families in the same 40 programs. Spring 1998 data collection included assessments of both Head Start children completing kindergarten (kindergarten field test) as well as interviews with their parents and ratings by their kindergarten teachers. In the fourth and fifth phases, follow-up continued for a second program year, plus a kindergarten follow-up. The sixth and seventh waves of data collection involve data collection in spring of the first-grade year for both cohorts of children, those completing kindergarten in spring 1999, and those completing kindergarten in spring 2000. The current plan is to extend data collection to a new cohort of 2825 children and families in a new sample of 43 Head Start programs.

This schedule of data collection is necessitated by the mandates of the Government Performance and Results Act (GPRA) of 1993 (Pub. L. 103–62), which requires that the Head Start Bureau move expeditiously toward development and testing of Head Start Performance Measures, and by the 1994 reauthorization of Head Start (Head Start Act, as amended, May 18, 1994, Section 649 (d)), which requires periodic assessments of Head Start's quality and effectiveness.

Respondents: Federal Government, Individuals or Households, and Not-for-profit institutions.

Annual Burden Estimates

Estimated Response Burden for Respondents to the Head Start Family and Child Experiences Survey (FACES 2000)—Fall 2000, Spring 2001, Spring 2002, Spring 2003

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Year 1 (2000):				
Head Start Parents	2825	1	1.00	2825
Head Start Children	2825	1	0.66	1865
Head Start Teachers (Child ratings)	195	14	0.25	706
Center Directors	172	1	1.00	172
Education Coordinators	172	1	0.75	129
Classroom Teachers	195	1	1.00	195
Year 2 (2001):				
Head Start Parents	2400	1	0.75	1800
Head Start Children	2400	1	0.66	1584
Head Start Teachers (child ratings)	195	12	0.25	600
Family Services Coordinators	172	1	0.75	129

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Year 3 (2002):				
Head Start Parents	800	1	0.75	600
Head Start Children	800	1	0.66	528
Head Start Teachers (child ratings)	65	12	0.25	200
Kindergarten Parents	1600	1	0.75	1200
Kindergarten Children	1600	1	0.75	1200
Kindergarten Teachers	1600	1	0.50	800
Year 4 (2003):				
Kindergarten Parents	800	1	0.75	600
Kindergarten Children	800	1	0.75	600
Kindergarten Teachers	800	1	0.50	400

Annualized Totals:

Year 1, 5892
Year 2, 4113
Year 3, 4528
Year 4, 1600

Estimated Total Annual Burden Hours: 4033

Note: The 4033 Total Annual Burden Hours is based on an average of 2000, 2001, 2002, and 2003 estimated burden hours:

Additional Information: ACF is requesting that OMB grant a 180 day approval for this information collection under procedures from emergency processing by September 15, 2000. A copy of this information collection, with applicable supporting documentation, may be obtained by calling the Administration for Children and Families, Reports Clearance Officer, Bob Sargis at (202) 690–7275. In addition, a request may be made by sending an e-mail request to: *rsargis@acf.dhhs*.gov.

Comments and questions about the information collection described above should be directed to the following address by September 15, 2000: Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, Attn: OMB Desk Officer for ACF.

Dated: July 25, 2000.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 00–19097 Filed 7–27–00; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Request for Nominations for Members of Public Advisory Committee; Food Advisory Committee

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for members to serve on the Food Advisory Committee (the Committee) in FDA's Center for Food Safety and Applied Nutrition. Nominations will be accepted for current vacancies and vacancies that will or may occur on the Committee during the next 12 months.

FDA has special interest in ensuring that women, minority groups, and the physically handicapped are adequately represented on advisory committees and, therefore, extends particular encouragement to nominations of appropriately qualified female, minority, or physically handicapped candidates. Final selection from among qualified candidates for each vacancy will be determined by the expertise required to meet specific agency needs and in a manner to ensure appropriate balance of membership.

DATES: August 28, 2000.

ADDRESSES: All nominations for membership should be sent to Catherine M. DeRoever (address below).

FOR FURTHER INFORMATION CONTACT: Regarding all nominations for membership: Catherine M. DeRoever, Center for Food Safety and Applied Nutrition (HFS–6), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4251, FAX 202–205–4970.

SUPPLEMENTARY INFORMATION: FDA is requesting nominations for members to serve on the advisory committee listed below. Individuals should have expertise in the activity of the Committee. Vacancies will occur June 30, 2000.

Food Advisory Committee

The Committee provides advice primarily to the Director, Center for Food Safety and Applied Nutrition (CFSAN), and as needed, to the Commissioner of Food and Drugs, and other appropriate officials, on emerging food safety, food science, and nutrition, and other food-related issues that FDA considers of primary importance for its food and cosmetics program. The Committee may be charged with reviewing and evaluating available data and making recommendations on matters such as those relating to: (1) Broad scientific and technical food or cosmetic related issues; (2) the safety of new foods and food ingredients; (3) labeling of foods and cosmetics; (4) nutrient needs and nutritional adequacy; and (5) safe exposure limits for food contaminants. The Committee may also be asked to provides advice and makes recommendations on ways of communicating to the public the potential risks associated with these issues and recommends on approaches to that might be considered in for addressing them the issues.

The Committee has been restructured to consist of a ''parent'' Committee and four standing Subcommittees. The Subcommittees are as follows: (1) Additives and Ingredients; (2) Contaminants and Natural Toxicants; (3) Dietary Supplements; and (4) Food Biotechnology. The new Food Advisory Committee ''parent''/Subcommittees structure was adopted because of the breadth of scientific disciplines needed to consider emerging food safety and nutrition related matters. Further, the new structure provides an expanded knowledge base from which to draw essential expertise in emerging and reemerging scientific areas. While the former structure of a single standing Committee was considered responsive to the needs of CFSAN and FDA when originally chartered in 1991, the increasing breadth of the scientific questions that must be addressed by CFSAN prompted the design of for the new structure.

The purpose of the Subcommittees is to provide highly specialized expertise in the review and analysis of assigned topics. As was the case of former ad hoc Subcommittees, meetings of the Subcommittees are expected to shall be open to the public in accordance with

rules and regulations for advisory committee proceedings except as otherwise determined by the Commissioner or designee. Similarly, interactions between and among the ''parent'' Committee and the four Subcommittees, will be in accordance with rules and regulations for advisory committee proceedings established requirements. The Subcommittee's findings, conclusions, and recommendations will be reported to the ''parent'' Committee. As a general matter, included in this report will be a recommendation from the Subcommittee on final disposition of the assigned topic. Generally, matters that cut across the agency program areas would fall under the purview of the ''parent'' Committee. As a general rule, issues relating to the microbiological safety of food will be addressed by the National Advisory Committee on Microbiological Criteria for Foods.

Criteria for Members

Persons nominated for membership on the Committee shall be knowledgeable in the fields of physical sciences, biological and life sciences, food science, risk assessment and other relevant scientific and technical disciplines. The agency is particularly interested in considering candidates with a comprehensive background in food technology, molecular biology, genetics, biotechnology, and a variety of medical specialties, as many issues brought before the Committee involve medical or epidemiologic impact on nutrients, additives, contaminants, or other constituents of the diet, such as dietary supplements. The term of office is up to 4 years.

The Committee includes technically qualified members who are identified with consumer interests and representatives of industry interests.

Nomination Procedures

Interested persons may nominate one or more qualified persons for membership on the Committee. Nominations shall state that the nominee is willing to serve as a member of the Committee and appears to have no conflict of interest that would preclude Committee membership. Additionally, the nominee's mailing address, telephone number, and curriculum vitae must accompany the nomination. The agency cannot guarantee further consideration of nominations that do not include this requested information. Potential candidates will be asked by FDA to provide detailed information concerning such matters as financial holdings, employment, consultancies, and research grants and/or contracts to permit evaluation of possible sources of conflict of interest.

Industry Representatives

Regarding nominations for members representing industry interests, a letter will be sent to each person or organization that has made a nomination and to other organizations that have expressed an interest in participating in the selection process together with a complete list of all such organizations and the nominees. The letter will state that it is the responsibility of each nominator or organization that has expressed an interest in participating in the selection process to consult with the others to provide a consensus slate of possible members representing industry interests within 60 days. In the event that a slate of nominees has not been provided within 60 days, the agency will select an industry representative for each such vacancy from the entire list of industry nominees to avoid delay or disruption of the work of the Committee. The agency is particularly interested in nominees that possess the essential scientific credentials needed to participate fully and knowledgeably in the Committee's deliberations. In addition to this expertise, the agency believes that it would be an advantage to the Committee's work if the individual(s) had special insight and direct experience into specific industrywide issues, practices, and concerns that might not otherwise be available to others not similarly situated.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: July 21, 2000.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 00–19096 Filed 7–27–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0969]

Establishment of Resistance and Monitoring Thresholds in Food-Producing Animals; Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meeting.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following meeting: Public Meeting Regarding the Establishment of Resistance and Monitoring Thresholds in Food-Producing Animals. The topic to be discussed is the Center for Veterinary Medicine's (CVM's) current thinking on concepts for the establishment of resistance and monitoring thresholds in food-producing animals. CVM will seek scientific input from experts at this meeting on these concepts as well as suggestions for alternative approaches.

Date and Time: The meeting will be held on October 10 and 11, 2000, 8:30 a.m. to 5 p.m. Written comments may be submitted until December 11, 2000.

Addresses: The meeting will be held at The DoubleTree Hotel, 1750 Rockville Pike, Rockville, MD 20852. Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

For general inquiries about the meeting and registration contact: Lynda W. Cowatch, Center for Veterinary Medicine (HFV–150), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–5281, FAX: 301–594–2298.

For technical inquiries contact: Aleta Sindelar, Center for Veterinary Medicine (HFV–1), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0148.

Registration: Registration is required. There is no registration fee for the meeting. Limited space is available, and early registration is encouraged. Logistics for the meeting and the registration form are available on the Internet at http://www.fda.gov/cvm/fda/mappgs/registration.html. Please send the registration form to Lynda Cowatch (address above). Additional information about the meeting and the agenda will be available on the Internet (Internet site above) before the meeting.

If you need special accommodations due to a disability, please contact the DoubleTree Hotel at least 7 days in advance, 800–222–8733.

Transcripts: Transcripts of the meeting will be available on the Internet at http://www.fda.gov/cvm.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of January 6, 1999 (64 FR 887), FDA announced the availability of a discussion paper entitled ''A Proposed Framework for Evaluating and Assuring the Human Safety of the Microbial Effects of Antimicrobial New Animal Drugs Intended for Use in Food-Producing Animals'' (the Framework Document). FDA made the Framework Document

available to the public to initiate discussions with the scientific community and other interested parties on the agency's thinking about appropriate underlying concepts to be used to develop microbial safety policies protective of the public health. This document discussed several risk management approaches to the regulatory management of antimicrobial drug resistance associated with food-producing animal use of antimicrobials. These strategies covered both preapproval and postapproval approaches and included: (1) Revision of the preapproval safety assessment for antimicrobial resistance for new animal drug applications to assess all uses for microbial safety, (2) categorization of antimicrobials based upon the importance of the drug for human medicine and upon which pre- and postapproval requirements would be based, (3) postapproval monitoring of the development of antimicrobial drug resistance and, (4) elaboration of resistance and monitoring thresholds.

The Framework Document discussed the concept of two thresholds, the resistance threshold and the monitoring threshold, that would be established prior to the approval of an antimicrobial new animal drug for use in food-producing animals to ensure that food products derived from treated animals are safe for consumers. The resistance threshold would be established in humans to represent the upper limit of resistant bacteria that can be transferred from animals to consumers. The Framework Document discussed the possibility of establishing resistance thresholds based on human data, animal data, or both.

Monitoring thresholds would also be established to guide the postapproval monitoring of resistance development in animals. According to the Framework Document, a monitoring threshold would need to be determined for each antimicrobial prior to approval, and the threshold may vary depending on the human or animal pathogen of concern. Monitoring thresholds would be established in animals so that they would serve as an early warning system, signaling when loss of susceptibility or resistance prevalence is approaching the resistance threshold.

If a monitoring threshold were reached, the drug sponsor would implement mitigation actions to address the loss of susceptibility or increasing resistance trend. If mitigation were not successful, and resistance continued to increase and reach the resistance threshold, withdrawal of the approval of the drug for the use(s) of concern would be warranted.

II. Submission of Comments

Interested persons may submit written comments regarding this meeting until December 11, 2000. Written comments should be submitted to the Dockets Management Branch (address above), or by fax to 301–827–6870. Comments should be identified with the docket number found in the brackets in the heading of this document.

III. Related Information

Transcripts of the three previous CVM public meetings on antimicrobial resistance, related public comments, the ''Draft Risk Assessment on the Human Health Impact of Fluoroquinolone Resistant Campylobacter Associated with the Consumption of Chicken (Revised as of February 9, 2000),'' and ''A Proposed Framework for Evaluating and Assuring the Human Safety of the Microbial Effects of Antimicrobial New Animal Drugs Intended for use in Food-Producing Animals'' can be found on the Internet at http://www.fda.gov/cvm/fda/mappgs/antitoc.html.

Dated: July 20, 2000.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 00–19048 Filed 7–27–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0495]

Prescription Drug User Fee Act (PDUFA) II Five-Year Plan—FY 2000 Update; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of an internal planning document entitled ''PDUFA II Five-Year Plan: FY 2000 Update.'' The updated plan to achieve PDUFA II goals for the drug review process takes into account changes in revenue projections and workload based on actual revenue and application receipts in fiscal year (FY) 1998 and FY 1999 and updated projections for FY 2000 through FY 2002.

DATES: Submit written comments on the plan at any time. Comments will be considered as the agency makes annual adjustments to the plan in the second quarter of each FY.

ADDRESSES: Copies of this document are available on the Internet at www.fda.gov/oc/pdufa2/5yrplan.html. For those without Internet access, single copies of this plan may be obtained from the Office of Management and Systems (HF–20), Attention: Frank P. Claunts (HF–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Please send a self-addressed adhesive label to assist that office in processing your request.

Submit written comments on the plan to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Frank P. Claunts, Office of Management Systems (HF–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4427.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of an internal planning document entitled ''PDUFA II Five-Year Plan—FY 2000 Update.'' PDUFA was amended and extended through the year 2002 by the Food and Drug Administration Modernization Act of 1997. The amended and extended PDUFA is referred to as PDUFA II. PDUFA II authorizes appropriations and fees that will provide FDA with resources to sustain the drug review staff developed through FY 1997 and to achieve the even more stringent new goals.

The FY 2000 updated plan begins with a statement of purpose, provides background information on PDUFA and a summary of the new goals, and updates the 10 major assumptions on which the plan is based. This is the second update of the plan since it was initially published in July 1998. The updated plan summarizes individual plans of agency components with major PDUFA responsibilities, and it also provides a consolidated agency summary. The updated plan to achieve PDUFA II goals for the drug review process takes into account changes in revenue projections and workload based on actual revenue and application receipts in FY 1998 and FY 1999 and updated projections for FY 2000 through FY 2002. Attachments include: The **Federal Register** notice of December 28, 1999 (64 FR 72669) establishing prescription drug user fee rates for FY 2000, updated 5-year estimates of PDUFA fees and revenues, and the revised PDUFA II Information Management Five-Year Plan.

We are making this plan available to all who have an interest. We welcome comments and will consider them in the future as annual adjustments are made to the plan.

Interested persons may submit to the Dockets Management Branch (address above) written comments on the plan. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance document and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 21, 2000.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 00–19046 Filed 7–27–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–1115–N]

RIN 0938–AI26

Medicare Program; Solicitation for Proposals for the Medicare Coordinated Care Demonstration

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice informs interested parties of an opportunity to apply for a cooperative agreement for the Medicare Coordinated Care Demonstration. This demonstration uses existing models of coordinated care interventions to improve the quality of services furnished to specific beneficiaries and manage expenditures under Parts A and B of the Medicare program. We are interested in testing models aimed at beneficiaries who have one or more chronic conditions that represent high costs to the Medicare program.

Section 4016 of the Balanced Budget Act of 1997 requires a review of best practices and that the Medicare Coordinated Care Demonstration design be based on the findings of this assessment. We intend to select at least eight proposed projects for this demonstration through this competitive application process.

Eligible Organizations

Potentially qualified applicants are existing providers of coordinated care services applicable to the Medicare population. See section II.C.1. of this notice for additional details.

FOR FURTHER INFORMATION CONTACT: For information concerning this demonstration, contact Catherine Jansto, HCFA Project Officer, at (410) 786–7762, or cjansto@hcfa.gov.

For information regarding cooperative agreement procedures, fiscal matters, or guidance in completing the application forms, contact Nettie Faulkner, Grants Management Specialist, at (410) 786–6639, or nfaulkner@hcfa.gov.

General information regarding this project is available on HCFA's website (www.hcfa.gov/ord/coorcare.htm).

DATES: Applications will be considered ''on time'' if we receive them on or before October 11, 2000.

ADDRESSES: Mail applications to: Department of Health and Human Services, Health Care Financing Administration, Office of Internal Customer Support, Acquisition and Grants Group, Attn: Ms. Nettie Faulkner, Grants Management Specialist, Mail Stop: C2–21–15, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Applications must be typed for clarity and should not exceed 40 double-spaced pages, exclusive of the executive summary, resumes, forms, and documentation supporting the cost proposal. Please refer to the file code HCFA–1115–N on the application.

Because of staffing and resource limitations, we cannot accept applications by facsimile (FAX) transmission. Applications postmarked after the closing date, or postmarked on or before the closing date but not received in time for panel review, will be considered late applications.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory Requirements

Section 4016 of the Balanced Budget Act of 1997 (Pub. L. 105–33) requires the Secretary of Health and Human Services (the Secretary) to evaluate best practices in the private sector for methods of coordinated care. The statute also directs the Secretary to design a demonstration project for the original Medicare fee-for-service population based on this evaluation. The purpose of the demonstration is to evaluate models of coordinated care that improve the quality of services provided to specific beneficiaries with a chronic illness and manage expenditures under Parts A and B of the Medicare program so that, under the demonstration, Medicare expenditures do not exceed what they would have been in the absence of the demonstration.

Section 4016(b)(3) authorizes the continuation of demonstration projects that are cost-effective. That is, the evaluation of the demonstration projects conducted by HCFA establishes that these projects reduce Medicare expenditures or do not increase Medicare expenditures while increasing the quality of services furnished and beneficiary and provider satisfaction. This section also authorizes us to expand the number of demonstration sites if the models tested are shown to be cost-effective. In addition, we may issue regulations to implement, on a permanent basis, the components of the demonstration projects that are proven to be cost-effective for the Medicare program.

In July 1998, we competitively awarded a task order for conducting a review of best practices in coordinating care and for providing a recommendation of demonstration design options to Mathematica Policy Research, Inc. (MPR). We have evaluated the findings from the review of best practices and selected the following demonstration design.

B. Problem

Historically, a small proportion of Medicare beneficiaries has accounted for a major proportion of Medicare expenditures. For example, in 1996, 12.1 percent of all Medicare enrollees accounted for 75.5 percent ($126.1 billion) of all Medicare fee-for-service program payments. Many of these high-cost beneficiaries are chronically ill with certain common diagnoses, and most of the Medicare expenditures for their care are for repeated hospitalizations. During the next 30 years, as the population ages, the number of these individuals is expected to grow dramatically.

Health care for individuals with chronic illness is often fragmented and poorly coordinated across multiple health care providers and multiple sites of care. Oftentimes, evidence-based practice guidelines are not followed, nor are patients taught how best to care for themselves. These shortcomings are particularly true for patients served under reimbursement systems in which providers lack incentives for controlling the frequency, mix, and intensity of services, and have limited accountability for the outcomes of care.

A number of health care organizations, including health maintenance organizations, private insurers, commercial firms, and academic medical centers, have developed programs to support adherence (by both provider and patient) to evidence-based medical practices, to better coordinate care across providers and between face-to-face encounters with chronically ill patients, and to reduce costs. At best, the literature on the effectiveness of

these models is mixed. There is little hard evidence that these programs are effective. Hence, the applicability and cost-effectiveness of these programs, in general, for the original Medicare fee-for-service program and specifically to its beneficiaries who suffer from complex co-morbid conditions is uncertain.

C. Findings From the Review of Best Practices

On March 23, 1999, we published a notice in the **Federal Register** (64 FR 13998) announcing the opportunity to submit information on examples of best practices of coordinated care as well as to comment on potential aspects of the overall Medicare Coordinated Care Demonstration. Through a review of submitted information, electronic literature searches, and expert referrals, MPR identified programs self-reporting success in coordinating care for chronically ill patients. A multi-tiered approach focusing on structure, process, and outcomes was used to identify favorable characteristics of potentially successful programs and to develop a general framework that describes these coordinated care delivery models. The review emphasized the strength of the evidence supporting claims of success, the degree of impact on costs (hospitalizations and total costs), and the degree of impact on patient outcomes. A detailed discussion of the methodology, findings, and limitations of the best practices assessment is available in MPR's final report that can be accessed via our website (www.hcfa.gov/ord/coorcare.htm). A brief summary of the report's findings and limitations is presented below.

1. Findings

MPR identified two main types of coordinated care programs and a three-step conceptual framework applicable to these coordinated care delivery models. The two main types of programs differ in the patients they serve and the tactics they adopt to accomplish the three steps of the conceptual framework for coordinating care. Because of limitations in the submitted data, the cost-effectiveness of the reviewed programs could not be determined with certainty. There were 37 programs reporting credible evidence of impacts on hospitalizations or total costs. Twenty-five of these programs were interviewed in greater depth to obtain greater insight into the reasons for their success. These programs are referred to as ''identified potentially cost-effective programs'' in this notice.

a. *Models of Coordinated Care:* The identified potentially cost-effective programs tended to operate as one of the following two program types.

- Case Management (CM) Programs

These programs serve a select group of frail, disabled patients who suffer from severe illness, often multiple chronic health problems, and a high risk of recurrent, costly, adverse medical events. Each patient has a unique set of diseases, functional deficits, and social conditions. These programs follow a holistic approach to care and rely on case manager judgment and highly individualized approaches. Creative, innovative interventions are used to address individual care needs. Partnership with the patient, primary care physician (PCP), other providers, caregivers, and the social support system is integral to the interventions.

- Disease Management (DM) Programs

These programs target persons whose primary health problem is a specific disease, although certain comorbid conditions are usually addressed as well. Patients with a similar level of severity of the disease face similar problems. The care coordination interventions tend to be highly structured and emphasize the use of standard protocols and clinical guidelines. The PCP may not play an active role in the implementation of the interventions; however, successful collaboration with PCPs generally influences program outcomes.

Under both main types of coordinated care programs, the interventions provided go beyond those services for which payment under the original Medicare fee-for-service program is typically made. These interventions may include comprehensive geriatric assessment, intensive patient education, social services, telephone monitoring, medications, or transportation, among others.

Overall, there was variation among the identified potentially cost-effective programs within and between the two main types of programs. The scope, mix, and intensity of care coordination interventions varied as did the duration of the interventions, targeted disease(s), organizational structures, system and staff capabilities, outcomes, and other features. Notwithstanding this variation, there were many examples of programs that claim to have successfully combined particular practices to positively impact patient and cost outcomes.

b. *Goals of Successful Coordinated Care Programs:* In general, the identified potentially cost-effective coordinated care programs use a variety of interventions to accomplish the following goals:

- Ensure optimal medical management.
- Enhance and support patient self-management.
- Eliminate barriers to efficient and effective utilization of health care services.

To achieve these goals, the identified potentially cost-effective coordinated care programs of both types generally follow a three-step process that is described in the following conceptual framework.

c. *Conceptual Framework:* Care coordination programs identify the patients they serve through a range of methods. After defining the target population (and any exclusionary criteria), programs may identify potentially eligible clients through provider or self-referrals, claims data, special screening tools, or a combination of methods. Eligible and willing cases then receive the intervention.

Many care coordination programs ''risk-stratify'' their patients, attempting to identify from those meeting the basic eligibility criteria the subset that would benefit most from the intervention. Some programs use risk stratification to restrict the set of patients admitted to the program, while others use it to tailor the intervention to the estimated level of risk of adverse outcomes faced by the patient. However, the degree of structure imposed in stratifying patients may vary. Thus, the three-step process discussed below focuses on what programs do once targeted patients are identified, rather than how they are selected.

Step One: Assess and Plan: *Accurately assess patients' barriers to improved health and devise a feasible plan to overcome those barriers.* This step encompasses activities such as initial patient assessment, care plan development, establishing patient-specific goals, assessing patient education needs, and involving PCPs and other providers. The component tasks of Step One are as follows:

- *Uncover all important problems.* These are the problems that can keep the patient from better health and lead to unplanned hospitalizations. These problems vary for each patient.
- *Address all important problems and goals.* Every important problem and goal should have a plan and an intervention or interventions to address the problem.
- *Draw from a comprehensive arsenal of proven interventions.* A care coordinator must have a broad array of appropriate, proven interventions

available from which to choose the best ones to meet a patient's needs.

• *Produce a clear, practical plan of care with specific goals.* The first step concludes with a written, individualized plan of care. It is important that all concerned—patient, care coordinator, primary care physician—have a common, agreed-upon set of goals for the patient, and when and how the patient is going to achieve them.

Step Two: Implement and Deliver: Implement the plan and deliver the interventions. This step encompasses activities such as patient education, service arrangement and provision, and coordination with providers. The component tasks of Step Two are as follows:

• *Build ongoing relationships with the primary care physician (PCP) and with other providers.* This task enables care coordinators to coordinate care and facilitate communication among providers. Also, programs that fail to engage the physician may be limited in the degree to which they can address the medical aspects of care coordination.

• *Build ongoing relationships with patients and families.* The foundation for this relationship is often laid during the initial assessment in the first step.

• *Provide excellent patient education.* This intervention must be part of every plan of care. Programs must teach patients crucial self-care skills, such as proper diet for their condition, medical compliance, self-monitoring, emergency action plans, and skills to cope with the stresses of chronic illnesses.

• *Make certain that planned interventions are conducted.* This task involves monitoring to make sure each intervention is conducted.

Step Three: Reassess and Adjust: *Determine whether the interventions are working as intended. If not, adjust the plan by going back to Step One.* This step entails regular evaluation and monitoring of whether the plan of care developed in Step One and its implementation in Step Two are achieving the intended goals. The component tasks of Step Three are as follows:

• *Perform periodic reassessments.* The care coordinator must contact patients on a regular basis to make sure they continue to progress and have not encountered new problems.

• *Be accessible.* Patients must have an easy way to reach a care coordinator at all times.

• *Nurture the relationship with PCPs and providers.*

• *Nurture the relationship with patient and family.* This relationship and the relationship with the PCPs and providers must be maintained.

• *Make prompt adjustments to the plan of care as needed.* If the reassessment reveals a lack of progress, the plan of care may need to be changed. Several interventions may have to be tried and discarded before a successful solution is discovered. Changes in the plan of care also need to be made promptly, sometimes even urgently. Patients' level of risk for complications may change, necessitating a change in follow-up frequency.

Overlaying these three steps, at the program level, programs employ system-wide processes for assessing and improving the coordinated care delivery model as a whole. These continuous quality improvement processes ensure that lessons learned about failures and successes are disseminated to other care coordinators and program staff.

d. *Similarities Between Program Types:* The two main types of coordinated care programs are similar in several respects. First, the identified potentially cost-effective programs of both types accomplish the same three basic steps and address the same basic components under each of these steps, as described above. Both disease and case management programs have case managers who act as advocates for their patients to help them get the care and attention they need. Strong programs of both types stress the critical importance of having personable, knowledgeable case managers who are effective communicators. Programs of both types also provide thorough patient education focused on self-care and overcoming personal barriers to improved health. In addition, the potentially cost-effective programs of both types are proactive rather than reactive, developing written care plans based on evidence-based, disease-specific guidelines at the outset, and monitoring patients between office visits.

e. *Differences Between Program Types:* Despite these similarities, the two main types of coordinated care programs differ in the types of patients they serve and the tactics they adopt to accomplish the three steps and their component tasks. The major differences between disease management (DM) and case management (CM) programs seem to stem from the somewhat more limited set of problems that DM programs typically deal with. Patients in DM programs generally do not have as high a prevalence of difficult geriatric syndromes, such as incontinence, falling, cognitive impairments, delirium, or such social problems as inadequate family support, housing, or transportation. Instead, the vast majority of DM patients' problems center around a single disease or condition and fall into fundamental problems with either their own behavior or the disease-specific care they receive. Patient behavior problems contributing to their problems include poor medication compliance, lack of self-care skills, and lack of adherence to recommended lifestyle changes. Provider-based problems include failure to prescribe the most effective medications, poor coordination of care across providers and settings, lack of adherence to disease-specific guidelines based on evidence or expert panels, and inadequate follow-up and monitoring. Case management programs tend to serve patients with a more complex mix of problems and comorbidities. While they also face problems of poor self-care and compliance and inadequate prescribing and follow-up by their physicians, the patients are often frail and more prone to face adverse interactions from multiple prescription drugs that they may be taking for different conditions, or from conflicting advice about diet and exercise from different providers treating their multiple conditions.

As a result of the differences in characteristics of the patients served, disease management and case management programs differ in the emphases they place on different component tasks, and on how they accomplish these tasks. They also differ on the degree to which patient education and treatment is standardized. Case management programs tend to rely more heavily on the judgment of the case manager and less on protocols. Case management programs also take a broader perspective, involving family and other caregivers and arranging for services more often than the typical disease management programs. (See MPR's final report for more comprehensive lists of key features of potentially cost-effective disease management and case management programs.)

f. *Rural Programs:* A few of the identified potentially cost-effective programs served rural areas. Each of these programs was of the case management type and looked similar to nonrural case management type programs. However, having strong ties to the community helped rural case managers gain patients' trust and find ways of getting things done. Travel distance placed important constraints on case managers by limiting their caseloads, forcing them to spend much energy on transportation arrangements, and making it difficult for them to forge

collaborative relations with outlying physicians.

2. Public Comments

In response to the March 23, 1999 notice, we received 25 timely public comments on potential aspects of the overall demonstration. All but six of the comments were from providers that furnish coordinated care services. The commenters included for-profit vendors, tertiary hospitals, academic medical centers, health plans, and nonprofit groups. The comments related to the types of organizations that are appropriate providers of care coordination services, the care manager's role, desired features of care coordination programs, and reimbursement of care coordination services.

Commenters suggested a variety of organizational structures in which to provide care management including for-profit and nonprofit entities, integrated delivery systems, and stand-alone care management providers.

The majority of commenters believed that the care manager should be part of an interdisciplinary team and most believed that the care manager should be intimately involved in the provision of actual care to enrollees. One commenter stressed the need to define the care manager's role in relation to other providers of care coordination (such as discharge planners) in the current Medicare system. Commenters also suggested that programs need to integrate patients' physicians into the care coordination process.

Several providers credited their success to the use of patient risk stratification, evidence-based medicine, information systems, or Internet and telecommunications technologies. The latter two were mentioned by several commenters as being useful for rural populations.

There were many comments on the difficulties of providing care management services under the current Medicare fee-for-service payment system. Almost all respondents suggested some sort of risk bearing system in which providers would be paid a fixed fee per enrollee and would share in any savings to the Medicare system. Some also suggested that reimbursement be linked to patient outcomes.

3. Limitations

Through the study design, a number of exemplary or highly regarded coordinated care programs may have been excluded from the review of best practices. Only those programs that volunteered to submit information and that provided self-reported evidence of favorable impacts on costs or hospital admissions were considered in the review. However, a review of excluded programs would not likely alter our basic conclusions about the three basic activities that successful programs must accomplish and the component tasks that they must address. Nor would have examination of additional programs been likely to permit more definitive statements about minimum requirements for a successful care management intervention. Evidence from additional programs would have likely provided further proof that there are multiple ways to achieve the goal of coordinating care.

An additional limitation of the review is that the data were self-reported and it was not possible to validate the reported impacts on outcomes. Nonetheless, the quality of the evidence reported was evaluated, and this ranking was used in the identification of potentially cost-effective practices. Thus, absent fraudulent representation of the data or concealment of questionable evaluation practices, programs that reported large impacts are likely to have had sizeable positive effects, even if the effects are somewhat overstated. This conclusion is reinforced by the focus of the study on programs that also tended to have features that case management experts believe to be strongly associated with good care coordination. Another data-related limitation is that the cost-effectiveness of most programs could not be assessed due to the complete absence or poor quality of data on the costs of the interventions.

In the analysis phase of the assessment, some of the less successful programs (those that reported comparatively smaller impacts) were reviewed in an effort to better understand potential differences between these programs and programs with similar structure and process features that reported large impacts. While this effort yielded limited insight (due largely to the wide variability in the quality of the evidence and large confidence intervals), examination of three unsuccessful programs reinforced the findings described above. These ineffective programs failed to identify all important problems, and failed to set specific goals in creating care plans. They also had shortcomings in implementing and delivering the care. Two of the programs cited difficulties building relations with primary care providers. One program relied solely on pamphlets for patient education. They also failed to reassess patients adequately, lacked procedures for patients to reach case managers between scheduled contacts, and relied on staff with backgrounds in acute care rather than community nursing.

D. Discussion

The findings of the best practice assessment suggest two general conclusions. First, there are several, if not many, potentially effective ways of coordinating care, and second, the two delivery models identified (DM and CM) may have the potential to improve care for chronically ill Medicare beneficiaries. In general, these conclusions are sufficiently informative for the purposes of developing a demonstration design. A conceptual framework applicable to the identified coordinated care delivery models is provided, and it appears that implementation of each of these delivery models in the Medicare fee-for-service program under a demonstration is feasible.

In addition to the conceptual framework and favorable characteristics of potentially cost-effective programs found through the review of best practices, there are several key design details that must be specified in order to ensure the likelihood of a successful demonstration within the time frame required by the Balanced Budget Act. These design issues include: Eligibility requirements, organizational capabilities for providing coordinated care services and for participating in the research and evaluation aspects of the demonstration, experimental design, technical operational design features, and the payment methodology to be tested. In specifying these requirements, we rely on our past experience with successful and unsuccessful demonstrations.

II. Provisions of This Notice

A. Purpose

This notice solicits applications for demonstration projects that will use existing models of coordinated care to improve the quality of services furnished to specific beneficiaries and manage expenditures under Parts A and B of the Medicare program. These savings are to result from more efficient provision and utilization of Medicare-covered services and the prevention of avoidable, costly medical complications. The intention of this demonstration is not to expand the set of services that Medicare covers with the exception of coordinated care services for targeted beneficiaries. Applicants may propose to expend a portion of the payments received for coordinated care services on services

that are typically not covered by the Medicare program. These services are not to be considered Medicare-covered services to which demonstration participants are entitled under the demonstration. Examples of these services include (but are not limited to): Coordination with community-based services, transportation, medications, noncovered home visits, and equipment. Beneficiaries will not be financially liable for these services.

We are interested in testing a variety of delivery and payment models aimed at diseases that represent high costs to the original Medicare fee-for-service program. The number and type of models to be tested will be determined by the quality of the proposals received. Through this solicitation, we intend to award at least eight proposed projects. Five of the selected projects will be conducted in urban areas; three in rural areas. We intend to operate the demonstration projects for 4 years from implementation during which time a formal evaluation will be conducted. We will assign a project officer, to each selected project, who will serve as the point of contact with the demonstration project staff. Our project officer will provide technical consultation regarding cooperative agreement procedures, monitor demonstration site activities, and forward feedback to the demonstration project's staff.

B. Funding

Under the demonstration, using a monthly all-inclusive rate, we will pay for the proposed coordinated care services. As required in the Balanced Budget Act of 1997, aggregate Medicare payments for the costs of the demonstration must be budget neutral for the Medicare program. This requirement means that, over the course of the projects, the aggregate Medicare payment for the coordinated care services (and any start up funding and incentive payments, if made) may be no greater than the total expected Medicare program savings from the coordinated care services. In addition to the monthly payment amounts, applicants may propose and we are willing to consider testing well-constructed performance incentives for the coordinated care entity.

Applicants may request minimal financial assistance for initial implementation costs (one-time payment of up to $150,000 per demonstration project, subject to availability). If made, this funding will be considered as part of the project's budget neutrality estimate. We are willing to consider requests for assistance with the following kinds of initial implementation costs: Modification of existing protocols, services, outreach, and educational materials to address a Medicare fee-for-service population. Applicants' proposed project budget must show the applicant's share of start-up costs as well as the proposed HCFA share.

C. Requirements for Submissions

We are seeking innovative proposals from a variety of qualified organizations that test whether models of coordinated care improve clinical outcomes, satisfaction, quality of life, and appropriate use of Medicare-covered services for targeted Medicare fee-for-service beneficiaries, while managing Medicare expenditures under Parts A and B so that budget neutrality of the project is achieved. Preference will be given to proposals aimed at beneficiaries who have one or more chronic conditions that represent high costs to the Medicare program, such as congestive heart failure, other heart disease (heart attack, ischemic heart disease, angina, arrhythmia), diabetes, liver disease, chronic obstructive pulmonary disease or other chronic lung disease, stroke or cerebrovascular or other vascular disease, psychotic disorders, major depressive disorders, drug/alcohol dependence, Alzheimer's or other dementia, cancer, or HIV/AIDS. Applicants proposing to target beneficiaries with chronic conditions not listed above must provide evidence justifying their selection.

Applicants must describe, in detail, their experience with providing coordinated care services and the populations served. Enrollment and drop-out rates must be described. Applicants must submit evidence for the following required organizational capabilities: appropriately experienced clinical and management staff; accurate understanding of the original Medicare fee-for-service program coverage and payment policies; adequate data and information systems; capacity to capture and analyze relevant patient-specific data elements; willingness to submit data to our designated evaluation contractor; effective management oversight; and effective quality improvement processes.

We are interested in models that are specifically targeted to the Medicare population and that take into account the beneficiaries' relative health and functional status, age, mental functioning, and other relevant factors. We are interested in and will give preference to proposals that focus on beneficiaries most likely to benefit from coordinated care interventions and that take patient comorbidities into account in the services provided.

Many of the design elements of the proposed demonstration project will depend on the coordinated care delivery model and interventions offered by the applicant, as well as the proposed payment methodology. When appropriate, applicants must demonstrate capabilities consistent with the coordinated care conceptual framework described in section I.C. of this notice.

Applicants must explain how their proposed program addresses each of the following aspects of the demonstration:

1. Coordinated Care Services

We seek to test existing models of coordinated care that have at a minimum been pilot tested by the applicant, thus eliminating the need for a lengthy developmental time frame. The applicant must therefore be an existing provider of coordinated care services applicable to the Medicare population. For purposes of this notice, ''existing provider'' is defined as an entity that has provided coordination services similar to or identical to the coordinated care services proposed for the demonstration for at least 1 year prior to the date of this notice.

Applicants must serve a chronically ill Medicare population, define their target population precisely, and have a defined scope of coordinated care services to be provided over a defined service period. The proposed coordinated care services must be appropriate for the targeted population, and must be likely to improve the quality of care for these individuals. The proposed bundle of coordinated care services may not include services for which separate Medicare payment is typically allowed (for example, physician office visits, inpatient hospital stays, durable medical equipment, and other Medicare-covered services).

Proposals for models that rely on medication management regimens or services (to be furnished by a provider other than the coordinated care entity) that are not typically covered by the Medicare program must address issues related to the cost of the medications or services, beneficiaries' ability to afford the medications or services, implications for the applicant's protocols, and other pertinent details.

Detailed processes must be proposed for beneficiary participant identification, recruitment, selection, enrollment, and discharge from the program. Applicants must indicate how they plan to assess whether an individual has one of the targeted

diseases and what additional restrictions will be placed on eligibility (for example, qualifying conditions, excluded conditions, and mandated referral from a physician). Additional processes must include: Ensuring optimal medical management; enhancing and supporting patient self-management and patient and caregiver education; ensuring efficient and effective utilization of Medicare services; and ensuring adequate flow of patient information from setting to setting.

Preference will be given to proposals in which the intervention protocols are not proprietary in nature.

2. Evidence of Prior Success

Applicants must provide clear evidence that their program has achieved reductions in the use of medical services for the target population previously served. Applicants must provide estimates showing that Medicare savings from proportionately similar effects for the target Medicare population would be sufficient to cover the costs of the demonstration to the Medicare program (proposed aggregate payment for coordinated care services and any start up funding). For their claims of prior success, applicants must define the outcomes measures used, the length of time over which they were measured, and how the measures were calculated. Preference will be given to proposals that report strong, credible evidence of savings and improved patient outcomes calculated from actual data collected during past implementation of the proposed care coordination interventions by the applicant. Preference will also be given to proposals that will test protocols that have been shown to be cost-effective specifically with a Medicare population.

3. Experimental Design

The proposed demonstration project must provide for voluntary participation for targeted Medicare beneficiaries. Preference will be given to proposals that make use of a randomized experimental design (for example, concurrent treatment group (receives coordinated care services) and control group (receives usual care) with patient assignment occurring after agreement to participate in the demonstration is established). For a randomized design, applicants must submit evidence of their ability to recruit and serve a study population of at least 618 Medicare beneficiaries per year (309 in the treatment group and 309 in the control group). When characteristics of the proposed intervention or the population under study renders a randomized design infeasible, applicants must provide a justification for this conclusion, and must fully describe how the proposed treatment and comparison groups would be identified such that the selection bias usually avoided by randomization would be minimized. For a comparison group design, applicants must submit evidence of their ability to recruit and serve a large enough population to allow us to differentiate statistically between the two groups.

Details of the applicant's proposed experimental design must be specified in its proposal, including the expected number of eligible Medicare beneficiaries in the geographic area the program intends to serve and the proportion expected to volunteer for the demonstration. Applicants must either (1) allow us (or our contractor) to assign beneficiaries to the experimental or control/comparison groups, or (2) have their proposed procedures for assignment approved and monitored by HCFA. At the time enrollment begins, beneficiaries who are then being served by the applicant's program may not be recruited for participation in the demonstration.

Note: Beneficiaries participating in the demonstration must be enrolled in Medicare Parts A and B and Medicare must be the primary payor.

4. Payment and Budget Neutrality

Applicants must propose an overall payment methodology and project budget that are appropriate for their proposed coordinated care delivery model and budget neutral for the Medicare program. Applicants must submit evidence demonstrating the accuracy of the financial assumptions used in their proposed payment methodology and project budget. Applicants' accuracy in estimating the expected net Medicare savings, the expected total yearly Medicare expenditures for the treatment and control (or comparison) groups, and the strength of the evidence supporting these estimates will be considered in evaluating the proposals. Further, applicants selected for award will be required to submit to us data supporting their financial assumptions prior to finalization of the award. In addition, we may revisit the budget neutrality calculations periodically during demonstration implementation to assess if the projects are budget neutral to the Medicare program.

- All-Inclusive Rate

The applicant's payment methodology must propose an all-inclusive rate per enrolled beneficiary served per calendar month for the proposed bundle of coordinated care services. Under the demonstration, the coordinated care entity may bill for and be paid for each calendar month for which the beneficiary was enrolled in the coordinated care program and received coordinated care service furnished by that coordinated care entity. Enrollment begins the first day of the month following consent for participation from the beneficiary. Applicants may propose an alternative enrollment process with justification. For example, an applicant may propose an enrollment process that would allow for enrollment during the month in which the beneficiary consents to participate and for subsequent partial monthly payment.

This demonstration aims to give the care coordination entity increased flexibility in providing services and make participation in the care coordination program attractive to patients and providers. The monthly all-inclusive rate for coordinated care services furnished to participating beneficiaries will be considered an administrative fee; no beneficiary coinsurance amount or deductible liability will be applied. Further, the selected demonstration sites must submit bills for the coordinated care services furnished on an assignment basis (no balance billing will be permitted). Providing coordinated care services to beneficiaries without cost eliminates a potential financial barrier to willingness to participate, offers a modest incentive for beneficiaries to participate (without applicable supplemental insurance) and avoids a layer of complexity in the billing requirements both for us and the demonstration projects. In addition, applicants may propose to expend a portion of the payment for coordinated care services on other services to beneficiaries.

Applicants may also propose to expend a portion of the monthly administrative fee for coordinated care services on appropriate payments to providers whose services are essential to the success of their programs. For example, an applicant may propose to pay physicians for services furnished to demonstration participants for which separate Medicare payment is not allowed. The payment might be structured as a monthly payment for care oversight or payment for participation in a scheduled multidisciplinary team conference. Payments to physicians must be tied to services furnished to an enrolled beneficiary and cannot be based upon referrals to the program. These

payments, if any, will be included in the budget-neutrality calculations and in determining any Medicare savings.

The proposed payment amount must be reasonable given the scope of coordinated care services proposed and must be supported by prior evidence of cost savings. The derivation of the monthly all-inclusive rate from the component costs must be specified in the applicant's proposal. No separate payment will be made for recruitment, travel, capital investments, labor, administrative, implementation, operating, data collection, research, evaluation, or any other costs incurred by the demonstration selectees in the provision of the proposed coordinated care services. However, applicants may request minimal financial assistance for initial implementation costs (a one time payment of up to $150,000 per demonstration project, subject to availability). Applicants must submit a detailed project budget with documentation of how the requested start-up funds, if any, would be used.

- Case Mix

In proposing the monthly all-inclusive rate per beneficiary, applicants may propose a payment schedule (of up to six rates) that reflects the intensity of services provided to beneficiaries with varying severity of disease or functioning, or length of time enrolled in the coordinated care program. Under this type of payment methodology, applicants must specify the mix of cases anticipated in the treatment group and develop an average rate. This average rate will determine the maximum monthly payment amount permitted (average monthly rate per beneficiary multiplied by the number of beneficiaries enrolled during the month cannot exceed the aggregate case mix adjusted rate for that month).

- Formal Evaluation

The demonstration projects will be required to cooperate in an independent formal evaluation of the demonstration, including submission of cost and other program data and two site visits, conducted by HCFA or its contractor. No additional funding will be provided for these activities.

- Performance Incentives

The primary focus of the demonstration program is an all-inclusive rate payment methodology. For the first year, all demonstration sites will be paid in this manner. For the second year and beyond, an applicant may propose testing alternative models such as a financial incentives program for the coordinated care entity beyond the monthly all-inclusive rate. Proposed performance-based financial incentive fee payments may be in the form of a fixed fee (capped by a percentage of net Medicare savings), or a percentage of net Medicare savings (as calculated by HCFA or its contractor). Development of appropriate outcomes-based incentives can be a significant challenge. Thus, applicants must define precisely the target measures to be used to determine if the performance-based financial incentive fee will be paid and how these measures will be calculated. Final decisions on these alternatives will depend on: (1) The applicant's ability to demonstrate the effectiveness of the proposed incentives, and (2) the applicant's ability to measure savings attributable to the intervention. Applicants should be aware that our primary interest is in testing the effectiveness of an all-inclusive rate payment and that this will be the primary basis for evaluating proposals.

5. Ability To Carry Out the Demonstration

Applicants must demonstrate that they have the basic infrastructure to carry out the demonstration. At a minimum, the applicant must have adequate physical assets, trained staff, clinical protocols to guide care delivery and management, linkages to providers and services necessary to deliver care, and appropriate information and financial systems. Accordingly, applicants must have substantial experience in coordinating care.

Proposals must include a detailed implementation plan describing tasks, time lines, and costs associated with implementing the demonstration program. Since applicants must demonstrate prior experience in operating successful care management programs, the implementation plan should focus on tasks and a time line for modifying the existing system to fit the demonstration program features listed above. Applicants may need to modify case management models, including protocols, services, outreach, and education to address a Medicare fee-for-service population.

The implementation plan must also demonstrate how the organization will modify its existing data and claims systems in order to submit electronic claims for payment to the appropriate Medicare contractor(s), using standard claims formats, and to meet all data requirements for the project. The preimplementation start-up phase should not exceed 6 months. Within 12 months from the implementation date, at least 309 treatment patients must be served (for a randomized design.)

D. Submission of Applications

Applications (original and 10 copies) must be received by HCFA as indicated in the **DATES** and **ADDRESSES** sections of this notice. Only proposals that are considered ''on time'' will be reviewed and considered by the technical review panel. Applications must be typed for clarity and should not exceed 40 double-spaced pages, exclusive of the cover letter, executive summary, resumes, forms, and documentation supporting the cost proposal. That is, sections IV, V, VI, VII, and VIII below must be presented in 40 double-spaced typewritten pages. These sections make up the body of the proposal and must fully describe the proposed project.

Application Contents Outline

To facilitate the review process, the application should include the following contents in the following order:

I. *Cover Letter*—Must include a brief description of the proposed project and indicate the model to be tested (that is, DM or CM, target population, and urban site or rural site), and identify any and all HCFA provider numbers assigned to the applicant, a contact person, and contact information.

II. ''Application for Federal Assistance'' Standard Form 424 (including SF–424a ''Budget Information'' and SF–424b ''Assurances'', available on our website (www.hcfa.gov/ord/ordhp1.htm)).

III. *Executive Summary*—Must include a summary of the project, care coordination experience, existence of adequate information systems, and willingness to share protocols for care coordination.

IV. Statement of the Problem

V. Demonstration Design

VI. Organizational Capabilities

VII. Project Budget and Cost-Effectiveness Evidence

VIII. Implementation Plan

IX. Related Supplemental Materials

E. Evaluation Process and Criteria

A review of responsive proposals will be conducted by a panel of experts. This technical review panel will convene in the months following the due date for submission of proposals. The panelists' recommendations will contain numerical ratings based on the evaluation criteria, the ranking of all responsive proposals, and a written assessment of each applicant. In addition, we will conduct a financial analysis of the recommended proposals and evaluate the budget neutrality of these proposed projects.

Evaluation Criteria and Weights

• Soundness of the Demonstration Design (20 points)

A. The proposal provides clear and convincing evidence and supporting materials that proposed care coordination services are appropriate for the targeted population, likely to achieve reductions in the use of medical services, and likely to improve the quality of care for these individuals.

B. The proposed research design provides for voluntary participation of a sufficient number of Medicare beneficiaries. The research design provides for the enrollment of comparable treatment and comparison groups in order to allow for validity of the evaluation result. Preference will be given to applications that make use of an appropriate randomized design.

• Organizational Capabilities (30 points)

A. The proposal provides evidence of the availability and adequacy of facilities, equipment, personnel, and data systems to successfully conduct the proposed project.

B. The proposal provides evidence of the organizational capacity to ensure adequate service delivery and the provision of high quality of care.

C. Specific information is provided concerning how the personnel are to be organized in the project, to whom they will report, and how they will be used to accomplish specific objectives or portions of the project.

• Ability To Implement the Demonstration (35 Points)

A. The proposed project implementation strategy and plan are detailed and appropriate.

B. There are adequate mechanisms for ensuring the medical necessity and reasonableness of the coordinated care services furnished under the demonstration.

C. There are adequate mechanisms for ensuring that beneficiaries' physicians are integrated with the project.

D. The strategy and plan for recruiting the required number of patients in the control and experimental groups appear reasonable and achievable.

E. The data to be collected, data sources, and data analyses planned are specified in detail and are sufficient to ensure optimal medical management and efficient use of health care services.

F. The implementation plan supports an independent evaluation of the project.

G. The proposal provides evidence that effective continuous quality improvement processes are being employed and can be transferred to the demonstration.

• Strength of the Cost-Effectiveness Evidence (15 points)

A. The proposal provides justification and explanation for the proposed payment amount(s).

B. The proposed payment amount for the bundle of coordinated care services is reasonable considering the scope and nature of services included.

C. The proposal provides clear, convincing evidence that, over the 4 years of the demonstration, the aggregate Medicare expenditures under Parts A and B (including incentives and start-up funding, if made) will be no greater than expected Medicare expenditures in the absence of the demonstration.

Final Selection

From among the most highly qualified applicants, the final selection of projects for the demonstration will be made by the HCFA Administrator and will take in to consideration operational feasibility, geographic location, and program priorities (such as testing a variety of approaches for delivering services, targeting beneficiaries, and payment). We reserve the right to conduct (a) site visit(s) prior to making awards. We expect to make the awards in early 2001.

III. Collection of Information Requirements

The information collection requirements contained in this notice have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (42 U.S.C. 3501–3520) and assigned OMB control number 1938–0800. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

Authority: Section 4016 of the Balanced Budget Act of 1997 (Pub. L. 105–33).

(Catalog of Federal Domestic Assistance Program No. 93.779, Health Care Financing Research, Demonstrations and Evaluations)

Dated: July 23, 2000.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

[FR Doc. 00–19159 Filed 7–27–00; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–1144–N]

Medicare Program; Announcement of a Series of Regional Training Sessions To Provide Training to Medicare+Choice Organization Physicians, Medicare+Choice Organization Non-Physician Practitioners, and Medicare+Choice Organization Medicare Directors, As Well As Physician Organizations and Billing Associations Involved in the Timely and Accurate Submission of Physician Encounter Data To Support a Comprehensive Risk Adjustment Model

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of training sessions.

SUMMARY: This notice announces a series of regional training sessions to provide an opportunity for Medicare+Choice Organization (M+CO) physicians, M+CO non-physician practitioners, and M+CO medical directors, as well as physician organizations, billing associations, and other interested parties, to obtain information on the requirements placed on M+COs for submission of physician encounter data collection. HCFA and the Restuccio Healthcare Group will provide the physician encounter data training.

Regional Training Dates & Cities

The regional training sessions will be held as follows:

PHYSICIAN ENCOUNTER DATA TRAINING SCHEDULE 2000

Date	Location
August 23, 2000, Palo Alto, CA	Hyatt Rickeys, 4219 El Camino Real, Palo Alto, CA 94306–4493, (650) 493–8000.
August 29, 2000, Philadelphia, PA	Park Hyatt Philadelphia at the Bellevue, Broad and Walnuts Streets, Philadelphia, PA 19102, (215) 893–1234.

PHYSICIAN ENCOUNTER DATA TRAINING SCHEDULE 2000—Continued

Date	Location
September 7, 2000, Chicago, IL	Hyatt Regency Woodfield, 1800 East Golf Road, Schaumburg, IL 60173, (847) 605–1234.
September 13, 2000, Tampa, FL	Hyatt Regency Westshore on Tampa Bay, 6200 Courtney Campbell Causeway, Tampa, FL 33607, (813) 874–1234.
September 20, 2000, San Diego, CA	San Diego Marriott Hotel and Marina, 333 West Harbor Drive, San Diego, CA 32101–7700, (619) 234–1500.

FOR FURTHER INFORMATION CONTACT: Marcy Perkins, Restuccio Healthcare Group, Encounter Data Representative, (901) 385–0123 (telephone); (901) 385–1821 (fax); or e-mail us with your questions at encounterdata@ritecode.com. Information is also available on our homepage at http://www.hcfa.gov/events.

SUPPLEMENTARY INFORMATION:

Background

The Balanced Budget Act of 1997 (BBA) (Public Law 105–33) established the Medicare+Choice (M+C) program. Under the BBA, we must implement a risk adjustment methodology that accounts for variations in per capita costs based on health status and other demographic factors for payment to M+C organizations (M+COs). Risk adjustment implementation began January 1, 2000.

The BBA gives us the authority to collect inpatient hospital data for discharges on or after July 1, 1997, and additional data for services occurring on or after July 1, 1998. Pending OMB approval, M+COs must submit physician encounter data beginning October 1, 2000.

The agenda for the half-day training sessions will include the following topics:

•; Overview of comprehensive risk adjustment models and implementation timeline.

• Review of M+C National Standard Format (M+C NSF).

• Coding tips and resources for obtaining additional coding information.

• Data requirements for physician encounter data.

• Question-and-answer period.

Registration

Registration for these training sessions is required and will be on a first-come, first-served basis, limited to two attendees per organization. A waiting list will be available for additional requests. Registration can be accomplished via the Internet at http://www.hcfa.gov/events or by completing a paper form available at the aforementioned Internet address. A confirmation notice will be sent to attendees upon finalization of registration.

Attendees will be provided with training materials at the time of the training session. There will be two training sessions per day. The morning session will be from 8:30 a.m. to 11:30 a.m.; the afternoon session will be from 1:30 p.m. to 4:30 p.m. Individuals can attend only one session (either morning or afternoon).

Authority: Sections 1851 through 1859 of the Social Security Act (42 U.S.C. 1395w-21 through 1395w-28).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: July 25, 2000.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

[FR Doc. 00–19158 Filed 7–27–00; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by contacting Susan S. Rucker, J.D., at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7056 ext. 245; fax: 301/402–0220; e-mail: ruckers@od.nih.gov. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Establishment of Cellular Manipulations Which Enhance Oligo-Mediated Gene Targeting

MM Seidman and A Majumdar (both of NIA)

Serial No. 60/191,996 filed 24 Mar 2000

This application relates to gene targeting, illustrated by the use of triplex-forming oligonucleotides (TFO's). In particular, the application describes and claims methods for improving the efficiency of the modification of gene sequence (including mutation and/or recombination) through the use of cells which have been cultured so as to synchronize their cell cycles. According to the method described and claimed in the application gene targeting reagents, as demonstrated by, but not limited to, triple helix forming oligonucleotides, are introduced into cultured, synchronized cells. Gene targeting applications are useful in research applications for the generation of transgenic animals and plants, including animals used as model systems, such as knockout mice, and animals or plants used for production of the product of the transgene of interest. In addition, efficient methods of gene targeting may also be useful in improving or carrying out gene therapy applications.

AAV5 Vector for Transducing Brain Cells and Lung Cells

JA Chiorini (NHLBI/NIDCR), RM Kotin (NHLBI)

Serial No. 09/533,427 filed 22 Mar 2000

The invention described and claimed in this patent application is related to the delivery of heterologous nucleic acids or genes to particular target cells. In particular, the application relates to methods of delivering a heterologous nucleic acid or gene of interest to particular target cells using an Adeno-

Associated Virus of serotype 5 (AAV5). The particular target cells identified include the alveolar cells of the lung and cerebellar and ependymal cells of the brain. The methods described herein may be useful in carrying out gene therapy related to diseases of the brain or central nervous system and the respiratory tract.

This work has been published, in part, at Davidson BL, *et al.* PNAS, USA 97(7):3428–32 (March 28, 2000) and Zabner J, *et al.* J Virol. 74(8):3852–8 (April 2000).

In addition to this patent application, PHS owns additional intellectual property related to this technology. The patent application has been published as WO 99/61601 on December 2, 1999 and the research corresponding thereto has been published at Chiorini JA, *et al.* J. Virol. 73(5): 4293–98 (May 1999) and Chiorini JA, *et al.* J. Virol. 73(2): 1309–19 (Feb. 1999).

AAV4 Vector and Uses Thereof

JA Chiorini (NHLBI/NIDCR), RM Kotin, B Safer (both of NHLBI)

Serial No. 09/532,594 filed 22 Mar 2000

The invention described and claimed in this patent application relates to the delivery of heterologous nucleic acids or genes to particular target cells. In particular, the application relates to methods of delivering a heterologous nucleic acid or gene of interest to particular target cells using Adeno-Associated Virus of serotype 4 (AAV4). The particular target cells identified are the ependymal cells of the brain. The methods described herein may be useful in carrying out gene therapy for diseases of the brain or central nervous system.

This work has been published in part at Davidson, BL, *et al.* ''Recombinant adeno-associated virus type 2, 4, and 5 vectors: transduction of variant cell types and regions in the mammalian central nervous system'' PNAS USA 97(7):3428–32 (March 28, 2000).

In addition, PHS owns additional intellectual property related to this technology describing an AAV4-based vector system. The material contained in the patent application has been published as WO 98/11244 (March 19, 1998) and the research corresponding thereto has been published in J. Virology 71(9): 6823–33 (Sept 1997).

A Novel Pro-Apoptotic Protein, ARTS

S Larisch-Bloch, SJ Kim, RJ Lechleider, AB Roberts and Y Yi (all of NCI)

Serial No. 60/178,866 filed 29 Jan 2000

This application relates to the field of apoptosis, in particular the application relates to a novel gene product which is associated with induction of apoptosis by Transforming Growth Factor Beta (TGF–β). Apoptosis is a critical event in developmental processes and homeostasis; its dysregulation is often central to pathogenic mechanisms. Apoptotic aberrations contribute to the development of the transformed phenotype; both metastatic potential and tumor aggressiveness are associated with increased resistance to apoptosis. Certain chemotherapeutic agents act by increasing the sensitivity of cells to apoptosis and patients with mutations in genes regulating apoptosis are known to have a poor prognosis.

The application describes the cloning of a gene which encodes a splice variant of the known gene designated H5/PNUTL2/CDCrel–2a/2b and the isolation and characterization of its protein product. The newly identified protein, designated ARTS (*A*poptosis *R*elated *P*rotein in the *T*GF–β *S*ignaling Pathway), is a member of the septin family of proteins. It is localized to mitochondria and translocates to the nucleus where ARTS induces apoptosis in response to TGF–β. ARTS is the first septin shown to be essential for mediating *T*GF–β dependent apoptosis. Antisense ARTS nucleic acids are also contemplated. Because of its role in regulating the sensitivity of cells to TGF–β induced apoptosis ARTS derived products may provide a means for treating conditions where increased TGF–β induced apoptosis is desired (*e.g.,* cancer) and where decreased TGF–β induced apoptosis is desired (*e.g.,* neurodegenerative diseases).

This work has been published in part at Larisch-Bloch S *et al.* ''Selective loss of the transforming growth factor-beta apoptotic signaling pathway in mutant NRP–154 rat prostatic epithelial cells'' Cell Growth Differ 11(1):1–10 (Jan 2000).

Replication Deficient Retroviral Vector System and Methods of Using

WJ Ramsey (NHGRI)

Serial No. 60/101,425 filed 22 Sep 1998; PCT/US99/21393

The technology described and claimed in this application relates to the field of gene therapy. More particularly, the technology described and claimed in the application relates to a method for producing replication deficient, but infectious, retroviral vectors. This method of producing replication deficient retroviral vectors for gene therapy yields virus in high titer and is readily adaptable to large scale production. In the methods described herein a producer cell is transformed with an integrating proviral sequence which includes a pair of retroviral LTRs, a retroviral packaging signal and the gene of interest. A second viral vector, containing trans complementing functions, such as the gag, pol, and env genes, is then used to infect/transform the cells containing the integrated proviral sequence enabling the generation of a replication deficient vector. This second viral vector may be chimeric, *e.g.,* have an adenoviral backbone and retroviral trans complementing functions. Producer cells, which now contain the trans complementing vector and the integrated proviral vector are then cultured to obtain the replication deficient viral vector from the medium.

The PCT application has been published as WO 00/17736 (March 30, 2000). Related technology describing chimeric vectors for gene therapy is also available for licensing. It is described in USSN 09/058,686 filed 10 Apr 1998 (published as WO 98/46778 (Oct. 22, 1998).

Dated: July 19, 2000.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 00–19150 Filed 7–27–00; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

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V1 Knockout Mice for Screening New Vaccines Against Streptococcus Pneumoniae

Qing-Sheng Mi, James J. Kenny, Dan L. Longo (NIA)

DHHS Reference No. E–140–00/0

Licensing Contact: Uri Reichman; 301/496–7056 ext. 240; e-mail: reichmau@od.nih.gov

Streptococcus pneumonia (SP) is a bacterial agent found in both mild mucosa and severe systemic infection; it is also often responsible for pneumonia, a disease that takes over one million lives a year. Recent SP strains prove resistant to Penicillin and other antibiotics, making the development of a Pneumococcal vaccine crucial. The existing vaccine is only about eighty percent effective at preventing SP infection in adults, but is much less effective in infants, aged, or immune deficient patients. Antibodies to phosphocholine (PC), an immunodominant epitope in the cell wall of Streptococcus pneumoniae, protect mice from lethal pneumococcal infection. The heavy chain of the PC protecting antibody is encoded by the V1 segment of the S107 V_H gene family. The V1 knockout mice which are available for licensing, cannot produce protective antibodies against the PC epitope of Streptococcus pneumonia. They are however, capable of producing normal antibodies to other cell wall proteins following bacteria immunization and get partial protection against lethal pneumococcal infection. Thus, the V1 knockout mice can facilitate the screening of protective antigens other than PC. This may result in new vaccine candidates against Streptococcus pneumonia. Screening for new vaccine candidates can be done as follows: The V1 knockout mice can be immunized with avirulent SP bacteria. The immune serum will be utilized to detect and isolate the antigenic cell wall proteins, using standard affinity binding procedures. The antigenic proteins will then be cloned, sequenced and purified. Normal mice will be immunized with these proteins and then challenged with virulent SP bacteria to determine whether these proteins have protective function.

Methods and Compositions for Co-Stimulation of Immunological Responses to Peptide Antigens

Samir Khleif, Jay Berzofsky (NCI)

DHHS Reference No. E–128–00/0 filed 15 Mar 2000

Licensing Contact: Peter Soukas; 301/496–7056 ext. 268; e-mail: soukasp@od.nih.gov

This invention relates to peptide vaccines comprising administering a peptide comprising at least one T cell epitope coordinately with a non-viral vector comprising a polynucleotide encoding a T cell co-stimulatory molecule useful for eliciting cellular immune responses. The inventors have found that intradermal vaccination of mice with a DNA vector carrying the mouse co-stimulatory immunoglobulin B7.1 (CD80) in combination with a Human Papilloma Virus (HPV) E7 peptide significantly enhances the E7 specific cytotoxic lymphocyte response. Delivery of the B7.1 molecule as non-replicating DNA with antigenic peptides overcomes the problems of low antigenicity associated with some viral vectors as well as the instability, exogenous presentation and conformational maintenance problems associated with the delivery of full-length protein delivery. Furthermore, polynucleotides encoding the B7.1 construct can potentially be used along with any other form of antigen vaccine delivery systems, including peptides, full proteins and naked DNA antigens and are inexpensive to produce.

Full-Length Infectious cDNA Clones of Tick Borne Flavivirus

Alexander Pletnev, Robert M. Chanock (NIAID)

DHHS Reference No. E–281–98/0 filed 10 Feb 2000

Licensing Specialist: Carol Salata; 301/496–7735 ext. 232; e-mail: salatac@od.nih.gov

The tick-borne encephalitis virus complex of flavivirus family includes tick-borne encephalitis (TBEV), Kyasanur forest disease, Langat, Louping ill, Negishi, Omsk hemorrhagic fever and Povassan viruses. These viruses are endemic throughout most of the Northern Hemisphere and except for Langat, cause human disease of varying severity that can have mortality as high as 20 to 30%. Tick-borne encephalitis remains a pressing public health problem in Eastern Europe and Russia, where 9,000 to 12,000 patients are diagnosed annually and there is a need for a vaccine which can prevent this disease. This invention relates to an infectious full length Langat virus cDNA which has been successfully constructed and can be used to further attenuate this naturally attenuated tick-borne flavivirus. This full length Langat virus can be used as a live attenuated virus vaccine for the prevention of severe, often fatal disease caused by its more virulent tick-borne flavivirus relatives such as tick-borne encephalitis virus.

Polypeptides That Bind HIV gp120 and Related Nucleic Acids, Antibodies, Compositions, and Methods of Use

Carl Saxinger (NCI)

DHHS Reference No. E–245–99/0 filed 27 Aug 1999

Licensing Contact: J.P. Kim; 301/496–7056 ext. 264; e-mail: kimj@od.nih.gov

The presence of chemokines has been observed to have an inhibitory effect on HIV–1 attachment to, and infection of, susceptible cells. The interaction between gp120 and CD4, or at least one chemokine receptor is obligatory for HIV–1 infection. Reagents which interfere with the binding of gp120 to chemokine receptors and to CD4 are used in the biological and medical arts; however, there remains a need for additional reagents that can compete with one or more proteins of the gp120-CD4-chemokine-receptor complex to assist in the development of HIV therapeutics.

The present invention relates to such polypeptides with homology to domains of the human chemokine receptors CCR5, CXCR4, and STRL33, as well as domains of CD4 that bind with human immunodeficiency virus (HIV), in particular the HIV–1 glycoprotein 120 (gp120) envelope protein. These receptor polypeptides were identified through the application of a recent technological advance in the design and synthesis of synthetic peptide arrays (see Saxinger, WC: An automated peptide design and synthesis; U.S. Patent 6,031,074 issued 29 Feb 2000). The binding of gp120 to receptor peptide arrays was highly linearly correlated with structure/activity relationships between biological receptors and HIV infectivity in vitro ($r=>95\%$, $p<=0.03$). The binding of gp120 by active receptor polypeptides was unrestricted by viral or receptor strain or subtype suggesting that the polypeptides participated in an early stage of infection common to multiple virus strains, thus potentially addressing problems of virus variation and multiple virus strains. The invention further provides for nucleic acids encoding such polypeptides, antibodies, compositions comprising such polypeptides, nucleic acids or antibodies, and methods of use thereof, such as in therapeutics and vaccine design.

System and Method for Simulating a Two-Dimensional Radiation Intensity Distribution of Photon or Electron Beams

J van de Geijn, H Xie (NCI)

Serial No. 08/368,589 filed 06 Jan 1995; U.S. Patent No. 5,526,395 issued 11 Jun 1996

Licensing Contact: NIHOTT@od.nih.gov

The present invention provides a method for computer-assisted, interactive 3-dimensional radiation treatment planning and optimization. The computerized system is capable of processing and analyzing data obtained from x-ray, CT, MRI, PET, SPECT, and gammacamera devices. Hence, the system can be used as a training device, alleviating the need for training centers to purchase each of these devices. The computerized system comprises a fast, versatile, and user-friendly software package and computer components which are commercially available and which can be used without significant modification. Because the hardware costs of this system are much lower than the cost of systems of comparable ability, this invention ought to be particularly attractive to smaller radiation oncology facilities which seek a powerful treatment planning system. The low cost of the system is also particularly advantageous for medical training facilities, including medical schools. The invention also has potential use as a monitor for clinical quality assurance.

Combination Therapies for Viral Infection

Lori *et al.* (NCI); Malley & Vila

Serial Nos. 08/065,814 filed 21 May 1993; 08/245,259 filed 17 May 1994; 08/169,253 filed 20 Dec 1993; 08/378,219 filed 25 Jan 1995; 08/401,488 filed 08 Mar 1995; 08/577,322 filed 22 Dec 1995; 08/617,421 filed 18 Mar 1996; 09/497,700 filed 03 Feb 2000

Licensing Contact: J.P. Kim; 301/496–7056 ext. 264; e-mail: kimj@od.nih.gov

The subject inventions provide for formulations and methods for inhibiting replication of reverse transcription dependent viruses in animals cells comprising administering a compound that depletes the intracellular pool of deoxyribonucleoside phosphate, and further comprising administering a compound that serves to inhibit replication of the virus by terminating DNA chain elongation.

Dated: July 19, 2000.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 00–19151 Filed 7–27–00; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

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Vessel Delineation in Magnetic Resonance Angiographic Images

Peter Yim (CC)

Serial No. 60/181,990 filed 11 Feb 2000

Licensing Contact: Carol Salata; 301/496–7735 ext. 232; e-mail: salatac@od.nih.gov

This invention relates to advances in magnetic resonance angiography (MRA) or the imaging of blood vessels in the body for the evaluation of vascular pathology. Presented are new methods for processing magnetic resonance angiographic images, or angiograms, to delineate certain vessels in an angiogram. These methods find particular utility in highly vascular regions of the body such as the cerebrum, heart, abdomen and extremities where there is extensive overlapping and variation in the size of the vessels. Current MRA methods are unable to generate high-resolution images of complex vessel geometries in these dynamic environments. The patent application for this invention covers algorithms and computer-implemented methods for tracking the paths of vessels in magnetic resonance angiography. Also covered are similar methods for digital image processing in alternative imaging technologies such as tomography and X-ray angiography.

Methods for Predicting the Biological, Chemical, and Physical Properties of Molecules From Their Spectral Properties

Dwight W. Miller *et al.* (FDA)

Serial No. 09/496,314 filed 01 Feb 2000

Licensing Contact: Peter Soukas; 301/496–7056 ext. 268; e-mail: soukasp@od.nih.gov

The number of known chemical compounds is enormous, and the number is constantly increasing. While there are a vast number of chemical compounds, only a relative few of those compounds may exhibit a particular desirable property, such as pharmaceutical activity. Random testing of known compounds to identify those compounds which show pharmaceutical activity is very expensive and time-consuming. Similarly, there is also a need to screen compounds for toxicity, so that rational decisions can be made regarding the use and regulation of compounds that have toxic potential. At present, only a fraction of known compounds have been thoroughly tested for their toxicological and potential therapeutic properties.

Scientists have developed methods which attempt to predict which compounds are likely to exhibit a particular property. The present invention provides a method for establishing a quantitative relationship between spectral properties of molecules and a biological, chemical, or physical endpoint of the molecules. The present invention further provides methods for rapidly screening isolated compounds or mixtures of compounds based upon their spectral data.

Molecules That Influence Pathogen Resistance

Gregory A. Taylor and George F. Vande Woude (NCI)

DHHS Reference No. E–068–00/0 filed 03 Jan 2000

Licensing Contact: J.P. Kim; 301/496–7056 ext. 264; e-mail: kimj@od.nih.gov

Interferon-gamma (IFN-γ) is an important cytokine for control of infectious agents and regulation of the immune system. IFN-γ is thought to exert its effects largely by activation of IFNγ-responsive genes. One recently identified IFNγ-regulated gene is IGTP. It has been found that the IGTP-family proteins mediate the immune response of mammals to various infectious pathogens. In particular, it has been noted that IGTP functions as a downstream mediator of IFN-γ and

appears particularly important to host response in parasitic infection.

The present invention provides for the prevention and treatment of infectious diseases through modification of immune response(s), in particular, to the involvement of GTPase molecule(s) in such immune responses to infectious disease (such as parasitic (*e.g.,* protozoan) disease).

Method of Treating a Viral Infection Using Antagonists or Macrophage Colony Stimulating Factor (M–CSF)

Clouse-Strebel *et al.* (FDA)
DHHS Reference No. E–255–99/0 filed 08 Nov 1999
Licensing Contact: J.P. Kim; 301/496–7056 ext. 264; e-mail: kimj@od.nih.gov

Colony stimulating factors (CSF's) are a class of proteins that stimulate growth and development of bone marrow progenitor cells into mature cells, such as granulocytes, macrophages, megakaryocytes, erythrocytes, lymphocytes, and mast cells. One of these factors is macrophage colony stimulating factor (M-CSF), a homodimeric glycoprotein with subunits linked by disulfide bonds. M-CSF is also known as CSF–1, CSF–69, LSF, MGF, and CSF-HU.

The present invention provides for a method for treating a viral infection, such as HIV–1 and HIV–2, using an amount of an antagonist of M-CSF sufficient to inhibit replication of the virus, either administered alone or in combination with another anti-viral agent.

S-Nitrosoglutathione as a Protease Inhibitor for the Treatment of AIDS and Neurodegenerative Disorders

Chuang C. Chiueh (NIMH), Sang Y. Lee (NIMH), David A. Davis (NCI), Robert Yarchoan (NCI)
DHHS Reference No. E–008–00/0 filed 01 Nov 1999
Licensing Contact: J.P. Kim; 301/496–7056 ext. 264; e-mail: kimj@od.nih.gov

The human immunodeficiency virus (HIV) is the causative agent of acquired immunodeficiency syndrome (AIDS). Over the years, drug-resistance has been a critical factor contributing to the gradual loss of clinical benefit to treatments for HIV infection. There has been great concern regarding this apparent growing resistance of HIV strains to current therapies. Accordingly, there is a great need for new effective HIV therapeutics.

The present invention provides for the use of nitrosylating compounds, such as S-Nitrosoglutathione and derivatives thereof (for example, as an HIV–1 protease inhibitor) for the treatment of AIDS and neurodegenerative disorders.

Enhancement of Hematopoietic Cells

William J. Murphy (NCI), Susan M. Richards (NCI), Dan L. Longo (NIA)
DHHS Reference Nos. E–247–99/0 filed 21 Jan 1997 and E–247-99/1 filed 20 Jan 1998 (PCT/US98/00887)
Licensing Contact: J.P. Kim; 301/496–7056 ext. 264; e-mail: kimj@od.nih.gov

The present invention provides a method for enhancing hematopoiesis by contacting hematopoietic stem or progenitor cells with a composition containing prolactin, preferably recombinant prolactin. Stimulation of hematopoiesis can serve to replace hematopoietic cells. The invention further provides a method for treating an animal to improve hematopoiesis or prevent hematopoietic-suppression by administering a pharmaceutically acceptable composition containing prolactin. The invention further relates to a composition comprising a cytokine that can enhance hematopoiesis and prolactin, and a composition comprising a therapeutic that can cause hematopoietic-suppression and a prolactin.

Dated: July 19, 2000.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 00–19152 Filed 7–27–00; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Discovery of a Novel Human Aminopeptidase Which May Regulate Cleavage and Shedding of the Human Type-I Tumor Necrosis Factor Receptor

Stewart J. Levine (NHLBI)
DHHS Reference No. E–003–00/0 filed 28 Feb 2000
Licensing Contact: Richard U. Rodriguez; 301/496–7056 ext. 287; e-mail: rodrigur@od.nih.gov

Cytokines are a large and diverse group of molecules which mediate interactions between cells. Aberrant regulation of cytokine signaling results in a wide variety of hyper-inflammatory, autoimmune and immune-deficiency pathological conditions. Tumor necrosis factor-α (TNF-α) is a multifunctional cytokine mediating pleiotropic biological functions in both healthy and disease states. TNF-α has been shown to have a role in the following activities: Destroying tumors, mediating responses to tissue injury, protecting hosts from infections by various microorganisms and activating numerous genes, including NF-κB and AP–1. TNF-α has also been implicated in the pathogenesis of a variety of diseases and disorders. The present invention provides compositions and methods related to regulation of cytokine signaling through the TNF-α pathway. Specifically, the invention provides a novel gene, polypeptide and related compositions and methods for the regulation of TNF Type-I receptor ectodomain shedding. It is contemplated that the compositions and methods of this invention will find use in therapeutics for the treatment of diseases and disorders of the immune system.

Amplification and Overexpression of Multiple Genes at 17q23 in Breast Cancer

Anne H Kallioniemi, Olli P Kallioniemi, Juha T Kononen, Maarit Barlund (NHGRI)
DHHS Reference No. E–051–00/0 filed 28 Jan 2000
Licensing Contact: Richard U. Rodriguez; 301/496–7056 ext. 287; e-mail: rodrigur@od.nih.gov

This invention pertains to gene amplification and its role in the progression and initiation of many solid

tumors, including breast cancer. Amplification is a common mechanism for upregulation of critical genes involved in cancer development and progression. Discovery of HER–2 oncogene amplification in breast cancer has led to a specific therapy for breast cancer patients with an activated HER–2 gene. Chromosomal region 17q23 is frequently amplified in breast cancer but the genes involved in this amplification are not yet known. Amplification of four previously known genes, S6K, TBX2, PAT1, RAD51C, has been identified in breast cancer cell lines and primary breast tumors. The amplification in cell lines leads to overexpression at the mRNA level. Thus, these genes represent putative targets for the 17q23 amplification and their upregulation may contribute to the genesis and progression of breast cancer.

Inhibition of Cell Motility

Donald P. Bottaro, Terrence R. Burke, Jr., Zhu-Jun Yao, Nese S. Atabey, Diane E. Breckenbridge, Yang Gao (NCI)

DHHS Reference No. E–265–99/0 filed 22 Oct 1999

Licensing Contact: Richard U. Rodriguez; 301/496–7056 ext. 287; e-mail: rodrigur@od.nih.gov

The present invention relates to a method of inhibiting cell motility induced by hepatocyte growth factor (HGF) and treating various diseases in a mammal. HGF stimulates mitogenesis, motogenesis and morphogenesis in a wide range of cellular targets including epithelial and endothelial cells, hematopoietic cells, neurons, melanoytes, and hepatocytes. These pleiotropic effects play important roles during development and tissue regeneration, but they are also implicated in several human cancers, including colon, breast, lung, thyroid and renal carcinomas, several sarcomas and gliolastomas. The ability of HGF to initiate a program of cell dissociation and increased cell motility coupled with increased protease production promotes aggressive cellular invasion and is linked to tumor metastasis. The methods of the present invention employ compounds, *e.g.,* phosphotyrosine mimetics, to inhibit cell motility. A key advantage of this invention is that the peptides are free of cytotoxicity. Further development and use of this invention could serve a serious public need.

Fibroblast Growth Factor-5 (FGF–5) Is a Tumor Associated T-cell Antigen for Human Renal Cell Cancer and Other Adenocarcinomas

Ken-ichi Hanada and James C. Yang (NCI)

DHHS Reference No. E–243–99/0 filed 02 Oct 1999

Licensing Contact: Elaine Gese; 301/496–7056 ext. 282; e-mail: gesee@od.nih.gov

Renal cell carcinoma (RCC) is a form of kidney cancer caused when cells in the lining of the renal tubule undergo cancerous changes. The inventors have shown that fibroblast growth factor-5 (FGF–5) is a tumor associated antigen (TAA) for RCC and cancers of the breast and prostate. TAAs can be used to stimulate cytotoxic T-lymphocytes (CTL) which can be directed against specific tumor cells. This can be accomplished in at least two ways: (1) Activating a patient's immune system by administering a vaccine containing the TAA, or (2) by removing a patient's lymphoid cells, activating these cells ex vivo and then reintroducing these activated cells back into the patient to attack the tumor cells. The invention provides for methods of treating RCC and other adenocarcinomas with FGF–5 using the aforementioned approaches.

Genetic System in Yeast for Functional Identification of Human p53 Mutations

Michael A. Resnick, Alberto Inga (NIEHS)

DHHS Reference No. E–183–99/0 filed 30 Jul 1999

Licensing Specialist: Vasant Gandhi; 301/406–7056 ext. 224; e-mail: gandhiv@od.nih.gov

The tumor suppressor gene p53, a key regulator of cellular mechanisms that maintain genome integrity, is the most commonly inactivated gene target associated with neoplastic transformation. About 50% of all human tumors express a mutated form of p53 and more than 80% of these mutations are missense, leading to single amino acid changes. This invention relates to human p53 mutants and identification methods using screening assays in the yeast Saccharomyces cerevisiae to functionally categorize expressed p53 mutant proteins. Additionally, the invention relates to methods of detecting or generating novel human p53 mutations with properties that can include toxicity in yeast and growth suppression in human cells, enhanced or reduced transactivation relative to wild type p53, altered promoter selectivity, and reactivation of common tumor mutations for the transactivation function of major p53 downstream genes. The invention also provides for screening of genetic factors, peptides and chemicals that mimic the toxic or supertransactivating mutations or inhibit p53 function.

Dated: July 19, 2000.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 00–19153 Filed 7–27–00; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Consensus Development Conference on Antenatal Corticosteroids Revisited: Repeat Courses

Notice is hereby given of the National Institutes of Health (NIH) Consensus Development Conference on ''Antenatal Corticosteroids Revisited: Repeat Courses,'' which will be held August 17–18, 2000, in Masur Auditorium of the NIH Clinical Center, 9000 Rockville Pike, Bethesda, Maryland, 20892. The conference begins at 8 a.m. on August 17, and at 8:30 a.m. on August 18 and is open to the public.

Preterm delivery is a major cause of death and illness in infants. Corticosteroid treatment of pregnant women delivering prematurely was first introduced in 1972 to enhance fetal lung maturity. Subsequent research has focused on the ability of glucocorticoids to reduce mortality and brain injury in preterm neonates.

In 1994 the National Institutes of Health sponsored a Consensus Development Conference on the Effect of Corticosteroids for Fetal Maturation on Perinatal Outcomes to assess the effectiveness of antenatal glucocorticoid therapy. The Consensus Panel concluded, in part, that giving corticosticoids to pregnant women at risk for preterm delivery reduces the risk of death, respiratory distress syndrome, and intraventricular hemorrhage in preterm infants.

The 1994 panel noted that optimal benefit of antenatal corticosteroid therapy last 7 days. The panel also noted that the potential benefits and risk of repeated administration of antenatal corticosteroids 7 days after the initial course are unknown and called for additional research on this issue.

The NIH is organizing this 1½ day conference to present research on repeat courses of antenatal corticosteroid therapy. After a day of presentations and audience discussion, an

independent, non-federal consensus development panel will weigh the scientific evidence and write a draft statement that will be presented to the audience on the second day. The panel's statement will address these questions:

- Is the evidence on benefits and risks of repeat courses of antenatal corticosteroids sufficient to permit consensus recommendations?
- If so, what are the recommendations?
- If not, what additional information should be obtained?

On the final day of the conference, the panel's draft statement will be read in public, at which time members of the public are invited to offer comments on the draft.

The primary sponsors of this meeting are the National Institute of Child Health and Human Development and the NIH Office of Medical Applications of Research. Co-sponsors include the National Institute of Nursing Research and the National Heart, Lung, and Blood Institute.

This is the 112th Consensus Development Conference held by the NIH in the 23-year history of the Consensus Development Program. Advance information about the conference and conference registration materials may be obtained from the NIH Consensus Program Web site—http://consensus.nih.gov. Conference information can also be obtained from Prospect Associates of Silver Spring, Maryland by calling (301) 592–3320 or by e-mail to *antenatal@prospect.com*. Prospect Associate's address is 10720 Columbia Pike, Suite 500, Silver Spring, Maryland 20901–4437.

Dated: July 20, 2000.

Ruth L. Kirschstein,

Acting Director, NIH.

[FR Doc. 00–19148 Filed 7–27–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Flexible system to advance innovative research for cancer drug discovery by small business FLAIR SBIR.

Date: July 25, 2000.

Time: 8 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Executive Plaza North, Conference Room H, 6130 Executive Boulevard, Rockville, MD 20852.

Contact Person: Timothy C. Meeker, MD, Scientific Review Administrator, Special Referral and Resources Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8088, 301/594–1279.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS).

Dated: July 17, 2000.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–19140 Filed 7–27–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given to the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Small Grants Program for Behavioral Research in Cancer Control.

Date: August 11, 2000.

Time: 8 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Executive Plaza North, Conference Room J, 6130 Executive Plaza, Rockville, MD 20852.

Contact Person: C.M. Kerwin, PHD, Scientific Review Administrator, Special Review and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes Of Health, 6116 Executive Boulevard, Room 8086, Rockville, MD 20892–7405, 301/496–7421.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: July 19, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–19141 Filed 7–27–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) an d552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Diet, Lifestyle and Cancer in U.S. Special Populations.

Date: August 9, 2000.
Time: 12 pm to 1:30 pm.
Agenda: To review and evaluate grant applications.
Place: Executive Plaza North, 6130 Executive Boulevard, Conference Room E, Rockville, MD 20852, (Telephone Conference Call).
Contact Person: Gerald G. Lovinger, PHD, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8070, Rockville, MD 20892–7404, 301/496–7987.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: July 19, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–19142 Filed 7–27–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Initial Review Group, Research Centers In Minority Institutions Review Committee.
Date: September 26, 2000.
Open: 8 a.m. to 10 a.m.
Agenda: To discuss program planning and program issues.
Place: Atlanta Airport Marriott, 4711 Best Road, College Park, GA 30337.
Closed: 10 a.m. to Adjournment.
Agenda: To review and evaluate grant applications.
Place: Atlanta Airport Marriott, 4711 Best Road, College Park, GA 30337.
Contact Person: C. William Angus, PhD., Scientific Review Administrator, Office of Review, National Center for Research Resources, 6705 Rockledge Drive, MSC 7965, Room 6018, Bethesda, MD 20892–7965, 301–435–0812.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: July 21, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–19146 Filed 7–27–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Special Emphasis Panel General Clinical Research Centers.
Date: September 12–13, 2000.
Time: September 12, 2000, 4:00 p.m. to Adjournment.
Agenda: To review and evaluate grant applications.
Place: Kingsgate Conference Center, 151 Goodman Drive, Cincinnati, OH 45219.
Contact Person: Camille M. King, PhD, Scientific Review Administrator, Office of Review, National Center for Research Resources, National Institutes of Health, One Rockledge Centre, MSC 7965, 6705 Rockledge Drive, Suite 6018, Bethesda, MD 20892–7965, (301) 435–0815, kingc@ncrr.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: July 21, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–19147 Filed 7–27–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Eye Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Eye Council.
Date: September 14, 2000.
Open: 8:30 am to 11:30 am.
Agenda: Following opening remarks by the Acting Director, NEI, there will be presentations by the staff of the Institute and discussions concerning Institute programs and policies.
Place: 6130 Executive Boulevard, Room G, Rockville, MD 20852.
Closed: 11:30 am to 5:00 pm.
Agenda: To review and evaluate grant applications.
Place: 6130 Executive Boulevard, Room G, Rockville, MD 20852.

Contact Person: Lois DeNinno, National Eye Institute, Executive Plaza South, Suite 350, 6120 Executive Blvd., MSC 7167, Bethesda, MD 20892, 301–496–9110.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: July 20, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–19143 Filed 7–27–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Heart, Lung, and Blood Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Advisory Council

Date: September 7–8, 2000.

Open: September 7, 2000, 8:30 am to 2:00 pm.

Agenda: For discussion of program policies and issues.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, MD 20892.

Closed: September 7, 2000 pm to Adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 9000 Rockville, Pike, Building 31, Conference Room 10, Bethesda, MD 20892.

Contact Person: Robert Carlsen, Director, Division of Extramural Affairs, Nat. Heart, Lung, and Blood Institute, NIH, Two Rockledge Center, Room 7100, 6701 Rockledge Drive, Bethesda, MD 20892, 301/435–0260.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Disease Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: July 20, 2000

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–19132 Filed 7–27–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel ''Clinical Centers for the Clinical Network for the Treatment of the Adult Respiratory Distress Syndrome (ARDS)''.

Date: August 1, 2000.

Time: 8 am to 5 pm.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, II Rockledge Center, 6701 Rockledge Drive, Room 7214, Bethesda, MD 20892–7924 (Telephone Conference Call).

Contact Person: C. James Scheirer, PhD, Chief, Review Branch, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, Rockledge Center II, 6701 Rockledge Drive, Suite 7216, Bethesda, MD 20892–7924, 301–435–0266.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: July 20, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–19133 Filed 7–27–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: July 26, 2000.

Time: 1 p.m. to 2:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: Willco Building, Suite 409, 6000 Executive Boulevard, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Sean O'Rourke, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892–7003, 301–443–2861.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: July 21, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–19134 Filed 7–27–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Deafness and Other Communication Disorders Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Deafness and Other Communication Disorders Advisory Council.

Date: September 15, 2000.

Open: 8:30 a.m. to 12:00 p.m.

Agenda: Staff reports on divisional, programmatic and special activities.

Place: NIH Neuroscience Office Building, 6001 Executive Boulevard, Conference Room C, Rockville, MD 20892.

Closed: 12:00 p.m. to adjournment.

Agenda: To review and evaluate grant applications.

Place: NIH Neuroscience Office Building, 6001 Executive Boulevard, Conference Room C, Rockville, MD 20892.

Contact Person: Craig A. Jordan, PhD., Chief, Scientific Review Branch, NIH/NIDCD/DER, Executive Plaza South Room 400C, Bethesda, MD 20892–7180, 301–496–8683.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: July 21, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–19135 Filed 7–27–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: August 7, 2000.

Time: 1:00 pm to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Mary Sue Krause, MEDS, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6138, Bethesda, MD 20892–9606, 301–443–6470.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: July 21, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–19136 Filed 7–27–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Role of Nutrition in Prevention of MR and Birth Defects.

Date: July 27–28, 2000.

Time: 8 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: The Tremont House, 2300 Ship's Mechanic Row, Galveston, TX 77550.

Contact Person: Norman Chang, PhD., Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Executive Blvd., Room 5E03, Bethesda, MD 20892, (301) 496–1485.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: July 18, 2000.

Anna P. Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–19138 Filed 7–27–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel.

Date: August 23, 2000.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Executive Plaza South, Room, 400C, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Stanley C. Oaks, Jr., PhD, Scientific Review Branch, Division of Extramural Research, Executive Plaza South, Room 400C, 6120 Executive Blvd., Bethesda, MD 20892–7180, 301–496–8683.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: July 19, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–19139 Filed 7–27–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: August 14, 2000.

Time: 9:00 am to 4:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Peter R. Jackson, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC, 7610, Bethesda, MD 20892–7610, (301)–496–2550.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: August 15, 2000.

Time: 8:30 am to 3:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, N.W. Washington, DC 20007.

Contact Person: Yen Li, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, (301) 496–2550, yli@niaid.nih.gov.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: August 16, 2000.

Time: 9:00 am to 3:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Georgetown, 2101 Wisconsin Avenue, N.W., Washington, DC 20007.

Contact Person: Allen C Stoolmiller, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2220, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, (301) 496–2550.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: August 23–24, 2000.

Time: 8:30 am to 2:00 pm.

Agenda: To review and evaluate contract proposals.

Place: Holiday Inn, 2 Montgomery Village Avenue, Gaithersburg, MD 20879.

Contact Person: Priti Mehrotra, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC, 7610, Bethesda, MD 20892–7610, (301)–496–2550.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: July 21, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–19144 Filed 7–27–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel.

Date: August 16, 2000.

Time: 2 pm to 3:30 pm.

Agenda: To review and evaluate grant applications.

Place: Executive Plaza South, Room 400C, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Craig A. Jordan, PhD, Chief, Scientific Review Branch, NIH/NIDCD/DER, Executive Plaza South, Room 400C, Bethesda, MD 20892–7180, 301–496–8683.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: July 21, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–19145 Filed 7–27–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Vietnamese Studies Ad Hoc Advisory Meeting

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting to be convened by the National Institute of Environmental Health Sciences (NIEHS) to discuss and receive input on scientific issues relating to possible studies in Vietnam relating to health and environmental aspects of Agent Orange exposure. Agent Orange was used as a defoliant during the Vietnam War and included, as contaminants, dioxin and related compounds. The format for the meeting is being developed; however, it is anticipated that (1) A panel of invited experts will identify, in public session, issues related to conducting studies in Vietnam and (2) time will be reserved for attendees to contribute issues and recommendations and/or comment on the panel's discussions.

The meeting will be held on Friday, August 18, 2000, from approximately 10 am to 5 pm at the Hyatt Regency Monterey Resort and Conference Center, One Golf Course Drive, Monterey, California, USA 93940, phone (831) 372–1234. The date and location of the meeting coincide with the 20th International Symposium on Halogenated Environmental Organic Pollutants and POP's, an annual conference of dioxin researchers, to take advantage of the attendance at that meeting of dioxin experts and the public interested in issues related to dioxin and Agent Orange.

SUPPLEMENTARY INFORMATION: The FY2000 Appropriations Conference Report included the following language: ''* * * NIEHS is strongly urged to conduct research on the health and environmental aspects of agent orange and dioxin in Southeast Asia, in particular, Vietnam provided that the Vietnamese government supports collaborative research between U.S. and Vietnamese scientists * * *'' The Vietnamese government has agreed to discuss these issues with the NIEHS at a time and place to be decided. Therefore, the NIEHS is seeking advice on the feasibility of conducting studies in Vietnam to learn more about the health and environmental aspects of Agent Orange and dioxin in Vietnam resulting from environmental exposure to Agent Orange. The Institute is convening the ad hoc public meeting on August 18 to solicit advice from scientific experts and other stakeholders and to learn what scientific issues and concerns would be associated with such studies. The NIEHS will use this information as it develops a dialog with the Vietnamese government and Vietnamese researchers about possible research agendas.

FOR FURTHER INFORMATION CONTACT: NTP Liaison and Scientific Review Office, NIEHS, PO Box 12233, A3–01, Research Triangle Park, NC 27709, phone (919) 541–0530 or email: liaison@starbase.niehs.nih.gov

Dated: July 19, 2000.

Kenneth Olden,

Director, NIEHS/NTP.

[FR Doc. 00–19149 Filed 7–27–00; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: July 28, 2000.

Time: 9 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Alec S. Liacouras, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5154, MSC 7842, Bethesda, MD 20892, (301) 435–1740.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 MET 01 M.

Date: August 1, 2000.

Time: 11:30 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: N. Krish Krishnan, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, (301) 435–1041.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: August 1, 2000.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Lee Rosen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: August 2, 2000.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Nancy Pearson, PhD, Chief, Genetic Sciences Integrated Review Group, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2112, MSC 7890, Bethesda, MD 20892, (301) 435–1047, pearsonn@csr.nih.gov

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: August 3, 2000.

Time: 8:30 a.m. to 9:30 a.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

Contact Person: Ranga V. Srinivas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1167, srinivar@csr.nih.gov

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: August 7, 2000.

Time: 4 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Marcia Litwack, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4150, MSC 7804, Bethesda, MD 20892, (301) 435–1719.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: August 8, 2000.

Time: 12 p.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Daniel F. McDonald, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892, (301) 435–1215.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: August 9, 2000.

Time: 1 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Priscilla B. Chen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4104, MSC 7814, Bethesda, MD 20892, (301) 435–1787.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: August 9, 2000.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jean Hickman, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4194, MSC 7808, Bethesda, MD 20892, (301) 435–1146.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: August 9, 2000.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Marcia Litwack, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4150, MSC 7804, Bethesda, MD 20892, (301) 435–1719.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: August 9, 2000.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michael Nunn, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7850, Bethesda, MD 20892, (301) 435–0910.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: August 9, 2000.

Time: 2:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Angela M. Pattatucci-Aragon, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, (301) 435–1775

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: August 9, 2000.

Time: 2:00 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Carl D. Banner, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5212, MSC 7850, Bethesda, MD 20892, (301) 435–1251, banner@drg.nih.gov

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: August 9, 2000.

Time: 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Cal).

Contact Person: Everett E. Sinnett, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892, (301) 435–1016, sinnett@nih.gov

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: August 10, 2000.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Ronald Dubois, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, room 4156, MSC 7806, Bethesda, MD 20892, (301) 435–1722.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: August 10, 2000.

Time: 1:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Martin Slater, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7808, Bethesda, MD 20892, (301) 435–1149.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: August 10, 2000.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Russell T. Dowell, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7818, Bethesda, MD 20892, (301) 435–1169, dowellr@drg.nih.gov

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: August 10, 2000.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Alexander D. Politis, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4204, MSC 7812, Bethesda, MD 20892, (301) 435–1225, politisa@csr.nih.gov

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: August 10, 2000.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Jeanne N. Ketley, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4130,

MSC 7814, Bethesda, MD 20892, (301) 435–1789.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: August 11, 2000.

Time: 8:30 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, Mirage 1 Room, 2101 Wisconsin Avenue, NW, Washington, DC 20007.

Contact Person: Prabha L. Ateya, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5152, MSC 7842, Bethesda, MD 20892, (301) 435–8367.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: August 13–14, 2000.

Time: 7:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The American Inn, 8130 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: David J. Remondini, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6154, MSC 7890, Bethesda, MD 20892, (301) 435–1038, remondid@csr.nih.gov

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: July 21, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–19137 Filed 7–27–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: ''Transcription Factor Decoy and Tumor Growth Inhibitor''

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive world-wide license to U.S. Patent Applications 08/977,643, entitled: ''Transcription Factor Decoy and Tumor Growth Inhibitor'' plus, if available, corresponding foreign patent applications, to Genta Incorporated having a place of business in Lexington, MA. The patent rights in these inventions have been assigned to the United States of America and the contemplated license may be limited for use in the development and commercialization of diagnostic and therapeutic modalities to treat various diseases and inhibit tumor growth based on the use of cAMP Response Element-palindrome Oligonucleotide as a transcription factor decoy to regulate gene expression (*i.e.,* gene transcription and translation).

DATES: Only written comments and/or applications for a license which are received by NIH on or before September 26, 2000 will be considered.

ADDRESSES: Requests for copies of the patent applications, inquiries, comments and other materials relating to the contemplated licenses should be directed to: J. R. Dixon, Ph.D., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804. Telephone: (301) 496–7735 ext. 206; Facsimile: (301) 402–0220. A signed Confidentiality Agreement will be required to receive copies of the patent application.

SUPPLEMENTARY INFORMATION: The technology disclosed in USPA SN: 08/977,643 patent application provides compositions and methods for the use of cAMP Response Element-palindrome oligonucleotide as a transcription factor decoy and an inhibitor of tumor growth. Specifically, the 08/977,643 application provides nucleic acid molecules that compete with cAMP Response Elements (''CRE'') for binding to transcription factors and a method for regulating gene transcription in target cells comprising: Providing one or more cAMP response element enhancer DNAs and one or more transcription factors that associate with the cAMP response element enhancer DNA; and exposing the target cells to the cAMP response element decoys under condition such that the cAMP response element decoys will compete with the cAMP response element enhancer DNA for binding to the one or more transcription factors.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless within sixty (60) days from the date of this published notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The field of use may be limited to the development and commercialization of diagnostic and therapeutics modalities to treat various diseases and inhibit tumor growth based on the use of cAMP Response Element-palindrome Oligonucleotide as a transcription factor decoy to regulate gene expression (*i.e.,* gene transcription and translation).

Applications for a license [*i.e.,* completed ''Application for License to Public Health Service Inventions''] in the field of use in the development and commercialization of diagnostic and therapeutics modalities to treat various diseases and inhibit tumor growth based on the use of cAMP Response Element-palindrome Oligonucleotide as a transcription factor decoy to regulate gene expression (*i.e.,* gene transcription and translation) filed in response to this notice will be treated as objections to the grant of the contemplated license. Comments and objections will not be made available for public inspection and, to the extent permitted by law, will not be subject to disclosure under the Freedom of Information Act, 5 U.S.C. 552.

Dated: July 19, 2000.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 00–19154 Filed 7–27–00; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4561–N–47]

Notice of Submission of Proposed Information Collection to OMB; Monthly Report of Excess Income

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* August 28, 2000.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2502–0086) and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Wayne_Eddins@HUD.gov; telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collection the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revisions of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Monthly Report of Excess Income.

OMB Approval Number: 2502–0086.

Form Numbers: HUD–93104.

Description of the Need for the Information and Its Proposed Use: Owners of Section 236 insured/noninsured projects are required by Law to pay to HUD the total rental changes collected that are in excess of the basic rents approved for all occupied units. Owners use the HUD–93104 to report the required payment due HUD.

Respondents: Business or other for-profit.

Frequency of Submission: Monthly and Annually.

Reporting Burden:

Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
2,500		13		0.09		3,025

Total Estimated Burden Hours: 3,025.

Status: Reinstatement, with change, of a previously approved collection for which approval has expired.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: July 20, 2000.

Wayne Eddins,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 00–19070 Filed 7–27–00; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection Renewal 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: Information collection; request for comments.

SUMMARY: We will submit the collection of information described below to OMB for renewal under the provisions of the Paperwork Reduction Act of 1995. If you wish to obtain copies of the proposed information collection requirement, related forms, and/or explanatory material, contact the Information Collection Clearance Officer at the address listed below.

DATES: You must submit comments on or before September 26, 2000.

ADDRESSES: Send your comments on the requirement to Rebecca Mullin, Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 222–ARLSQ, 1849 C Street NW., Washington, DC 20204.

FOR FURTHER INFORMATION CONTACT: Rebecca Mullin, Information Collection Clearance Officer, at (703) 358–2287; rebecca_mullin@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. The U.S. Fish and Wildlife Service plans to submit a request to OMB to renew its approval of the collection of information concerning numbers of double-crested cormorants taken under the Depredation Order (50 CFR 21.47). 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. OMB granted an emergency control number (1018–0097) for this collection of information, which expired in August 1998. The Service is currently in the process of preparing an Environmental Impact Statement and national management plan for the double-crested cormorant and would like to renew the control number so that it may collect relevant biological information from aquaculturists under the terms of the Depredation Order.

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 management of migratory bird populations frequenting the United States. This responsibility dictates the gathering of accurate data on various characteristics of migratory bird populations. In 1998, we issued a standing Depredation Order that allows persons engaged in the production of commercial freshwater aquaculture stocks in 13 States to take depredating double-crested cormorants at aquacultural facilities. Under the conditions of the Depredation Order, any person exercising such privileges must keep and maintain a monthly log recording the date and number of all cormorants killed each month, maintain the log for a period of 3 years, and make the log available to Federal and State wildlife enforcement officers upon request. The mortality information that these logs provide is necessary for the development of population data and determination of program effectiveness to be used for management purposes.

Title: Depredation Order for the Double-crested Cormorant.

Approval Number: 1018–0097.

Service Form Number: None.

Frequency of Collection: Annually.

Description of Respondents: Businesses, individuals, and State, local, or tribal governments.

Total Annual Burden Hours: The total annual burden is estimated at 875 hours.

Total Annual Responses: About 2,200 individuals are expected to complete the required mortality logs and approximately 250 individuals will complete the annual survey (for a total of 2,450).

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; (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.

Dated: July 20, 2000.

Rebecca Mullin,

Information Collection Clearance Officer.

[FR Doc. 00–19068 Filed 7–27–00; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Bolsa Chica Lowlands Restoration Plan Draft Environmental Impact Statement/Report

AGENCY: Fish and Wildlife Service, Department of the Interior and the U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of Availability of Draft Environmental Impact Statement/Report for the Bolsa Chica Lowlands Restoration Plan, Orange County, California.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, the Fish and Wildlife Service (FWS) and the U.S. Army Corps of Engineers (USACE) announce the availability of a draft environmental impact statement/report (DEIS/R) for the Bolsa Chica Lowlands Restoration Plan, Orange County, California.

DATES: A 45-day comment period will follow the Environmental Protection Agency's notice of availability of the DEIS/R on July 28, 2000. Comments must be received no later than Monday, September 11, 2000. A Public Hearing to receive comments on the DEIS/R will be held on Thursday, August 31, 2000 at 3:30 pm and again at 7 pm in the City of Huntington Beach Council Chamber, 2000 Main, Huntington Beach, California.

ADDRESSES: Public reading copies of the DEIS/R will be available for review at: Huntington Beach Central Library, 7111 Talbert, Huntington Beach, California, Garden Grove County Regional Library, 11200 Stanford, Garden Grove, California, Fountain Valley Branch Library, 17635 Los Alamos, Fountain Valley, California, Seal Beach Branch Library, 707 Electric Ave., Seal Beach, California, Fish and Wildlife Service, 2730 Loker Ave. West, Carlsbad, California, Corps of Engineers, Los Angeles District, 711 Wilshire Blvd, 14th floor, Los Angeles, California.

SUPPLEMENTARY INFORMATION: This DEIS/R has been prepared and is being circulated in accordance with the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). The Fish and Wildlife Service and the Corps of Engineers are NEPA co-lead agencies, cooperating with six other State and Federal agencies on implementation of the proposed plan. This project involves the proposal to implement a comprehensive wetland habitat restoration plan for an approximately 1300-acre area known as the Bolsa Chica Lowlands to benefit shorebirds, waterfowl, coastal seabirds, marine fishes, and a full spectrum of coastal ecosystem biota. The project site is separated from the Pacific Ocean by a State beach and highway, within the southwestern-most portions of the City of Huntington Beach, Orange County, California. Major components of this planning effort are: (1) Restoration of full tidal influence through new inlet and bridge construction and expansion of the wetland's tidal prism by dredging, (2) creation and enhancement of aquatic habitats and intertidal wetlands, (3) creation of nesting and feeding areas for Threatened and Endangered birds, (4) preservation of nontidal wetlands, and (5) phased removal of oil extraction facilities from the wetlands area.

Potentially significant environmental impacts have been identified in the areas of land use, hydrology/water quality, air quality, and biological resources. Analyzed alternatives include: three different inlet locations and no new inlet, storm water runoff around or through the wetlands, and phased implementation of tidal restoration features. The project includes measures to mitigate some potential impacts, while other mitigation will be made conditions of subsequent permits.

FOR FURTHER INFORMATION CONTACT: Jack Fancher, Coastal Program Coordinator, Fish and Wildlife Service, 2730 Loker Ave. West, Carlsbad, California 92008. Phone (760) 431-9440 or Pam Castens, Corps of Engineers, P.O. Box 532711, Los Angeles, California 90053-2325. Phone (213) 452–3851

Dated: July 19, 2000.

David G. Paullin,

Acting Manager, California-Nevada Office, Fish and Wildlife Service.

[FR Doc. 00–18858 Filed 7–27–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Intent To Prepare a Joint Environmental Impact Statement/ Environmental Impact Report for the Reintroduction of the Riparian Brush Rabbit

AGENCY: Fish and Wildlife Service, Interior (Lead Agency).

ACTION: Notice of intent.

SUMMARY: The Fish and Wildlife Service (Service), Bureau of Reclamation (Reclamation), California Department of Fish and Game (CDFG), and the Endangered Species Recovery Program (ESRP) through California State University, Stanislaus, propose to participate in the reintroduction of the riparian brush rabbit (*Sylvilagus bachmani riparius*), which is federally listed as endangered, to restored riparian habitat.

The strategy for the conservation (i.e. recovery) of the riparian brush rabbit was published in the Recovery Plan for the Upland Species of the San Joaquin Valley (U.S. Fish and Wildlife Service 1998). This recovery plan outlines research and management actions necessary to support recovery of the species. It is the intent of the Service to recover federally listed species through actions which will lead to the maintenance of secure, self-sustaining wild populations of species with the minimum necessary investment of resources. In the case of a species as at risk of extinction as the riparian brush rabbit, efforts necessary to bring about recovery often require extraordinary measures. Because of the small size of remaining blocks of potential habitat, and the severely limited dispersal capability of the riparian brush rabbit, the brush rabbit is likely to require continuing special protection of its habitat and population. More specifically, captive breeding is needed to increase riparian brush rabbit numbers and preserve genetic diversity. Additionally, the release of their progeny will be needed to enhance existing populations as necessary and to

establish reintroduced populations within the historic range.

The action proposed in this Notice of Intent, the reintroduction of riparian brush rabbits to restored riparian habitat, is considered a beneficial action. The Service does, however, recognize that there may be impacts to the human environment associated with reintroduction.

This notice describes the proposed action and possible alternatives, invites public participation in the scoping process for preparing the joint Environmental Impact Statement/ Environmental Impact Report, solicits written comments, and identifies the Service Official to whom questions and comments concerning the proposed action and the Environmental Impact Statement may be directed.

DATES: A public scoping meeting to solicit public comment on the proposed action and alternatives will be held on August 16, 2000, at the Manteca library, Manteca, California from 4:30 to 6:30 p.m. Written comments are encouraged and should be received on or before August 28, 2000.

ADDRESSES: Information, comments, or questions related to preparation of the Environmental Impact Statement and the National Environmental Policy Act process should be submitted to Wayne White, Field Supervisor, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W–2605, Sacramento, California 95825. Written comments may also be sent by facsimile to (916) 414–6713. All comments, including names and addresses, will become part of the administrative record and may be released.

FOR FURTHER INFORMATION CONTACT: Questions regarding the scoping process or preparation of the Environmental Impact Statement may be directed to Ms. Heather Bell, U.S. Fish and Wildlife Service, 2800 Cottage Way, Suite W–2605, Sacramento, CA 95825–1888 (telephone 916–414–6600; email heather_bell@fws.gov) for questions concerning the Environmental Impact Report process under the California Environmental Quality Act, please contact Mr. Ron Schlorff, California Department of Fish and Game, 1416 9th Street, Sacramento, CA 95814–5509 (telephone 916–654–4262; email rschlorf@dfg.ca.gov).

SUPPLEMENTARY INFORMATION:

Background

Only two very small populations of riparian brush rabbit are known to exist (a population in Caswell Memorial State Park [MSP] and one in the Delta. Both populations face severe and proximate extinction due to various factors. One goal in the Conservation Recommendations for the riparian brush rabbit, as identified in the Recovery Plan for Upland Species of the San Joaquin Valley (Recovery Plan) (U.S. Fish and Wildlife Service 1998), is the reestablishment of at least three wild populations, in addition to the one at Caswell MSP, each with no less than 300 adults during average years during a precipitation cycle in the San Joaquin Valley in restored and expanded suitable habitat within the rabbit's historic range. Because the Caswell MSP and Delta populations remain in isolated pockets of habitat, and the species exhibits low vagility (ability to move between patches of habitat), the natural process of repatriation (dispersal into remaining habitat) is improbable. Reintroductions from existing populations are required to achieve the goal of establishing three wild populations. An action identified in the Recovery Plan which will help to accomplish this is the implementation of a captive breeding program and a reintroduction program. The Caswell MSP population is currently too small, nonproductive, and lacking in sufficient genetic variety to serve as the best source of rabbits for direct reintroduction. The Delta population has somewhat greater genetic diversity and, therefore, is intended to be used as the source of individuals for the captive breeding program. Captive breeding will take place on land owned by the California Department of Water Resources within large enclosed pens of natural habitat. The captive breeding program is designed to produce enough individuals with the highest possible genetic variability for reintroduction. The reintroduction would involve preparation of a reintroduction plan, site assessments, and varying degrees of riparian restoration, refugia construction, hunting restrictions, fire management, and finally, monitoring to insure that site specific goals as well as recovery goals are being met. Alternatives are being sought as to where and under what conditions populations will be reestablished through reintroduction.

Project Location

The reintroduction sites are yet to be determined, however, the general area for reintroduction will be within the historic range of the riparian brush rabbit. The riparian brush rabbit most likely ranged throughout the extensive riparian forests along major streams flowing onto the floor of the northern San Joaquin Valley (64 FR 8881). This includes the San Joaquin River and its tributaries, one of which is the Stanislaus River, current site of the Caswell MSP population. We also now have confirmation that the riparian brush rabbit extends northward into the Delta (Dr. Daniel Williams, CSU, Stanislaus, pers. comm. 1999). Directed restoration of habitat for the reintroduction of riparian brush rabbits will be conducted and coordinated with several other agencies who are restoring riparian habitat, as well as willing private landowners. For example, the U.S. Army Corps of Engineers is restoring riparian habitat for ecosystem functioning and improved flood flow capacity along the Stanislaus and San Joaquin Rivers. Reclamation also has authority and funding for conservation of natural resources; it allocates funds—through the Central Valley Project Improvement Act—for the restoration of habitats impacted by the Central Valley Project. Furthermore, the Service is expanding the San Joaquin River National Wildlife Refuge to provide protection and potential enhancement of essential habitat for the riparian brush rabbit and other species. It is anticipated that the Refuge land will be the first site available to receive rabbits. Specific site locations for reintroduction will be ranked based on a set of requirements proposed below. Tiered environmental documents would be prepared once site locations have been identified.

Proposed Action

The 1998 Recovery Plan for Upland Species of the San Joaquin Valley (U.S. Fish and Wildlife Service 1998) identifies the conservation strategy for the riparian brush rabbit which involves implementation of a captive breeding program and an accompanying reintroduction program as a means to achieve recovery. The captive breeding program would provide animals for the establishment of at least three wild populations (additional to the Caswell MSP population) in the San Joaquin Valley, in restored and expanded suitable habitat within the rabbit's historic range. It is anticipated that the Reintroduction program would consist of at least the following elements: (1) Preparation of a reintroduction plan; (2) development of site assessment criteria; (3) restoration of riparian habitat, as appropriate, at chosen sites; (4) construction of appropriate refugia (from flooding); (5) implementation of hunting restrictions; (6) fire management; and (7) implementation of a monitoring program to track the progress of the Reintroduction program.

Specific site locations for reintroduction within the historic range will be ranked based on a set of additional criteria which will include but are not limited to the following factors:

- Assessment of disease risk,
- Public or private ownership of property,
- Assessment of flood risk and availability of refugia during high water,
- Degree of riparian restoration required, and
- Degree of land use conflict.

Funding for the Reintroduction program for riparian brush rabbits is anticipated to come from several public agencies and associated programs including, but not necessarily limited to the Service, Reclamation, CDFG, and the CALFED (a program formalized by a Framework Agreement where State and Federal agencies work together on Bay-Delta Estuary management issues) program.

More cooperators are possible as the process continues. Potential partners include: Natural Resources Conservation Service, U.S. Department of Agriculture, U.S. Army Corps of Engineers, U.S. Department of the Army, California Department of Parks and Recreation, California Department of Water Resources, California Reclamation Board, and other public and private owners of riparian or riverbank land.

This action is being proposed under the authority of the Endangered Species Act of 1973, as amended. Take authorization under section 10(a)(1)(A) of the Endangered Species Act would be issued to ESRP to carry out the capture, propagation, and reintroduction program.

Alternatives

Over the past several years, the Service and Reclamation have been working together to prevent extirpation of the riparian brush rabbit at Caswell MSP. Due to the low numbers of individuals following the floods in January of 1997 and 1998 and the sluggish increase since then, we began deliberating the implementation of a captive breeding program to augment the population and provide individuals for reestablishment of populations within historic habitat. Reestablishment, through reintroduction, will protect the species from catastrophic events, such as flooding, which could lead to extinction. With the discovery that another population of riparian brush rabbits exist on private land in the Delta, and that this population is at risk due to both human activities (fire control measures and habitat conversion) and catastrophic events (wildfire), completing the facility for the captive breeding program became urgent. Rabbits are scheduled to be brought into captivity in the fall of 2000, and reintroductions are projected to begin in the fall of 2001. This necessitates establishing a reintroduction program expediently and beginning preparation of sites as soon as possible. Therefore, we need to determine where and under what conditions populations will be reestablished through reintroduction. Reintroduction choices might include:

- Private versus government land,
- Existing habitat versus restored or enhanced habitat, or
- Sites at or near Caswell MSP, the capture area in the Delta, San Joaquin National Wildlife Refuge, or at other locations in the brush rabbit's historical range.

Several considerations have influenced the alternatives we are considering. We will be choosing reintroduction sites within the historic range of the riparian brush rabbit. The riparian brush rabbit probably inhabited much of the riparian habitat that existed historically along the rivers and sloughs on the valley floor of the northern San Joaquin Valley. However, most of the original riparian woodland and brushland has been destroyed. We plan to choose specific sites according to their rank based on the factors needed for the habitat to be suitable. To reduce potential land use conflicts, we will concentrate our efforts on public lands, with the possibility of incorporating adjacent areas where conservation easements or fee title acquisitions may become available from willing sellers.

Another consideration that we expect to be important to the success of reintroduction is the relative ease of management of the reintroduction sites. The flood events of recent years demonstrate the value of having flood refugia in areas to be managed for riparian brush rabbits. Similarly, recent fires in the Delta area where brush rabbits have been found demonstrate the importance of being able to manage fire breaks, fuel loads, and water supplies for fire suppression to insure the safety of the brush rabbits, as well as minimizing risks to human property and safety.

One of the types of land we are strongly considering is National Wildlife Refuge land. Management for good ecosystem functioning, healthy populations of native wildlife species, and conservation of endangered species is already part of the recognized purpose of Refuge lands, and preliminary discussions with National Wildlife Refuge managers indicate they are willing to participate in reestablishing riparian brush rabbits on the Refuges. Other properties, already in government ownership or available from willing sellers, are also being considered. We do not foresee conflicts between rabbit reintroduction and most neighboring land uses because riparian brush rabbits remain near brush cover. However, we know that we must give careful consideration to the compatibility of brush rabbit management with the existing purposes and uses of such lands. This issue, in particular, is one for which we are seeking public input. We want to consider all possible conflicts. We welcome suggestions for sites with potential habitat and harmonious land uses. Please be sure to include as much information on these points as possible in your comments to us.

The Environmental Impact Statement will consider the proposed action (reintroduction of the riparian brush rabbit into restored historic habitat) and reasonable alternatives. Potential alternatives may include the reintroduction of rabbits only in areas of existing riparian habitat, and the ''No Action'' alternative. The preferred alternative (the proposed action) entails assessing an array of sites for suitability, managing to maximize ecosystem function and safety, and implementing controlled reintroductions as the suitability of each site becomes adequate and as the number of rabbits available becomes sufficient. The potential alternative of reintroducing riparian brush rabbits into areas of existing riparian habitat has limitations as there is little publically owned land which has existing riparian habitat that would immediately be suitable for rabbits during flooding events. The No Action alternative is one in which no reintroduction of the riparian brush rabbits will take place, with the resulting probability of their extinction. As a result of the scoping process, it is expected that these preliminary project alternatives will be further refined and/or additional alternatives considered. Once identified, the final alternatives will be carried forward into detailed analyses pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 432 *et seq.*) and the California Environmental Quality Act (CEQA) of 1970, as amended (Public Resources Code, Section 21000–21177).

Potential impacts identified thus far include possible land use restrictions (hunting, rodenticide use, vegetation management, levee maintenance), economic impacts (conservation and

flood easement restriction enforcement, land acquisition, riparian restoration, nonnative species control, fire management, species and habitat monitoring, perceived devaluation of property values), impacts to the riparian brush rabbit (mortality during acclimation, disease transference), and cultural resource impacts due to riparian restoration or refugia construction.

Scoping Process

The Service and the CDFG are preparing a joint Environmental Impact Statement/Report (EIS/R) to address potential impacts associated with implementing their respective discretionary actions for the proposed project. The Service is the lead Federal agency and Reclamation is a cooperator for compliance with NEPA for the Federal aspects of the project, and the CDFG is the lead State agency for compliance with CEQA for the non-Federal aspects of the project. The Draft EIS/R (DEIS/R) document will incorporate public concerns in the analysis of impacts associated with the Proposed Action and associated project alternatives. The DEIS/R will be sent out for a minimum 45-day public review period, during which time both written and verbal comments will be solicited on the adequacy of the document. The Final EIS/R (FEIS/R) will address the comments received on the DEIS/R during public review, and will be furnished to all who commented on the DEIS/R, and made available to anyone who requests a copy during a minimum 30-day period following publication of the FEIS/R. The final steps involve, for the Federal EIS, preparing a Record of Decision (ROD) and, for the State EIR, certifying the EIR and adopting a Mitigation Monitoring and Reporting Plan. The ROD is a concise summary of the decisions made by the Service (in cooperation with Reclamation) from among the alternatives presented in the FEIS/R. A certified EIR indicates that the environmental document has been completed in compliance with CEQA, that the decision-making body of the lead agency reviewed and considered the FEIR prior to approving the project; and that the FEIR reflects the lead agency's independent judgement and analysis.

This notice is provided pursuant to regulations for implementing the National Environmental Policy Act of 1969 (40 CFR 1506.6).

Dated: July 10, 2000.

John Engbring,

Acting Manager, California/Nevada Operations Office, Region 1, Sacramento, California.

[FR Doc. 00–17986 Filed 7–27–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved Tribal-State Compact.

SUMMARY: Pursuant to Section 11 of the Indian Gaming Regulatory Act (IGRA), Pub. L. 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Tribal-State Compact for Class III Gaming between the Makah Indian Tribe and the State of Washington, which was executed on May 30, 2000.

DATES: This action is effective July 28, 2000.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, D.C. 20240, (202) 219–4066.

Dated: July 19, 2000.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 00–19061 Filed 7–27–00; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[1610 (014); Re: DCN #0–0264]

Notice of Intent To Prepare a Plan Amendment for the Upper Klamath Basin and Wood River Wetland RMP/EIS, Oregon

June 29, 2000.

AGENCY: Department of the Interior, Bureau of Land Management, Lakeview District, Klamath Falls Resource Area.

ACTION: Notice of Intent to Prepare a Plan Amendment and Environmental Impact Statement for the Upper Klamath Basin and Wood River Wetland RMP/EIS nominating and designating the Fourmile property as an Area of Critical Environmental Concern (ACEC) in South-central Oregon.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management, Lakeview District/Klamath Falls Resource Area will be directing the preparation of a Plan Amendment and Environmental Impact Statement (EIS) evaluating the impacts of designating the Fourmile property as an Area of Critical Environmental Concern (ACEC), proposed on public lands in Klamath County of south-central Oregon.

DATES: The Draft RMP plan amendment and EIS analysis would be available for public review by December of 2000. The Record of Decision and Final RMP designating Fourmile as an ACEC will be made in July of 2001.

ADDRESSES: Comments should be sent to Manager, Bureau of Land Management, Klamath Falls Resource Area, 2795 Anderson Avenue, Klamath Falls, OR 97603, ATTN: Upper Klamath Basin Wood River Wetland Plan Amendment.

FOR FURTHER INFORMATION CONTACT: Teresa A. Raml, Manager, (541) 883–6916

SUPPLEMENTARY INFORMATION: The proposed Plan Amendment is located on the Klamath Falls Resource Area of the Lakeview District. The evaluation for nominating the Fourmile area as an Area of Critical Environmental Concern will be completed in the summer of 2000. An ACEC designation allows the BLM to give special management attention to an area to protect and prevent irreparable damage to important historic, cultural and scenic values; fish or wildlife resources; or other natural systems or processes; or to protect human life and safety from natural hazards. The ACEC designation indicates that the BLM not only recognizes an area possesses significant values, but has also established special management measures to protect those values.

The primary reasons for the ACEC designation are (1) Klamath Basin water quality concerns, (2) endangered sucker species and critical habitat, and (3) other species of special importance (yellow rails and spotted frogs).

Teresa A. Raml,

Manager, Klamath Falls Resource Area.

[FR Doc. 00–19066 Filed 7–27–00; 8:45 am]

BILLING CODE 4310–33–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–020–1430–01; N–62843]

Notice of Plan Amendment and Notice of Realty Action, Direct Sale of Public Sale, Humboldt County, NV

SUMMARY: The Bureau of Land Management (BLM) is amending the Paradise-Denio Management Framework Plan (MFP), as amended, to change the land tenure designation from retention to disposal on 953.56 acres of land in Humboldt County, Nevada. BLM examined the following described federal lands and through the land use planning process determined them suitable for disposal by direct sale, including the mineral estate with no known value, pursuant to Sections 203 and 209 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1713 and 1719), at no less than fair market value.

Federal lands determined suitable for direct sale are described as:

Mount Diablo Meridian, Nevada

T. 43 N., R. 27 E.,
Sec. 2: S½NW¼;
Sec. 3: Lots 5, 6, 7, and 8;
Sec. 4: Lots 5 and 6.
T. 44 N., R. 27 E.,
Sec. 28: Lots 5, 6, and 7;
Sec. 33: NE¼, N½SE¼;
Sec. 34: NW¼, N½SW¼.
Containing approximately 953.36 acres.

The lands are not required for federal purposes, and it has been determined that disposal of these parcels would be in the public's interest. The land is being offered by direct sale to Richard Drake. It has been determined that the subject parcels contain no known mineral values. Acceptance of a direct sale offer will constitute an application for conveyance of those mineral interests having no known value. The applicant will be required to pay a $50.00 non-refundable filing fee for conveyance of the said mineral interests.

The land will not be offered for sale until at least 60 days after publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mary Figarelle, Realty Specialist, Bureau of Land Management, Winnemucca Field Office, 5100 East Winnemucca Boulevard, Winnemucca, Nevada 89445 (775) 623–1500.

SUPPLEMENTARY INFORMATION: The public lands being offered to Richard Drake are interspersed with his private land which is used to grow alfalfa, and would be cultivated and incorporated into his existing agricultural operation. The above described land is hereby segregated from appropriation under the public land laws, including the mining laws, but not from sale under the above cited statues, for 270 days from the date of publication of this notice, or until title transfer is completed or the segregation is terminated by publication in the **Federal Register**, whichever occurs first.

A patent, when issued, will contain the following reservations to the United States,

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States pursuant to the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

Will contain the following reservation to Humboldt County, Nevada,

1. An easement 60 feet in width for existing Humboldt County Route 203 (a.k.a.: Knott Creek Road), for road and public utility purposes to insure ingress and egress to adjacent public lands. The existing road is located in T. 43 N., R. 27 E., Sec. 3: Lot 6, and T. 44 N., R. 27 E., Sec. 34: E½E½NW¼, E½E½NW¼SW¼, MDM, NV.

And will be subject to,

1. Those rights granted to Alder Creek Ranch for an irrigation ditch under BLM Right-of-way NEV–057027.
2. Those rights granted to Harney Electric Cooperative, Inc., for an aerial power distribution line under BLM Right-of-way NEV–058651.
3. Those rights granted to Oregon-Idaho Utilities, Inc., dba Humboldt Telephone Co. for an aerial telephone line under BLM Right-of-way N–4524.

Planning Protests: Any party that participated in the plan amendment and is adversely affected by the amendment may protest this action as it affects issues submitted for the record during the planning process. The protests shall be in writing and filed with the Director (WO–210), Bureau of Land Management, 1849 ''C'' Street NW., Washington, DC 20240 within 30 days of this notice. Associated planning documents may be examined at the Winnemucca Field Office between 7:30 AM and 4:30 PM, Monday through Friday.

Application Comments: For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested persons may submit comments regarding the proposed conveyance of the land to the Field Manager, Bureau of Land Management, Winnemucca Field Office, 5100 East Winnemucca Boulevard, Winnemucca, Nevada 89445. Objections will be reviewed by the Field Manager who may sustain, vacate, or modify this realty action.

Dated: July 18, 2000.

Michael Holbert,

Associate Field Manager, Winnemucca Field Office.

[FR Doc. 00–19064 Filed 7–27–00; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–050–00–5320–HQ: GPO–0298]

Realty Action: Sale of Public Land in Deschutes County, OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, sale of public land.

SUMMARY: The following public land is being considered for sale at the appraised fair market value, under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713). The parcel has been identified as suitable for public sale in the Brothers—La Pine Resource Management Plan.

Willamette Meridian

T. 15 S., R. 12 E., Section 1, SE¼NW¼; (portion), Small Tract, Comprising less than (½ acre

This land is being considered for direct sale to the adjacent landowner to resolve an unintentional trespass. The encroachment involves a portion of the driveway and garage that were inadvertently placed over the property line due to the incorrect location of the property corner. Federal regulations describe procedures to address unauthorized use which include provisions to reimburse BLM for administrative costs.

The affected public land would be surveyed and include an area measuring 50 feet by 400 feet. This configuration would minimize impacts to public resources, include all improvements and provide enough land to satisfy county set back requirements. A subsequent lot line adjustment processed through the Deschutes County Community Development Department would incorporate this parcel with the existing tax lot.

This parcel is included in an area described in the BLM land use plan with a Zone 3 designation. Lands in this zone are generally scattered, isolated tracts with low or unknown resource values. These lands are potentially suitable for exchange or sale if significant public values are not identified.

The buyer has expressed an interest to obtain the federal mineral estate which is offered under the authority of section 209(b) of the Federal Land Policy and Management Act of 1976. In addition to the full purchase price, a non-refundable fee of $50 is necessary to purchase the mineral estate which would be conveyed simultaneously with the sale of the land.

The land described is segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action or 270 days from the date of publication of this notice, whichever occurs first.

DATES: This office will prepare an Environmental Assessment report to evaluate the proposal, describe alternatives and determine impacts and mitigating measures. On or before September 6, 2000, interested persons may submit comments. In the absence of any objections, this proposal will become the determination of the Department of the Interior.

ADDRESSES: Comments should be submitted to the Prineville District Manager, P.O. Box 550, Prineville, Oregon 97754.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning this public land sale is available from Phil Paterno, Realty Specialist, Deschutes Resource Area at the above address, phone (541) 416–6724.

Dated: July 21, 2000.

Robert Towne,

Acting District Manager.

[FR Doc. 00–19100 Filed 7–27–00; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–020–2810–HT]

Notice to the Public of Fire Restrictions

AGENCY: Bureau of Land Management, Winnemucca Field Office, Nevada.

ACTION: Notice to the Public of Fire Restrictions on public lands administered by the Bureau of Land Management, Winnemucca Field Office, Nevada.

SUMMARY: Notice is hereby given that pursuant to 43 CFR 9212.2, the following acts are prohibited on all public land areas, roads, and trails located within and administered by the Winnemucca Field Office, until further notice.

1. Building, maintaining, attending, or using a fire, campfire, or stove fire, except a portable stove using gas, jellied petroleum, or pressurized liquid fuel, outside of a developed recreation site.

2. Smoking, except within an enclosed vehicle or at a developed recreation site.

3. Welding or operating an acetylene torch with open flames, except by permit.

4. Using or causing to be used any explosives, except by permit.

5. Firing a tracer or incendiary device, *e.g.,* fireworks.

Pursuant to 43 CFR 9212.2, each of the following persons is exempt from this order.

1. Persons with a permit specifically authorizing the otherwise prohibited act or omission.

2. Any Federal, State, or local officer, or member of an organized rescue or firefighting force in the performance of an official duty.

Title 43 CFR 9212.4 provides that any person who knowingly and willfully performs any act restricted by a fire prevention order, is punishable by imprisonment of not more than 12 months or a fine in accordance with the applicable provisions of 18 USC 3571, or both. Prepared in Winnemucca, Nevada, this 13th day of July 2000.

DATES: Effective July 13, 2000.

FOR FURTHER INFORMATION CONTACT: Don Tienhaara at the Bureau of Land Management, 5100 E. Winnemucca Blvd., Winnemucca NV 89445, (775) 623–1500.

Dated: July 17, 2000.

Michael R. Holbert,

Associate Field Manager, Winnemucca.

[FR Doc. 00–19065 Filed 7–27–00; 8:45 am]

BILLING CODE 4310–HC–P

INTERNATIONAL TRADE COMMISSION

Agency Form Submitted for OMB Review

AGENCY: International Trade Commission.

ACTION: The U.S. International Trade Commission (USITC) has submitted the following information collection requirements to the Office of Management and Budget (OMB) requesting emergency processing for review and clearance under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). The Commission has requested OMB approval of this submission by COB Aug. 7, 2000.

DATE: Effective Date: July 18, 2000.

Purpose of Information Collection

The forms are for use by the Commission in connection with investigation No. 332–416, *The Economic Effects on the United States of the EU-South Africa Agreement on Trade, Development, and Cooperation*, instituted under the authority of section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)). This investigation was requested by the President through the Office of the Trade Representative. The Commission expects to deliver the results of its investigation to the Trade Representative by April 12, 2001.

Summary of Proposal

(1) *Number of forms submitted:* One.

(2) *Title of form:* Telephone Survey Worksheet: The Economic Effects on the United States of the EU-South Africa Agreement on Trade, Development, and Cooperation.

(3) *Type of request:* New.

(4) *Frequency of use:* Telephone survey, single data gathering, scheduled for 2000.

(5) *Description of respondents:* Representative selection of U.S. firms and organizations that may be affected by the EU-South Africa Trade Agreement.

(6) *Estimated total number of respondents:* 200.

(7) *Estimated total number of hours to complete the forms:* 100.

(8) Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

FOR FURTHER INFORMATION CONTACT: Copies of the forms and supporting documents may be obtained from George S. Serletis, Office of Industries, USITC (202–205–3315). Comments about the proposals should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Room 10102 (Docket Library), Washington, DC 20503, ATTENTION: Docket Librarian. All comments should be specific, indicating which part of the survey is objectionable, describing the concern in detail, and including specific suggested revisions or language changes. Copies of any comments should be provided to Robert Rogowsky, Director, Office of Operations, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, who is the Commission's designated Senior Official under the Paperwork Reduction Act.

Hearing impaired individuals are advised that information on this matter can be obtained by contacting our TDD

terminal (telephone no. 202–205–1810). General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov).

By order of the Commission.

Issued: July 24, 2000.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–19051 Filed 7–27–00; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–669 (Review)]

Cased Pencils From China

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), that revocation of the antidumping duty order on cased pencils from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted this review on December 1, 1999 (64 FR 67304, December 1, 1999) and determined on March 3, 2000 that it would conduct an expedited review (65 FR 15007, March 20, 2000). The Commission transmitted its determination in this review to the Secretary of Commerce on July 24, 2000. The views of the Commission are contained in USITC Publication 3328 (July 2000), entitled Cased Pencils From China: Investigation No. 731–TA–669 (Review).

Issued: July 24, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–19050 Filed 7–27–00; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 C.F.R. 207.2(f)).

DEPARTMENT OF JUSTICE

United States Marshals Service; Notice of Intent To Prepare a Draft Environmental Impact Statement for the Development of a Pre-Trial Detention Facility in Pinal County, AZ

July 20, 2000.

AGENCY: United States Marshals Service, U.S. Department of Justice.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY:

Proposed Action

The mission of the United States Department of Justice, United States Marshals Service (USMS) is to protect the federal courts and ensure the effective operation of the judicial system. In addition to this primary responsibility, the USMS assumes custody of individuals arrested by all federal agencies and is responsible for the housing and transportation of prisoners from the time they are brought into federal custody until they are either acquitted or incarcerated. Finally, the USMS has primary jurisdiction nationwide in conducting and investigating fugitive matters involving escaped federal prisoners, probation, parole, and bond default violators, and warrants generated by Drug Enforcement Administration investigations and certain other related felony cases.

During the past decade, the federal detainee population has experienced unprecedented growth as a result of expanded federal law enforcement initiatives and resources. The detainee population has increased by more than 725 percent, from almost 4,000 in 1981 to more than 33,000 today. Current projections indicate that approximately 38,000 detention beds will be needed for federal detainees by the year 2001, with approximately 43,000 beds required by 2002. The growth in the detainee population is occurring at the same time that available local jail space is decreasing. Local jail space is increasingly needed to house local offenders, leaving less space available for the contractual accommodation of federal detainees. These trends are projected to continue unabated for the foreseeable future and present a major challenge for those federal agencies responsible for detaining prisoners.

Faced with severe shortages in state and local prisoner bedspace, especially in major metropolitan areas (federal court cities), as well as court ordered caps on prisoner populations, the USMS is finding it increasingly difficult to house federal prisoners. The USMS has been forced to house prisoners in facilities that are further away from federal court cities. The resultant long-distance movement of federal prisoners involves substantial amounts of USMS time and resources and strains the USMS Justice Prisoner and Alien Transportation System to its limits. The USMS has determined that there is an immediate and long-term need for up to 2,000 beds located within a 100-mile radius of Tucson and Phoenix, Arizona, both of which are federal court cities. The high level of USMS and INS activity in the Southwestern corridor of the United States requires more beds than are readily available in local or state facilities. The shortage of beds has been ongoing for more than two years. The USMS has a specific need for detention facilities to be located near federal courthouses because of its responsibility to detain those individuals accused of violating federal laws.

Two sites in Pinal County, Arizona have been offered to the USMS for consideration in developing the pre-trial detention facility. The USMS has preliminarily evaluated these sites and determined that the prospective sites appear to be of sufficient size to provide space for housing, programs, administrative services and other support facilities associated with the detention facility. The DEIS to be prepared by the USMS will analyze the potential impacts of detention facility construction and operation at these sites.

The Process

In the process of evaluating the sites, several aspects will receive detailed examination including, but not limited to: topography, geology/soils, hydrology, biological resources, utility services, transportation services, cultural resources, land uses, socio-economics, hazardous materials, air and noise quality, among others.

Alternatives

In developing the DEIS, the options of ''no action'' and ''alternative sites'' for the proposed facility will be fully and thoroughly examined.

Scoping Process

During the preparation of the DEIS, there will be opportunities for public involvement in order to determine the issues to be examined. A public Scoping Meeting will be held at 7:00 P.M., August 16, 2000 at the Florence Elementary School, located at Brady and Orlando streets, Florence, Arizona. The meeting location, date, and time will be

well publicized and has been arranged to allow for the public as well as interested agencies and organizations to attend. The meeting is being held to allow interested persons to formally express their views on the scope and significant issues to be studied as part of the DEIS process. The Scoping Meeting is being held to provide for timely public comments and understanding of federal plans and programs with possible environmental consequences as required by the National Environmental Policy Act of 1969, as amended, and the National Historic Preservation Act of 1966, as amended.

DEIS Preparation

Public notice will be given concerning the availability of the DEIS for public review and comment.

ADDRESSES: Questions concerning the proposed action and the DEIS may be directed to: Charles Coburn, Associate General Counsel, U.S. Marshals Service, 600 Army-Navy Drive, Suite 1200, Arlington, Virginia; Telephone: (202) 307–9045; Telefacsimile: (202) 307–9456.

Dated: July 20, 2000.

Charles Coburn,

Associate General Counsel, U.S. Marshals Service.

[FR Doc. 00–18862 Filed 7–27–00; 8:45 am]

BILLING CODE 4410–04–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP(BJS)–1286e]

National Incident Based Reporting System (NIBRS) Implementation Program

AGENCY: Bureau of Justice Statistics, Office of Justice Programs, Justice.

ACTION: Extension of application deadline.

SUMMARY: This notice is to announce the extension of the application deadline for the Bureau of Justice Statistics' solicitation to make awards to States to provide funding to jurisdictions for implementing the National Incident Based Reporting System (NIBRS).

DATES: Proposals must be received by 5 p.m. ET on Thursday, August 31, 2000.

ADDRESSES: Proposals should be mailed to: Application Coordinator, Bureau of Justice Statistics, Room 2406, 810 7th Street, NW., Washington, DC 20531, (202) 616–3497 [This is not a toll-free number].

FOR FURTHER INFORMATION CONTACT: Charles R. Kindermann, Ph.D., Senior Statistician, Bureau of Justice Statistics, (202) 616–3489, or Carol G. Kaplan, Chief, Criminal History Improvement Programs, (202) 307–0759 [This is not a toll-free number].

SUPPLEMENTARY INFORMATION:

Extended Deadline for Proposals

BJS is extending the proposal submission date for the NIBRS solicitation which was published in the **Federal Register** on June 19, 2000 at 65 FR 38001. The prior due date was July 31, 2000. The new submission deadline is Thursday, August 31, 2000. Please refer to the original notice of solicitation (65 FR 38001) for information about the eligibility requirements, scope of work, application process and awards procedures.

Authority

The Crime Identification Technology Act (CITA) provides funding to states (in conjunction with units of Local government) and tribes that want to participate in the FBI's new approach to uniform crime reporting, the National Incident-Based Reporting System (NIBRS). The awards made pursuant to this solicitation will be funded by the Bureau of Justice Statistics consistent with the provisions of 42 U.S.C. 3732 and the Crime Identification Technology Act of 1998 (CITA), 42 U.S.C. 14601.

Lawrence Greenfeld,

Acting Director, Bureau of Justice Statistics.

[FR Doc. 00–19224 Filed 7–27–00; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LAB0R

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of

submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

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General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts.'' This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

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Signed at Washington, DC this 20th day of July 2000.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 00–18869 Filed 7–27–00; 8:45 am]

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. W–100]

Final Policy Concerning the Occupational Safety and Health Administration's Treatment of Voluntary Employer Safety and Health Self-Audits

AGENCY: Occupational Safety and Health Administration, USDOL.

ACTION: Notice of final policy

Authority: Sec. 8(a) and 8(b), Pub. L. 91–596, 84 Stat. 1599 (29 U.S.C. 657)

SUMMARY: The Occupational Safety and Health Administration (OSHA) has developed a final policy describing the Agency's treatment of voluntary employer self-audits that assess workplace safety and health conditions, including compliance with the Occupational Safety and Health Act (Act). The policy provides that the Agency will not routinely request self-audit reports at the initiation of an inspection, and the Agency will not use self-audit reports as a means of identifying hazards upon which to focus during an inspection. In addition, where a voluntary self-audit identifies a hazardous condition, and the employer has corrected the violative condition prior to the initiation of an inspection (or a related accident, illness, or injury that triggers the OSHA inspection) and has taken appropriate steps to prevent the recurrence of the condition, the Agency will refrain from issuing a citation, even if the violative condition existed within the six month limitations period during which OSHA is authorized to issue citations. Where a voluntary self-audit identifies a hazardous condition, and the employer promptly undertakes appropriate measures to correct the violative condition and to provide interim employee protection, but has not completely corrected the violative condition when an OSHA inspection occurs, the Agency will treat the audit report as evidence of good faith, and not as evidence of a willful violation of the Act.

FOR FURTHER INFORMATION CONTACT: Richard E. Fairfax, Occupational Safety and Health Administration, Directorate of Compliance Programs, Room N–3603, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210, Telephone: 202–693–2100.

SUPPLEMENTARY INFORMATION:

I. Background Information

On October 6, 1999, OSHA published a ''Proposed Policy Statement Concerning the Occupational Safety and Health Administration's Use of Voluntary Employer Safety and Health Self-Audits'' in the **Federal Register**. 64 FR 54358 (1999). The policy statement described the Agency's proposal regarding the manner in which it would treat voluntary employer self-audits that assess workplace safety and health conditions, including compliance with the Act. The proposed policy statement provided that the Agency would not routinely request voluntary employer self-audit reports at the initiation of an inspection. Further, the proposed policy provided that, where an employer identified a hazardous condition through a voluntary self-audit, and the employer promptly undertook appropriate corrective measures, OSHA would treat the audit report as evidence of good faith, and not as evidence of a willful violation. It was, and remains, the Agency's intention to develop and implement a policy that recognizes the value of voluntary self-audit programs that are designed to allow employers, or their agents, to identify and promptly correct hazardous conditions. In limited situations, however, documentation related to voluntary self-audits plays an important role in the Agency's ability to effectively and faithfully carry out its inspection and enforcement obligations under the Act.

Although the Agency is not required by the Administrative Procedures Act, 5 U.S.C. 551, *et seq.*, to engage in notice and comment rulemaking procedures prior to the adoption and implementation of this policy, OSHA requested public comment regarding its proposed policy statement in order to gain input and insight from employers, employees, employee representatives, and other interested parties. OSHA received and thoroughly reviewed comments from a variety of sources. The Agency has modified the proposed policy to incorporate those comments that further OSHA's dual purposes in proposing the voluntary self-audit policy—*i.e.*, to provide appropriate, positive treatment that is in accord with the value that voluntary self-audits have for employers' safety and health compliance efforts, while maintaining the Agency's authority to gain access to voluntary self-audit documentation in limited circumstances in which access is important to effectively and faithfully enforce the Act. The Agency has not incorporated those comments that it considered to be contrary to its purposes in proposing this policy or that it

considered to be beyond the scope of its intent in proposing the policy.

II. Substantive Modifications to the Proposed Policy

Based upon input that the Agency received from interested parties, OSHA has made several substantive changes to its proposed policy on the treatment of voluntary employer self-audits.

1. Modifications to Certain Definitions in the Policy

In the final policy, the Agency has defined the term ''self-audit'' to include health and safety audits conducted for an employer by a third party. In addition, in defining the terms ''systematic'' and ''documented,'' the Agency has added the words ''or for'' before the phrase ''the employer'' to clarify that an audit conducted by a third party for an employer is covered by the final policy. OSHA values the role that independent safety and health professionals play in furthering occupational safety and health and encourages employers to utilize their services when appropriate.

The Agency has changed the definition of the word ''objective'' by deleting reference to ''safety and health professional[s]'' and by broadening the class of persons who may conduct an ''objective'' self-audit to include competent employees and management officials. Thus, in the final policy, a self-audit is ''objective'' if it is conducted ''by or under the direction of an individual or group of individuals who are competent to identify workplace safety or health hazards, given the scope and complexity of the processes under review.'' This modification is responsive to suggestions from small business employers, organizations such as the National Advisory Committee on Occupational Safety and Health, and other members of the public. Employers, particularly small business employers, who might not have the financial resources to hire an independent consultant, may use their own personnel who do not have professional certification, but who do have the necessary experience or training to conduct an effective and thorough self-audit. In addition, the Agency recognizes the expertise that many joint labor-management safety committees have developed with respect to workplace safety and health issues and acknowledges that audits conducted by such committees should qualify for recognition under this policy.

2. Training for Compliance Safety and Health Officers

In the final policy, the Agency has added the following statement: ''All OSHA personnel applying this policy will receive instruction in order to ensure the consistent and appropriate application of the policy.'' The Agency received comments from employers expressing their concerns regarding the potential for inconsistent implementation and application of the policy. OSHA agrees that an effective policy can be achieved only through consistent implementation and application. Thus, in the final policy, OSHA has explicitly stated that training will be provided, over a period of time, to all personnel who will apply this policy in order to ensure its consistent and proper implementation.

3. Citation Policy for Violative Conditions Identified and Corrected Through Voluntary Self-Audits

In response to numerous suggestions from commenters, the Agency has added a provision explicitly stating that OSHA will not issue citations for violative conditions discovered during a voluntary self-audit and corrected prior to the initiation of an inspection (or a related accident, illness, or injury that triggers the inspection), even if the violative condition existed within the six month limitations period during which OSHA is authorized to issue citations. OSHA encourages employers to conduct voluntary self-audits and to promptly correct all violations of the Act that are discovered in order to ensure safety and health in the workplace. Thus, in the final policy, the Agency has incorporated its current enforcement practice and will refrain from issuing a citation for a violative condition that an employer discovered as a result of a voluntary self-audit, if the employer corrects the condition prior to the initiation of an OSHA inspection (or a related accident, illness, or injury that triggers the OSHA inspection), and if the employer has taken appropriate steps to prevent a recurrence of the violative condition.

4. Employers' Prerogative to Voluntarily Provide Self-Audit Documentation

Several parties requested that the Agency provide that, in those situations in which the Agency has not requested or used voluntary self-audit documentation in conducting its inspection, employers be permitted to take advantage of the policy by providing the Agency with evidence of their voluntary self-audit program. Since OSHA inspectors rarely request voluntary self-audit documentation when conducting inspections, and this policy states the Agency's intent that inspectors should request such documentation only in limited situations, OSHA recognizes that there will be a significant number of instances in which the Agency is unaware of an employer's voluntary self-audit activities, and thus the employer would not be considered for recognition under the policy. Therefore, the final policy provides that an employer voluntarily may provide the Agency with self-audit documentation, and the employer may be eligible to receive the benefits that are detailed in this policy.

III. Comments Not Incorporated Into Final Policy

A number of parties offered comments that have not been included in the final policy. While the Agency considered thoroughly each of the comments that it received, OSHA considered the following comments either to be inconsistent with the Agency's dual purposes in proposing the policy or to be beyond the scope of the proposed policy.

1. Employee Participation in the Voluntary Self-Audit Process

Two union representatives maintained that OSHA should require employers to disclose self-audit results to their employees and their representatives and that OSHA should not grant good faith credit to any employer who has not disclosed all of the audit results both to OSHA and to its employees. OSHA agrees that the interests of workplace safety and health are advanced when employers share self-audit results with employees and employee representatives. However, because this is not a rulemaking procedure, the Agency considers it to be inappropriate to use this policy to adopt a practice that may be deemed to modify the legal duties of employers. Moreover, insofar as the purpose of this statement is to clarify current OSHA practices and to provide appropriate, positive treatment that is in accord with the value of voluntary self-audits, the Agency believes that it may be counterproductive to impose additional requirements on employers in order to qualify for inclusion under the policy.

2. More Significant Proposed Penalty Reductions

Several parties suggested that OSHA should provide a more significant proposed penalty reduction for an employer's ''good faith'' by offering proposed penalty reductions in excess of 25 percent to employers who identify

violative conditions during voluntary self-audits and who have begun to correct the conditions, but who have not completed abatement prior to the initiation of an OSHA inspection. OSHA's current guidelines account for an employer's ''good faith'' when the Agency calculates a proposed penalty for a violation of the Act. These guidelines allow a penalty reduction of up to 25 percent in recognition of an employer's ''good faith,'' if the employer has developed and implemented a written health and safety program, which provides for appropriate management commitment and employee involvement; worksite analysis for the purpose of hazard identification; hazard prevention and control measures; and safety and health training. The Agency has stated that it will treat a voluntary self-audit, which results in prompt corrective action and appropriate steps to prevent similar violations, as strong evidence of the employer's good faith with respect to the matters covered by the voluntary self-audit. However, a voluntary self-audit is only one of the many steps that employers can and do undertake to protect the health and safety of their employees, and OSHA does not believe that the goals of the Act would be furthered by an additional ''good faith'' penalty reduction that is keyed directly and exclusively to voluntary self-audits. Rather, the Agency believes that its current ''good faith'' penalty reduction provisions, in conjunction with the inherent advantages that employers gain by conducting voluntary self-audits and the treatment that this policy provides for voluntary self-audits, provide appropriate, positive recognition for voluntary self-audits.

3. *Total Prohibition Against the Use of Voluntary Self-Audit Documentation*

Many employers and employer associations stated that OSHA should refrain totally from using voluntary self-audit information as a part of the Agency's enforcement efforts under the Act. The Agency has not incorporated this comment into its policy because it believes that a complete prohibition is unnecessary in order to provide appropriate, positive treatment for voluntary self-audits. In addition, the Agency believes that, in some circumstances, a complete prohibition would prevent it from effectively enforcing the Act.

The implementation of this policy will publicly state the Agency's policy to request voluntary self-audit documentation only in limited situations. A substantial number of employers already conduct voluntary self-audits for their own benefit and for the benefit of their employees. The Agency believes that this policy, with its explicit provisions concerning the Agency's use of voluntary self-audit documentation, will provide the assurances that additional employers may need in order to conduct voluntary self-audits. Indeed, under the policy, employers who respond promptly and appropriately to hazardous conditions that are identified in a voluntary self-audit can only be rewarded for having conducted the self-audit.

On the other hand, there are legitimate circumstances in which voluntary self-audit data are important to enable the Agency to effectively enforce the Act. For example, such information may allow an inspector, who has already identified a hazard, to determine the scope of the hazard or to assess the manner in which the condition can be abated. In addition, pursuant to Occupational Safety and Health Review Commission precedent, the Secretary of Labor has the obligation to demonstrate that an employer had knowledge of a cited violative condition, and, in certain situations, the obligation to demonstrate that an employer was so indifferent to recognized occupational health or safety hazards that more significant penalties are justified in order to effectuate the provisions of the Act. Thus, the Agency believes that a complete prohibition against the use of voluntary self-audit documentation would be an imprudent policy because it would hamper OSHA's ability to enforce the Act effectively.

4. More Precisely Defined Limitations on the Agency's Use of Voluntary Self-Audit Documentation

In the proposed policy statement, the Agency had proposed to ''refrain from routinely requesting reports of voluntary self-audits at the initiation of an enforcement inspection.'' OSHA explained that it intended to seek access to such reports only in limited situations in which the Agency had an independent basis to believe that a specific safety or health hazard warrants investigation, and had determined that such records may be relevant to identify or determine the circumstances or nature of the hazardous condition. However, several employers asked that the Agency more precisely detail the specific situations in which its inspectors may request voluntary self-audit documentation.

The Agency has decided not to attempt to modify its proposed policy in this manner for several reasons. First, OSHA believes that, given the diversity of circumstances that inspectors encounter in conducting thousands of workplace inspections each year, it is not feasible to comprehensively list or to describe with any specificity each of those situations in which it would be appropriate for an inspector to request voluntary self-audit documentation. Rather, the Agency believes that the implementation of this policy will provide sufficient specificity to assure employers that inspectors will seek voluntary self-audit documentation only in limited and generally defined situations. Second, OSHA recognizes the skill and experience of its inspectors and believes that it is essential for the Agency and its inspectors to have some discretion in implementing this policy in order to effectively and efficiently fulfill the Act's mandate to detect and identify occupational safety and health hazards. Third, in refraining from an attempt to more specifically define those discrete circumstances in which inspectors may request voluntary self-audit documentation, the Agency has adopted the comment offered by several employers and their representatives who expressed concern that such specificity may in practice increase the frequency with which inspectors request voluntary self-audit documentation, given the natural human inclination to interpret specific examples as situations in which a request for self-audit documentation is mandated, as opposed to merely permitted, pursuant to the policy.

5. Adoption of a Formal Rule Regarding the Agency's Treatment of Voluntary Self-Audits

Several commenters suggested that the Agency should adopt the ''Final Policy Concerning the Occupational Safety and Health Administration's Treatment of Voluntary Employer Safety and Health Self-Audits'' as a formal rule that would be legally binding on the Agency. However, OSHA has declined to incorporate this comment and believes that the policy, as adopted, provides sufficient assurance that employers who conduct voluntary self-audits, and who take prompt and appropriate steps to address occupational hazards that are identified in such audits, will not be penalized by OSHA for conducting voluntary self-audits. In addition, since this policy is an internal policy that is intended only to provide OSHA inspectors with guidance regarding the circumstances under which the Agency considers it appropriate to review and consider documentation generated by employers as a result of voluntary self-audits, the Agency believes it is imprudent and unnecessary to expend the time, money,

and other resources required to promulgate a formal rule. Finally, the Agency believes that a rule that creates legal rights for third parties would be more likely to produce unproductive litigation than will a policy that only provides guidance to OSHA inspectors. This type of litigation would not further the health and safety purposes of the Act.

6. No Citation for Partial or Planned Correction of Violative Conditions Identified through a Voluntary Self-Audit

A number of employers stated that the Agency should refrain from issuing a citation in any situation in which an employer has identified a hazardous condition and is in the process of correcting that condition, or has developed a plan or program for correcting that condition, at the time that OSHA conducts an inspection of the employer's facility. OSHA has decided not to incorporate this comment into the final policy for several reasons. First, the agency recognizes that the prompt correction of hazardous workplace conditions is essential for the prevention of occupational illnesses, injuries, and fatalities. The Agency is concerned that a policy that excuses an employer for an abatement plan alone, or for abatement actions that do not constitute the complete elimination of the hazard, may serve to diminish an employer's incentive to promptly and completely eliminate workplace hazards. Second, the Agency believes that such a policy would be inconsistent with the Act's mandate, which is to assure, so far as possible, safe and healthful working conditions for every working man and woman in the Nation. In enforcing the Act, OSHA only issues citations in cases in which employees actually are exposed to hazards associated with violative conditions. While the final policy recognizes that employers who identify hazardous conditions through the use of voluntary self-audits, and are in the process of correcting those hazards, may deserve a ''good faith'' reduction in the penalty that OSHA proposes for the violation, the Agency does not believe that the Act contemplates that OSHA will refrain totally from issuing citations in situations in which employees are working in an environment in which they are exposed to serious occupational hazards.

IV. Description of the Final Policy

The policy applies to audits (1) that are systematic, documented, and objective reviews conducted by, or for, employers to review their operations and practices to ascertain compliance with the Act, and (2) that are not mandated by the Act, rules or orders issued pursuant to the Act, or settlement agreements. A systematic audit is planned, and it is designed to be appropriate to the scope of the hazards that it addresses and to provide a basis for corrective action. Ad hoc observations and other ad hoc communications concerning a hazardous condition made during the ordinary course of business are not included within the definition of a ''self-audit'' or ''voluntary self-audit report.'' The findings resulting from the systematic self-audit must be documented contemporaneously (at the time the condition is discovered or immediately after completion of the audit) so as to assure that they receive prompt attention.

The self-audit also must be conducted by or supervised by a competent person who is capable of identifying the relevant workplace hazards. Employees or management officials who have the training or experience that is necessary to identify workplace safety or health hazards, given the scope and complexity of the processes under review, are considered to be competent persons under the policy, even though they may not maintain engineering, scientific, industrial hygiene, or other relevant professional accreditation.

In order to qualify for inclusion under the policy, a self-audit need not review or analyze an entire plant, facility, or operation. For example, a voluntary self-audit designed to identify hazards associated with a particular process or hazard (as opposed to an entire plant, facility, or operation) will qualify for consideration under the policy.

The policy provides that OSHA will not routinely request voluntary self-audit reports when initiating an inspection, and that the Agency will not use voluntary self-audit reports as a means of identifying hazards upon which to focus during an inspection. Rather, OSHA intends to seek access to such reports only in limited situations in which the Agency has an independent basis to believe that a specific safety or health hazard warrants investigation, and has determined that such records may be relevant to identify or determine the circumstances of the hazardous condition. For example, an inspector might seek access to self-audit documentation following a fatal or catastrophic accident when OSHA is investigating the circumstances of the accident to assess compliance and to assure that hazardous conditions are abated. Likewise, it would be consistent with this policy to request self-audit documentation when the Agency has an independent basis for believing that a hazard exists. The Agency believes that this provision is responsive to the concerns of employers who sought assurances that OSHA would not use voluntary self-audit documentation during an inspection as a ''road map'' to identify violations of the Act.

OSHA emphasizes that it is not seeking through this policy to expand the situations in which it requests production of voluntary self-audit reports beyond its present practice. In addition, OSHA intends to seek access only to those audit reports, or portions of those reports, that are relevant to the particular matters that it is investigating.

OSHA has defined ''voluntary self-audit report'' to include information obtained in the audit, as well as analyses and recommendations. The effect is to include audit information in the documents that OSHA will not routinely request at the initiation of the inspection. OSHA has defined the term this way because the Agency believes that the definition responds to the concerns raised by employers about the effect of routine OSHA requests for voluntary self-audit findings.

The policy also contains provisions designed to assure that employers who respond with prompt corrective actions will receive corresponding benefits following an OSHA inspection. These provisions would come into play when OSHA obtains a voluntary self-audit report, either because the employer has voluntarily provided it to OSHA, as commonly occurs, or because OSHA has required production of the report. In response to public comment, OSHA has expressly stated in the final policy that employers may voluntarily provide OSHA with self-audit documentation and that those employers may be eligible to receive the benefits detailed in the policy.

The policy explains that OSHA will refrain from issuing a citation for a violative condition that an employer has discovered through a voluntary self-audit and has corrected prior to the initiation of an inspection (or a related accident, illness, or injury that triggers the inspection), if the employer also has taken appropriate steps to prevent the recurrence of the condition. In situations in which the corrective steps have not been completed at the time of the inspection, OSHA will treat the voluntary self-audit report as evidence of good faith, not as evidence of a willful violation, provided that the employer has responded promptly with appropriate corrective action to the violative conditions identified in the

audit. Accordingly, if the employer is responding in good faith and in a timely manner to correct a violative condition discovered in a voluntary self-audit, and OSHA detects the condition during an inspection, OSHA will not use the report as evidence of willfulness. A timely, good faith response includes promptly taking diligent steps to correct the violative condition, while providing effective interim employee protection, as necessary.

OSHA will treat a voluntary self-audit that results in prompt corrective action of the nature described above and appropriate steps to prevent similar violations, as strong evidence of the employer's good faith with respect to the matters addressed. Good faith is one of the statutory factors that OSHA is directed to take into account in assessing penalties. 29 U.S.C. 666(j). Where OSHA finds good faith, OSHA's Field Inspection Reference Manual (the ''FIRM'') authorizes up to a 25 percent reduction in the penalty that otherwise would be assessed. The FIRM treats the presence of a comprehensive safety and health program as a primary indicator of good faith. A comprehensive safety and health program includes voluntary self-audits, but is broader in concept, covering additional elements. In this policy, OSHA has concluded that a voluntary self-audit/correction program is evidence of good faith. OSHA believes that the policy will provide appropriate positive recognition of the value of voluntary self-audits, while simultaneously enabling the Agency to enforce the provisions of the Occupational Safety and Health Act effectively.

V. Final Policy Concerning the Occupational Safety and Health Administration's Treatment of Voluntary Employer Safety and Health Self-Audits

A. Purpose

1. This policy statement describes how the Occupational Safety and Health Administration (OSHA) will treat voluntary self-audits in carrying out Agency civil enforcement activities. Voluntary self-audits, properly conducted, may discover conditions that violate the Occupational Safety and Health Act (Act) so that those conditions can be corrected promptly and similar violations prevented from occurring in the future. This policy statement is intended to provide appropriate, positive treatment that is in accord with the value voluntary self-audits have for employers' safety and health compliance efforts, while also recognizing that access to relevant information is important to the Secretary of Labor's inspection and enforcement duties under the Act.

2. This policy statement sets forth factors that guide OSHA in exercising its informed discretion to request and use the information contained in employers' voluntary self-audit reports. All OSHA personnel applying this policy will receive instruction in order to ensure the consistent and appropriate application of the policy. The policy statement is not a final Agency action. It is intended only as general, internal OSHA guidance, and is to be applied flexibly, in light of all appropriate circumstances. It does not create any legal rights, duties, obligations, or defenses, implied or otherwise, for any party, or bind the Agency.

3. This policy statement has four main components:

(a.) It explains that OSHA will refrain from routinely requesting reports of voluntary self-audits at the initiation of an enforcement inspection;

(b.) It explains that OSHA will refrain from issuing a citation for a violative condition that an employer has discovered through a voluntary self-audit and has corrected prior to the initiation of an OSHA inspection (or a related accident, illness, or injury that triggers the inspection), if the employer also has taken appropriate steps to prevent the recurrence of the condition;

(c.) It contains a safe-harbor provision under which, if an employer is responding in good faith to a violative condition identified in a voluntary self-audit report, and OSHA discovers the violation during an enforcement inspection, OSHA will not treat that portion of the report as evidence of willfulness;

(d.) It describes how an employer's response to a voluntary self-audit may be considered evidence of good faith, qualifying the employer for a substantial civil penalty reduction, when OSHA determines a proposed penalty. *See* 29 U.S.C. 666(j). Under this section of the Act, a proposed penalty for an alleged violation is calculated giving due consideration to the ''good faith'' of the employer.

B. Definitions

1. ''Self-Audit'' means a systematic, documented, and objective review by or for an employer of its operations and practices related to meeting the requirements of the Act.

(a.) ''Systematic'' means that the self-audit is part of a planned effort to prevent, identify, and correct workplace safety and health hazards. A systematic self-audit is designed by or for the employer to be appropriate to the scope of hazards it is aimed at discovering, and to provide an adequate basis for corrective action;

(b.) ''Documented'' means that the findings of the self-audit are recorded contemporaneously and maintained by or for the employer;

(c.) ''Objective'' means that the self-audit is conducted by or under the direction of an individual or group of individuals who are competent to identify workplace safety or health hazards, given the scope and complexity of the processes under review.

2. ''Voluntary'' means that the self-audit is not required by statute, rule, order, or settlement agreement. Voluntary self-audits may assess compliance with substantive legal requirements (*e.g.,* an audit to assess overall compliance with the general machine guarding requirement in 29 CFR 1910.212).

3. ''Voluntary self-audit report'' means the written information, analyses, conclusions, and recommendations resulting from a voluntary self-audit, but does not include matters required to be disclosed to OSHA by the records access rule, 29 CFR 1910.1020, or other rules.

4. ''Good faith'' response means an objectively reasonable, timely, and diligent effort to comply with the requirements of the Act and OSHA standards.

C. OSHA's Treatment of Voluntary Self-Audit Reports

1. No Routine Initial Request for Voluntary Self-Audit Reports

(a.) OSHA will not routinely request voluntary self-audit reports at the initiation of an inspection. OSHA will not use such reports as a means of identifying hazards upon which to focus inspection activity.

(b.) However, if the Agency has an independent basis to believe that a specific safety or health hazard warranting investigation exists, OSHA may exercise its authority to obtain the relevant portions of voluntary self-audit reports relating to the hazard.

(c.) An employer voluntarily may provide OSHA with self-audit documentation and may be eligible to receive the benefits that are detailed in this policy.

2. No Citations for Violative Conditions Discovered During a Voluntary Self-Audit and Corrected Prior to an Inspection (or a Related Accident, Illness, or Injury That Triggers the Inspection)

It is OSHA's current enforcement practice to refrain from issuing a citation for a violative condition that an

employer has corrected prior to the initiation of an OSHA inspection (and prior to a related accident, illness, or injury that triggers the inspection), if the employer has taken appropriate steps to prevent a recurrence of the violative condition, even if the violative condition existed within the six month limitations period during which OSHA is authorized to issue citations. Consistent with this enforcement practice, OSHA will not issue a citation for a violative condition that an employer has discovered as a result of a voluntary self-audit, if the employer has corrected the violative condition prior to the initiation of an inspection (and prior to a related accident, illness, or injury that triggers the inspection) and has taken appropriate steps to prevent a recurrence of the violative condition that was discovered during the voluntary self-audit.

3. Safe Harbor—No Use of Voluntary Self-Audit Reports as Evidence of Willfulness

A violation is considered willful if the employer has intentionally violated a requirement of the Act, shown reckless disregard for whether it was in violation of the Act, or demonstrated plain indifference to employee safety and health. Consistent with the prevailing law on willfulness, if an employer is responding in good faith to a violative condition discovered through a voluntary self-audit and OSHA detects the condition during an inspection, OSHA will not use the voluntary self-audit report as evidence that the violation is willful.

This policy is intended to apply when, through a voluntary self-audit, the employer learns that a violative condition exists and promptly takes diligent steps to correct the violative condition and bring itself into compliance, while providing effective interim employee protection, as necessary.

4. ''Good Faith'' Penalty Reduction

Under the Act, an employer's good faith normally reduces the amount of the penalty that otherwise would be assessed for a violation. 29 U.S.C. 666(j). OSHA's FIRM provides up to a 25 percent penalty reduction for employers who have implemented an effective safety and health program, including voluntary self-audits. OSHA will treat a voluntary self-audit that results in prompt action to correct violations found, in accordance with paragraph C.3. above, and appropriate steps to prevent similar violations, as strong evidence of an employer's good faith with respect to the matters covered by the voluntary self-audit. This policy does not apply to repeat violations.

D. Federal Program Change

This policy statement describes a Federal OSHA Program change for which State adoption is not required; however, in the interest of national consistency, States are encouraged to adopt a similar policy regarding voluntary self-audits.

E. Effective Date

This policy is effective July 28, 2000.

This document was prepared under the direction of Charles N. Jeffress, Assistant Secretary for Occupational Safety and Health, US Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, D.C. this 24th day of July, 2000.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 00–19067 Filed 7–27–00; 8:45 am]

BILLING CODE 4510–26–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors

TIME AND DATE: The Legal Services Corporation's Board of Directors will meet by teleconference on Tuesday, August 1, 2000, at 4 p.m. EDT.

STATUS OF MEETING: Open.

LOCATION: Members of the Board will participate by way of telephonic conferencing equipment allowing them all to hear one another. Members of the Corporation's staff and the public will be able to hear and participate in the meeting by means of telephonic conferencing equipment set up for this purpose in the Corporation's Conference Room, on the 11th floor of 750 First Street, NE., Washington, DC 20002.

MATTERS TO BE CONSIDERED:

1. Approval of agenda.
2. Consider and act on a proposed resolution recognizing and thanking the law firm of Nelson, Mullins, Riley & Scarborough for their *pro bono* representation of LSC in the case of *Regional Management Corp. et al.* v. *Legal Services Corporation.*
3. Consider and act on a proposed resolution recognizing and thanking the law firm of Porter, Wright, Morris & Arthur for their *pro bono* representation of LSC in the case of *Ashtabula County Legal Aid Corporation* v. *Legal Services Corporation.*
4. Consider and act on proposed extension of John McKay's tenure as President of LSC to September 30, 2001.
5. Consider and act on other business.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, Vice President for Legal Affairs, General Counsel & Secretary, (202) 336–8800.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Shannon N. Adaway, at (202) 336–8800.

Dated: July 25, 2000.

Victor M. Fortuno,

Vice President of Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 00–19200 Filed 7–25–00; 4:59 pm]

BILLING CODE 7050–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Privacy Act of 1974: Republication of Notice of Systems of Records

AGENCY: National Endowment for the Arts.

ACTION: Notice of republication of systems of records, proposed systems of records, and new routine uses.

SUMMARY: The National Endowment for the Arts (Endowment) is publishing a notice of its systems of records with descriptions of the systems and the ways in which they are maintained, as required by the Privacy Act of 1974, 5 U.S.C. 552a(e)(4). This notice reflects administrative changes that have been made at the Endowment since the last publication of a notice of its systems of records. This notice also will enable individuals who wish to access information maintained in Endowment systems to make accurate and specific requests for such information.

DATES: In accordance with 5 U.S.C. 552a(r), on July 17, 2000, the Endowment filed a report as to the changes proposed in this notice with the Committee on Government Reform of the House of Representatives; the Committee on Governmental Affairs of the Senate; and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The proposed changes to the Endowment's systems of records will become effective 40 days from the date the report was submitted to Congress and the OMB, or 30 days from the date of this publication in the **Federal Register**, whichever is later.

ADDRESSES: Karen Elias; Deputy General Counsel; National Endowment for the Arts; 1100 Pennsylvania Avenue, NW;

Room 518; Washington, DC 20506; telefax at (202) 682–5572 or by electronic mail at eliask@arts.endow.gov.

FOR FURTHER INFORMATION CONTACT: Karen Elias, (202) 682–5418

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 552a(e)(4), the Endowment is today republishing a notice of the existence and character of its systems of records in order to make available in one place in the **Federal Register** the most up-to-date information regarding these systems. This republication has become necessary to reflect administrative changes, such as agency restructuring and the increased use of electronic technology, that have been made at the Endowment since the last publication of a notice of its systems of records.

Statement of General Routine Uses

The following general routine uses are incorporated by this reference into each system of records set forth herein, unless specifically limited in the system description.

1. A record may be disclosed as a routine use to a Member of Congress or his or her staff, when the Member of Congress or his or her staff requests the information on behalf of and at the request of the individual who is the subject of the record.

2. A record may be disclosed as a routine use to designated officers and employees of other agencies and departments of the Federal government having an interest in the subject individual for employment purposes (including the hiring or retention of any employee; the issuance of a security clearance; the letting of a contract; or the issuance of a license, grant, or other benefit by the requesting agency) to the extent that the information is relevant and necessary to the requesting agency's decision on the matter involved.

3. In the event that a record in a system of records maintained by the Endowment indicates, either by itself or in combination with other information in the Endowment's possession, a violation or potential violation of the law (whether civil, criminal, or regulatory in nature, and whether arising by statute or by regulation, rule, or order issued pursuant thereto), that record may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto. Such referral shall be deemed to authorize: (1) Any and all appropriate and necessary uses of such records in a court of law or before an administrative board or hearing; and (2) Such other interagency referrals as may be necessary to carry out the receiving agencies' assigned law enforcement duties.

4. The names, Social Security numbers, home addresses, dates of birth, dates of hire, quarterly earnings, employer identifying information, and State of hire of employees may be disclosed as a routine use to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services, as follows:

(a) For use in the Federal Parent Locator System (FPLS) and the Federal Tax Offset System for the purpose of locating individuals to establish paternity, establishing and modifying orders of child support, identifying sources of income, and for other child support enforcement actions as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104–193);

(b) For release to the Social Security Administration for the purpose of verifying Social Security numbers in connection with the operation of the FPLS; and

(c) For release to the U.S. Department of the Treasury (Treasury) for the purpose of payroll, savings bonds, and other deductions; administering the Earned Income Tax Credit Program (Section 32, Internal Revenue Code of 1986); and verifying a claim with respect to employment on a tax return, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104–193).

5. A record may be disclosed as a routine use in the course of presenting evidence to a court, magistrate, or administrative tribunal of appropriate jurisdiction, and such disclosure may include disclosures to opposing counsel in the course of settlement negotiations.

6. Information from any system of records may be used as a data source for management information, for the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies. Information may also be disclosed to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act.

7. A record may be disclosed as a routine use to a contractor, expert, or consultant of the Endowment (or an office within the Endowment) when the purpose of the release is to perform a survey, audit, or other review of the Endowment's procedures and operations.

8. A record from any system of records may be disclosed as a routine use to the National Archives and Records Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

9. A record may be disclosed to a contractor, grantee, or other recipient of Federal funds when the record to be released reflects serious inadequacies with the recipient's personnel, and disclosure of the record is for the purpose of permitting the recipient to effect corrective action in the government's best interests.

10. A record may be disclosed to a contractor, grantee, or other recipient of Federal funds when the recipient has incurred an indebtedness to the government through its receipt of government funds, and release of the record is for the purpose of allowing the debtor to effect a collection against a third party.

11. Information in a system of records may be disclosed as a routine use to the Treasury; other Federal agencies; ''consumer reporting agencies'' (as defined in the Fair Credit Reporting Act, 15 U.S.C. 1681a(f), or the Federal Claims Collection Act of 1966, 31 U.S.C. 3701(a)(3)); or private collection contractors for the purpose of collecting a debt owed to the Federal government as provided in the regulations promulgated by the Endowment and published at 45 CFR 1150.

Table of Contents

This document gives notice that the following Endowment systems of records are in effect:

NEA–1 Panelists, Automated Panel Bank System (APBS).
NEA–2 Panelists, Paper Files.
NEA–3 National Council on the Arts (Council).
NEA–4 Grants, Grants Management System (GMS).
NEA–5 Grants, Paper Files.
NEA–6 Contracts and Cooperative Agreements.
NEA–7 Payroll/Personnel System.
NEA–8 Government Purchasing Card Holders
NEA–9 Financial Management Information System (FMIS).
NEA–10 Finance, Subsidiary Tracking Systems.
NEA–11 Finance, Paper Files.
NEA–12 Equal Employment Opportunity Complaint Case Files.
NEA–13 Civil Rights Complaint Case Files.
NEA–14 Office of the Inspector General Investigative Files.

NEA–1

SYSTEM NAME:

Panelists, Automated Panel Bank System (APBS).

SYSTEM LOCATION:

Information Management Division; 1100 Pennsylvania Avenue, NW; Washington, DC 20506.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals whom the Endowment may ask or has asked to serve on application review panels.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, telephone number, Social Security number, and other data concerning potential and actual panelists, including information about areas of artistic expertise and prior panel service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 *et seq.*)

PURPOSE(S):

To provide a central repository for information about art experts who could be or have been called upon to serve on application review panels and make recommendations on grant awards.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data in this system is used for identification of panelists and their activities in this capacity. See also the list of General Routine Uses contained in the Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained in an electronic database.

RETRIEVABILITY:

Records in this system are retrieved by name or Social Security number.

SAFEGUARDS:

This system is maintained in a locked computer room that can be accessed only by authorized employees of the Endowment or the National Endowment for the Humanities. Access to records in this system is further controlled by password, with different levels of modification rights assigned to individuals and offices at the Endowment based on their specific job functions.

RETENTION AND DISPOSAL:

Records in this system are maintained and updated on a continuing basis, as new information is received by the Office of Guidelines and Panel Operations. Endowment staff will periodically request updated information from individuals who are registered in the APBS. Endowment staff will also periodically purge the APBS of records pertaining to individuals who have been in the APBS for three to five years, but who have not served on a panel or had their records updated. Records will be removed only with the concurrence of the appropriate discipline directors.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Guidelines and Panel Operations and/or Director of Information Management; National Endowment for the Arts; 1100 Pennsylvania Avenue, NW; Washington, DC 20506.

NOTIFICATION PROCEDURE:

See 45 CFR part 1159.

RECORD ACCESS PROCEDURES:

See 45 CFR part 1159.

CONTESTING RECORD PROCEDURES:

See 45 CFR part 1159.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from individuals covered by the system, as well as from Endowment employees and other individuals nominating potential panelists.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NEA–2

SYSTEM NAME:

Panelists, Paper Files.

SYSTEM LOCATION:

1100 Pennsylvania Avenue, NW; Washington, DC 20506.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals whom the Endowment may ask or has asked to serve on application review panels.

CATEGORIES OF RECORDS IN THE SYSTEM:

Additional information about potential and actual panelists. This system includes materials such as resumes, panelist profile forms, and contracts concerning participation on panels.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 *et seq.*)

PURPOSE(S):

To supplement the APBS with information well suited for maintenance in hard copy form.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data in this system is used for identification of panelists and their activities in this capacity. See also the list of General Routine Uses contained in the Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained in filing cabinets.

RETRIEVABILITY:

Records in this system are retrieved by name.

SAFEGUARDS:

Rooms containing the records in this system are kept locked during non-working hours.

RETENTION AND DISPOSAL:

The Office of Guidelines and Panel Operations maintains paper files that grow as individuals, or discipline directors who are proposing individuals for service on panels, submit resumes. Resumes and profile forms are removed from these files only when they are replaced by more recent information or when individuals are purged from the APBS, as described above. Discipline offices may also maintain paper files about individuals who have served on panels for their divisions. These files may include panelist contracts, copies of which are forwarded to the Endowment's Finance office. Each office destroys its panelist contracts after a set interval.

SYSTEM MANAGER(S) AND ADDRESS:

Coordinator of Panel Operations and/or Director of Finance/CFO; National Endowment for the Arts; 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

NOTIFICATION PROCEDURE:

See 45 CFR part 1159.

RECORD ACCESS PROCEDURES:

See 45 CFR part 1159.

CONTESTING RECORD PROCEDURES:

See 45 CFR part 1159.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from individuals covered by the system, as well as from Endowment employees and other individuals nominating potential panelists.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NEA–3

SYSTEM NAME:

National Council on the Arts (Council).

SYSTEM LOCATION:

Office of Council Operations; 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Past and present members of the National Council on the Arts.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, telephone number, Social Security number, and other information concerning past and present members of the Council, such as press clippings and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 *et seq.*).

PURPOSE(S):

To provide a central repository for information about past and present members of the Council.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data in this system is used for identification of members of the Council and their activities in this capacity. See also the list of General Routine Uses contained in the Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained in file cabinets.

RETRIEVABILITY:

Records in this system are retrieved by name.

SAFEGUARDS:

Rooms containing the records in this system are kept locked during non-working hours.

RETENTION AND DISPOSAL:

Records in this system are maintained on an indefinite basis for reference purposes.

SYSTEM MANAGER(S) AND ADDRESS:

Coordinator of Council Operations; National Endowment for the Arts; 1100 Pennsylvania Avenue, NW; Washington, DC 20506.

NOTIFICATION PROCEDURE:

See 45 CFR part 1159.

RECORD ACCESS PROCEDURES:

See 45 CFR part 1159.

CONTESTING RECORD PROCEDURES:

See 45 CFR part 1159.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from individuals covered by the system, as well as from Endowment employees involved with the activities of the Council.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NEA–4

SYSTEM NAME:

Grants, Grants Management System (GMS).

SYSTEM LOCATION:

Information Management Division; 1100 Pennsylvania Avenue, NW; Washington, DC 20506.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have applied to the Endowment for financial assistance in the form of grants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, telephone number, date of birth, Social Security number, identification numbers assigned by the Endowment, National Standard and agency-established codes, and grant action dates. Financial and banking information is not maintained in the GMS.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 *et seq*).

PURPOSE(S):

To provide a central repository for information about grant applicants, recipients, and awards.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data in this system may be used for general administration of the grant review and award process, statistical research, Congressional oversight, and analysis of trends. See also the list of General Routine Uses contained in the Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained in an electronic database.

RETRIEVABILITY:

Records in this system are retrieved by name, application number, grant number, or constituent identification number.

SAFEGUARDS:

This system is maintained in a locked computer room that can be accessed only by authorized employees of the Endowment and the National Endowment for the Humanities. Access to records in this system is further controlled by password, with different levels of modification rights assigned to individuals and offices at the Endowment based on their specific job functions.

RETENTION AND DISPOSAL:

Records in this system are maintained on an indefinite basis for reference purposes.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Grants and Contracts and/or Director of Information Management; National Endowment for the Arts; 1100 Pennsylvania Avenue, NW; Washington, DC 20506.

NOTIFICATION PROCEDURE:

See 45 CFR part 1159.

RECORD ACCESS PROCEDURES:

See 45 CFR part 1159.

CONTESTING RECORD PROCEDURES:

See 45 CFR part 1159.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from individuals covered by the system, as well as from Endowment employees involved in the administration of grants.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NEA–5

SYSTEM NAME:

Grants, Paper Files.

SYSTEM LOCATION:

1100 Pennsylvania Avenue, NW; Washington, DC 20506.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have applied to the Endowment for financial assistance in the form of grants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Additional information concerning Endowment decisions to award grants, disburse funds, and close out grants. Materials include grant applications, samples of work, award notification letters and any approved amendments,

payment requests, correspondence, and final reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 *et seq.*)

PURPOSE(S):

To supplement the GMS with information well suited for maintenance in hard copy form.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data in this system may be used for general administration of the grant review and award process, statistical research, Congressional oversight, and analysis of trends. See also the list of General Routine Uses contained in the Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained in file cabinets.

RETRIEVABILITY:

Records in this system are retrieved by name, application number, or grant number.

SAFEGUARDS:

Rooms containing records in this system are kept locked during non-working hours.

RETENTION AND DISPOSAL:

The Grants and Contracts Office maintains grants paper files, which are retired and destroyed after seven years. Discipline offices also maintain paper files about grants in their divisions. When the final descriptive and financial status reports are received and accepted, the discipline office files are retired first to the Federal Records Center, and then to the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Grants and Contracts and/or Director of Administrative Services; National Endowment for the Arts; 1100 Pennsylvania Avenue, NW; Washington, DC 20506.

NOTIFICATION PROCEDURE:

See 45 CFR part 1159.

RECORD ACCESS PROCEDURES:

See 45 CFR part 1159.

CONTESTING RECORD PROCEDURES:

See 45 CFR part 1159.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from individuals covered by the system, as well as from Endowment employees involved in the administration of grants.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NEA–6

SYSTEM NAME:

Contracts and Cooperative Agreements.

SYSTEM LOCATION:

1100 Pennsylvania Avenue, NW; Washington, DC 20506.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have entered administrative contracts or cooperative agreements with the Endowment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Relevant information concerning the contract or cooperative agreement, such as copies of the signed document and requests for payment/invoices.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 *et seq*).

PURPOSE(S):

To maintain a record of contracts and cooperative agreements entered by the Endowment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data in this system may be used for General Accounting Office audits and Congressional oversight. See also the list of General Routine Uses contained in the Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The Grants and Contracts Office maintains records in this system in an electronic database, word processing files, and file cabinets. The Finance office also maintains paper files in this system in file cabinets.

RETRIEVABILITY:

Database files are retrieved by name or by contract or cooperative agreement number. Word processing files are retrieved by contract or cooperative agreement number. Paper files maintained by the Grants and Contracts Office are retrieved by name. Paper files maintained by the Finance Office are retrieved by name, Social Security number, vendor number, or cooperative agreement number.

SAFEGUARDS:

Database and word processing files are protected by a password available to Grants and Contracts Office staff. Rooms containing paper files are kept locked during non-working hours.

RETENTION AND DISPOSAL:

Database and word processing files are maintained on an indefinite basis for reference purposes. Paper files maintained by the Grants and Contracts Office are shipped to the National Archives and Records Administration after the contract or cooperative agreement is physically completed, and they are destroyed six years and three months later. Paper files maintained by the Finance Office are also maintained for six years and three months, and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Grants and Contracts and/or Director of Finance/CFO; National Endowment for the Arts; 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

NOTIFICATION PROCEDURE:

See 45 CFR part 1159.

RECORD ACCESS PROCEDURES:

See 45 CFR part 1159.

CONTESTING RECORD PROCEDURES:

See 45 CFR part 1159.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from individuals covered by the system, as well as from Endowment employees involved in contract development, administration, and execution.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NEA–7

SYSTEM NAME:

Payroll/Personnel System.

SYSTEM LOCATION:

1100 Pennsylvania Avenue, NW., Washington, DC 20506.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Endowment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Payroll and personnel information, such as time and attendance data, statements of earnings and leave, training data, wage and tax statements, and payroll and personnel transactions. This system includes data that is also maintained in the Endowment's official

personnel folders, which are managed in accordance with Office of Personnel Management (OPM) regulations. The OPM has given notice of its system of records covering official personnel folders in OPM/GOVT–1.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 *et seq.*); Federal Personnel Manual and Treasury Fiscal Requirements Manual.

PURPOSE(S):

To document the Endowment's personnel processes and to calculate and process payroll.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data in this system may be transmitted to the U.S. Departments of Agriculture and Treasury, and employee-designated financial institutions to effect issuance of paychecks to employees and distributions of pay according to employee directions for authorized purposes. Data in this system may also be used to prepare payroll, meet government record keeping and reporting requirements, and retrieve and apply payroll and personnel information as required for agency needs. See also the list of General Routine Uses contained in the Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic records in this system are maintained off-site by the Department of Agriculture's National Finance Center (NFC). Paper records generated through the NFC are maintained in file cabinets by the Offices of Human Resources, Finance, and Budget after arriving at the Endowment. Discipline offices may also use file cabinets to maintain paper records concerning performance reviews and other personnel actions in their divisions.

RETRIEVABILITY:

Records in this system are retrieved by name, Social Security number, or date of birth.

SAFEGUARDS:

Access to the electronic records in this system is controlled by password on the limited number of Endowment computers that can be used to draw information from the NFC. File cabinets containing the paper records in this system are either kept locked during non-business hours, or are file cabinets are located in rooms which are kept locked during non-business hours.

RETENTION AND DISPOSAL:

The Office of Human Resources maintains paper records in this system in accordance with the General Services Administration's General Records Schedule 2. Division offices may maintain paper records concerning performance reviews and other personnel actions in their divisions for the duration of an individual's employment with the Endowment. The Finance Office maintains its records for six years and three months before destroying them.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Human Resources; National Endowment for the Arts; 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

NOTIFICATION PROCEDURE:

See 45 CFR part 1159.

RECORD ACCESS PROCEDURES:

See 45 CFR part 1159.

CONTESTING RECORD PROCEDURES:

See 45 CFR part 1159.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from individuals covered by the system, as well as from Endowment employees involved in the administration of personnel and payroll processes.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NEA–8

SYSTEM NAME:

Government Purchasing Card Holders

SYSTEM LOCATION:

1100 Pennsylvania Avenue, NW, Washington, DC 20506.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Endowment employees who have been issued credit cards to make official purchases.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, office, account number, and spending limits.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 *et seq.*).

PURPOSE(S):

To maintain a record of Endowment employees authorized to use government purchasing cards.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See the list of General Routine Uses contained in the Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The Grants and Contracts Office maintains records in this system in an electronic database. The Finance Office maintains additional paper records in this system in file cabinets.

RETRIEVABILITY:

Electronic records in this system are retrieved by name, office, account number, or spending limit. Paper records in this system are retrieved by name or social security number.

SAFEGUARDS:

Access to electronic records in this system is controlled by a password, which is available only to the Coordinator of Contracts and Cooperative Agreements. Rooms containing paper records in this system are kept locked during non-working hours.

RETENTION AND DISPOSAL:

Records in this system are maintained on an indefinite basis for reference purposes.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Grants and Contracts and/or Director of Finance/CFO; National Endowment for the Arts; 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

NOTIFICATION PROCEDURE:

See 45 CFR part 1159.

RECORD ACCESS PROCEDURES:

See 45 CFR part 1159.

CONTESTING RECORD PROCEDURES:

See 45 CFR part 1159.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from individuals covered by the system, as well as from Endowment employees involved in administration and oversight of government purchasing cards.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NEA–9

SYSTEM NAME:

Financial Management Information System (FMIS).

SYSTEM LOCATION:

Information Management Division; 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Grant recipients, Endowment employees, vendors, and other individuals involved in financial transactions with the Endowment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, Social Security number, object class, category code, discipline code, office code, sub-object class code, bank information, Common Accounting Number, Council meeting number, document number, schedule number, tax/employee identification number, vendor number, funding fiscal year, transaction processing dates, and fund type.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 *et seq.*).

PURPOSE(S):

To promote effective fund control and financial management; to provide a central repository for information about the Endowment's financial transactions; and to enable the Budget and Finance offices to share a common system for entering allocation, commitment, and obligation information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See the list of General Routine Uses contained in the Preliminary Statement. In addition, this system interfaces with the Grants Management System (GMS) (see NEA–4) and extracts data from a magnetic tape containing Payroll/Personnel information generated by the Department of Agriculture's National Finance Center (NFC).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained in computer processible storage media. Paper records are maintained in file cabinets.

RETRIEVABILITY:

Records in this system are retrieved by name, Social Security number, tax/employee identification number, vendor number, document number, or coding elements.

SAFEGUARDS:

This system is maintained in a locked computer room that can be accessed only by authorized employees of the Endowment and the National Endowment for the Humanities. Access to records in this system is further controlled by password, available to the Budget, Finance, and Information Management Offices. Different levels of modification rights are assigned to these three offices and Endowment employees therein, based on their specific job functions. Rooms containing paper files are kept locked during non-working hours.

RETENTION AND DISPOSAL:

Records in this system are maintained for six years and three months.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Finance/CFO; National Endowment for the Arts; 1100 Pennsylvania Avenue, NW; Washington, DC 20506.

NOTIFICATION PROCEDURE:

See 45 CFR part 1159.

RECORD ACCESS PROCEDURES:

See 45 CFR part 1159.

CONTESTING RECORD PROCEDURES:

See 45 CFR part 1159.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from individuals covered by the system and from Endowment employees who are involved with the Endowment's fund control and financial management.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NEA–10

SYSTEM NAME:

Finance, Subsidiary Tracking Systems.

SYSTEM LOCATION:

Finance Office; 1100 Pennsylvania Avenue, NW; Washington, DC 20506.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Grant recipients, Endowment employees, vendors, and other individuals involved in financial transactions with the Endowment.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) The Electronic Certification System (ECS) Files contain payment information for processing all payments.

(2) The Metro Fare Card Program Files contain data concerning Endowment employees' applications for mass transit fare cards, and subsequent transactions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 *et seq.*).

PURPOSE(S):

To supplement the FMIS with electronic records that cannot be maintained within that system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See the list of General Routine Uses contained in the Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained in electronic databases.

RETRIEVABILITY:

(1) Records in the Electronic Certification System (ECS) are retrieved by name, Social Security number, or vendor number.

(2) Records in the Metro Fare Card Program Files are retrieved by name or Social Security number.

SAFEGUARDS:

Access to records in this system is controlled by password.

RETENTION AND DISPOSAL:

Records in this system are maintained on an indefinite basis for reference purposes.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Finance/CFO; National Endowment for the Arts; 1100 Pennsylvania Avenue, NW; Washington, DC 20506.

NOTIFICATION PROCEDURE:

See 45 CFR part 1159.

RECORD ACCESS PROCEDURES:

See 45 CFR part 1159.

CONTESTING RECORD PROCEDURES:

See 45 CFR part 1159.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from individuals covered by the system and from Endowment employees who are involved with the management of these subsidiary tracking systems.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NEA–11

SYSTEM NAME:

Finance, Paper Files.

SYSTEM LOCATION:

Finance Office; 1100 Pennsylvania Avenue, NW; Washington, DC 20506.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Grant recipients, Endowment employees, vendors, and other

individuals involved in financial transactions with the Endowment.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) The Accounts Receivables Files contain data concerning the type and amount of debts owed to the Endowment, as well as debt collection efforts. These files contain, as appropriate, the name and address of the debtor; taxpayer's identification number; basis of the debt; date a debt became delinquent; amounts accrued for interest, penalties, administrative costs, and payment on account; date the debt was referred to the Treasury for offset; and basis for termination of debt. These files also include copies of bills for collection; invoices; correspondence between the Endowment and the debtor relating to the debt; and documents required to refer accounts to the Treasury, other Federal agencies, or private collection contractor for debt collection.

(2) The Donations to Gift Fund Files contain copies of checks and letters submitted by donors.

(3) The 1099 Files contain data concerning expenses over $600 per calendar year that are reported to the Internal Revenue Service.

(4) The Travel Credit Cards Files contain applications for credit cards.

(5) The Travel Authorizations Files contain employee data for travel duty.

(6) The Travel Vouchers Files contain employee expense data from travel duty.

(7) The Imprest Fund Files contain data concerning local taxi and similar reimbursements to Endowment employees for authorized Endowment expenses.

(8) The Star Awards Files contain data concerning awards for Endowment employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 *et seq.*). In addition, the maintenance of debt collection records in the Accounts Receivables Files is authorized by the Debt Collection Act of 1982, Pub. L. 97–365; the Cash Management Improvement Act Amendments of 1992; and the Debt Collection Improvement Act of 1996 (Pub. L. 104–134).

PURPOSE(S):

To supplement the FMIS with information well suited for maintenance in hard copy form.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See the list of General Routine Uses contained in the Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained in file cabinets.

RETRIEVABILITY:

Records in this system are retrieved by name; Social Security number; taxpayer identification number; or contract number of the employee, contractor, or grantee.

SAFEGUARDS:

Rooms containing the records in this system are kept locked during non-working hours.

RETENTION AND DISPOSAL:

The retention and disposal of debt collection records in the Accounts Receivables Files are covered by the General Services Administration's General Records Schedule 6. Other records in this system are retained on site or in storage for six years and three months, and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Finance/CFO; National Endowment for the Arts; 1100 Pennsylvania Avenue, NW; Washington, DC 20506.

NOTIFICATION PROCEDURE:

See 45 CFR part 1159.

RECORD ACCESS PROCEDURES:

See 45 CFR part 1159.

CONTESTING RECORD PROCEDURES:

See 45 CFR part 1159.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from individuals covered by the system, Endowment employees, creditor agencies, collection agencies, credit bureaus, Federal employing agencies, and other Federal agencies furnishing identifying information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NEA–12

SYSTEM NAME:

Equal Employment Opportunity Complaint Case Files.

SYSTEM LOCATION:

Civil Rights Office; 1100 Pennsylvania Avenue, NW; Washington, DC 20506.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Endowment employees and applicants for employment at the Endowment who have filed formal complaints of discrimination against the Endowment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Relevant information concerning the complaint of discrimination, such as correspondence and documentation concerning the filing of the complaint and stages leading to its disposition.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 *et seq.*).

PURPOSE(S):

To enable the Endowment to investigate and adjudicate internal complaints of discrimination.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data in this system may be disclosed as necessary to enforce or implement the statute, rule, regulation, or order under which the charge of discrimination has been filed. This authorization includes disclosures of data to a Federal, state, or local agency charged with the responsibility of investigating, enforcing, or implementing such a statute, rule, regulation, or order. See also the list of General Routine Uses contained in the Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained on computer diskettes and in file cabinets.

RETRIEVABILITY:

Records in this system are retrieved by name.

SAFEGUARDS:

Diskettes are kept in a locked file. Paper files are kept in a locked file cabinet.

RETENTION AND DISPOSAL:

Complaint files are destroyed four years after resolution of the case.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Civil Rights; National Endowment for the Arts; 1100 Pennsylvania Avenue, NW; Washington, DC 20506.

NOTIFICATION PROCEDURE:

See 45 CFR part 1159.

RECORD ACCESS PROCEDURES:

See 45 CFR part 1159.

CONTESTING RECORD PROCEDURES:

See 45 CFR part 1159.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from individuals covered by the system and from Endowment employees who are involved with the claim or proceeding.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NEA–13

SYSTEM NAME:

Civil Rights Complaint Case Files.

SYSTEM LOCATION:

Civil Rights Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have filed formal complaints of discrimination against the Endowment. However, this system does not include complaints made by either Endowment employees or applicants for employment at the Endowment, which are covered as described above.

CATEGORIES OF RECORDS IN THE SYSTEM:

Relevant information concerning the complaint of discrimination, including correspondence and documentation concerning the filing of the complaint and stages leading to its disposition.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 *et seq.*).

PURPOSE(S):

To enable the Endowment to investigate and adjudicate external complaints of discrimination.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data in this system may be disclosed as necessary to enforce or implement the statute, rule, regulation, or order under which the charge of discrimination has been filed. This authorization includes disclosures of data to a Federal, state, or local agency charged with the responsibility of investigating, enforcing, or implementing such a statute, rule, regulation, or order. See also the list of General Routine Uses contained in the Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained on computer diskettes and in file cabinets.

RETRIEVABILITY:

Records in this system are retrieved by name or a control number assigned to each external complaint of discrimination.

SAFEGUARDS:

Diskettes are kept in a locked file. Paper files are kept in a locked file cabinet.

RETENTION AND DISPOSAL:

Complaint files are destroyed four years after resolution of the case.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Civil Rights, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

NOTIFICATION PROCEDURE:

See 45 CFR part 1159.

RECORD ACCESS PROCEDURES:

See 45 CFR part 1159.

CONTESTING RECORD PROCEDURES:

See 45 CFR part 1159.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from individuals covered by the system and from Endowment employees who are involved with the claim or proceeding.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NEA–14

SYSTEM NAME:

Office of the Inspector General Investigative Files.

SYSTEM LOCATION:

Office of the Inspector General, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and entities who are or have been the subject of investigations by the Office of the Inspector General, or who provide information in connection with such investigations. These individuals include, but are not limited to, former and present Endowment employees; former and present Endowment grant recipients; former and present contractors and subcontractors, and their employees; former and present consultants; and other individuals and entities that had, have, or are seeking to obtain business relationships with the Endowment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence relevant to the investigation; working papers of the staff, investigative notes, internal staff memoranda, and other documents and records relating to the investigation; information about criminal, civil, or administrative referrals; information provided by subjects of the investigation, individuals with whom the subjects are associated, complainants, or witnesses; information provided by Federal, State, or local governmental investigative or law enforcement agencies, or other organizations; copies of subpoenas issues during the investigation; and opening reports, progress reports, and closing reports, with recommendations for corrective action.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Inspector General Act of 1978, as amended (5 U.S.C. app. 3).

PURPOSE(S):

To maintain files of investigative and reporting activities carried out by the Office of the Inspector General.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data in this system may be disclosed to any source, either private or governmental, to the extent necessary to secure from such source information relevant to, and sought in furtherance of, a legitimate investigation or audit. Data in this system may also be disclosed to the Office of the Inspector General's or the Endowment's legal representative, including the U.S. Department of Justice and other outside legal counsel, when the Office of the Inspector General or the Endowment is a party in actual or anticipated litigation or has an interest in such litigation. See also the list of General Routine Uses contained in the Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained in file cabinets.

RETRIEVABILITY:

Records in this system are retrieved by name, report number, or chronological ordering.

SAFEGUARDS:

Work papers for allegation and other investigative reviews conducted by or for the Office of the Inspector General are kept in a locked file cabinet. All records in this system are kept in rooms that are locked during non-working hours.

RETENTION AND DISPOSAL:

Records in this system are maintained on-site until eligible for destruction. Work papers used in evaluating grantees' audit reports and financial statements are destroyed on a three-year cycle. Work papers and correspondence prepared and/or obtained during the clearance process of audit recommendations are destroyed on a six-year cycle from the date that the recommendations are cleared. All other records in this system are destroyed on a seven-year cycle.

SYSTEM MANAGER(S) AND ADDRESS:

Inspector General, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

NOTIFICATION PROCEDURE:

See 45 CFR part 1159.

RECORD ACCESS PROCEDURES:

The major part of this system is exempted from this requirement pursuant to 5 U.S.C. 552a(j)(2) or (k)(2). To the extent that this system is not subject to exemption, it is subject to access. A determination as to exemption shall be made at the time a request for access is received. Access requests must be sent to the Office of the General Counsel in accordance with the procedures published at 45 CFR part 1159.

CONTESTING RECORD PROCEDURES:

The major part of this system is exempted from this requirement pursuant to 5 U.S.C. 552a(j)(2) or (k)(2). To the extent that this system is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. Access requests must be sent to the Office of the General Counsel in accordance with the procedures published at 45 CFR part 1159.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from individuals who are covered by the system, as well as from individuals with whom the subjects are associated; Federal, State, or local governmental investigative or law enforcement agencies; and other organizations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempted from 5 U.S.C. 552a except subsections (b); (c)(1) and (2); (e)(4)(A) through (F); (e)(6), (7), (9), (10), and (11); and (i) under 552a(j)(2) to the extent that the system pertains to enforcement of criminal laws. This system is exempted from 5 U.S.C. 552a(c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) under 5 U.S.C. 552a(k)(2) to the extent that the system consists of investigatory material compiled for law enforcement purposes, other than material within the scope of the exemption at 5 U.S.C. 552a(j)(2). These exemptions are contained in 45 CFR part 1159.

Dated: July 17, 2000.

Karen Elias,

Deputy General Counsel.

[FR Doc. 00–18680 Filed 7–27–00; 8:45 am]

BILLING CODE 7536–01–U

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–368]

Entergy Operations, Inc.; Notice of Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied a request by Entergy Operations, Inc., (Entergy Operations or the licensee) for an amendment to Facility Operating License No. NPF–6 issued to the licensee for operation of the Arkansas Nuclear One, Unit No. 2, nuclear reactor located in Pope County, Arkansas. Notice of Consideration of Issuance of this amendment was published in the **Federal Register** on April 5, 2000 (65 FR 17914).

The purpose of the licensee's amendment request was to revise the license to permit operation of the reactor based on a risk-informed demonstration that predicted steam generator tube integrity, with consideration of eggcrate axial flaws, is adequate to meet Regulatory Guide 1.174 numerical acceptance criteria.

The NRC staff has concluded that the licensee's request cannot be granted. The licensee was notified of the Commission's denial of the proposed change by a letter dated July 21, 2000.

By August 28, 2000, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene pursuant to 10 CFR 2.714.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001 Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date.

A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, NW., Washington, DC 20005–3502, attorney for the licensee.

For further details with respect to this action, see (1) The application for amendment dated March 9, 2000, as supplemented by letters dated April 11 and 28, May 30, June 20, 22, 23 (two letters), and 30, and July 7, 8, and 11, 2000, and (2) the Commission's letter to the licensee dated July 21, 2000.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 21st day of July 2000.

For the Nuclear Regulatory Commission.

Stuart A. Richards,

Director, Project Directorate IV and Decommissioning Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–19195 Filed 7–27–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.183, ''Alternative Radiological Source Terms for Evaluating Design Basis Accidents at Nuclear Power Reactors,'' provides guidance to licensees on voluntarily replacing the traditional source term used in design basis accident analyses with alternative source terms. These alternative source terms allow interested licensees to pursue cost-beneficial licensing actions to reduce unnecessary regulatory burden without compromising the margin of safety of the nuclear power facility.

Comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time. Written comments may be submitted to the Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory guides are available for inspection or downloading at the NRC's web site at <*WWW.NRC.GOV*> under Regulatory Guides and in NRC's Electronic Reading Room (ADAMS System) at the same site; Regulatory Guide 1.183 is under Accession Number ML003716792. Single copies of regulatory guides may be obtained free of charge by writing the Reproduction and Distribution Services Section, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by fax to (301) 415–2289, or by email to <*DISTRIBUTION@NRC.GOV*>. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 18th day of July 2000.

For the Nuclear Regulatory Commission.

Ashok C. Thadani,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 00–19126 Filed 7–27–00; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27202]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

July 21, 2000.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by August 15, 2000, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After August 15, 2000, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

FirstEnergy Corp. (70–9501)

FirstEnergy Corp. (''FirstEnergy''), 76 South Main Street, Akron, Ohio 44308, a public utility holding company claiming exemption under section 3(a)(1) of the Public Utility Holding Company Act of 1935, as amended (''Act''), by rule 2 under the Act, from registration under section 5 of the Act, has filed an application under sections 9(a)(2) and 10 of the Act.

FirstEnergy proposes to acquire directly all of the issued and outstanding voting securities of American Transmission Systems, Inc. (''ATSI''), a corporation FirstEnergy will organize to own and operate certain transmission assets more particularly described below (''Transmission Assets''), currently owned by FirstEnergy's utility company subsidiaries. These subsidiaries include Ohio Edison, Cleveland Electric, Toledo Edison, and Penn Power (collectively, ''Operating Companies'').

Upon completion of the transfer of the Transmission Assets from the Operating Companies to ATSI, ATSI will become a ''public-utility company'' as defined in the Act. FirstEnergy states that the Transmission Assets include over 7,100 circuit miles of transmission lines with nominal voltages of 345 kV, 138 kV, and 69 kV, servicing over 2.2 million customers in a 13,200 square mile area in northern and central Ohio and western Pennsylvania.

FirstEnergy states that the proposed transaction will improve service in the region by tying together control, planning, maintenance and financial responsibilities of the Operating Companies' transmission facilities into a single company. FirstEnergy further states that the transfer of the Transmission Assets to ATSI is an intermediate step in its plan to transfer its assets to a regional transmission organization.

WGL Holdings, Inc., et al. (70–9653)

WGL Holdings, Inc. (''WGL Holdings''), which is currently a wholly owned subsidiary of Washington Gas Light Company (''Washington Gas''), a gas utility company, and Washington Gas' nonutility subsidiary companies, Hampshire Gas Company (''Hampshire''), Crab Run Gas Company (''Crab Run''), Washington Gas Resources Corp. (''WGR''), and Primary Investors, LLC (''Primary Investors''), (collectively, ''Applicants''), all located at 1100 H Street, NW., Washington, DC 20080, have filed an application-declaration under sections 6(a), 7, 9(a), 10, 11, 12(b), 12(c), 13, 32, and 33 of the Act and rules 45, 46, 47, and 80–92.

On January 13, 2000, Washington Gas entered into an Agreement of Merger and Reorganization (''Reorganization'') which will result in WGL Holdings becoming a holding company over Washington Gas and the current nonutility subsidiaries (''Nonutilities'') of Washington Gas becoming direct subsidiaries of WGL Holdings.[1] Washington Gas intends to merge with WGL Holdings' wholly owned subsidiary, Washington Gas Acquisition Corp. (''Acquisition''), with Washington Gas as the surviving company.[2] Following the Reorganization, WGL Holdings intends to register as a holding company under the Act.

Washington Gas sells and delivers natural gas to customers in metropolitan Washington, DC, the adjoining areas of Maryland and Virginia, and several cities and towns in the northern Shenandoah Valley of Virginia. On April 1, 2000, Washington Gas merged its former wholly owned gas distribution subsidiary, Shenandoah Gas (''Shenandoah'') into itself.[3] The merged company now serves a total of 863,258 customer meters in an area having a population estimated at 4.5

[1] Washington Gas' shareholders and the Virginia State Corporation Commission (''VSCC'') have both approved the Reorganization.

[2] Each share of Washington Gas common stock outstanding before the Reorganization will be converted into a new share of WGL Holdings common stock. All shares of Acquisition common stock outstanding prior to the Reorganization will be converted into shares of Washington Gas, resulting in WGL Holdings becoming the owner of all outstanding shares of Washington Gas common stock. The shares of WGL Holdings common stock held by Washington Gas immediately prior to the Reorganization will be canceled and the directors of Washington Gas will become the directors of WGL Holdings.

[3] *See* Petition of Washington Gas Light Company and Shenandoah Gas Company, Case No. PUA990071 (Dec. 22, 1999).

million. Approximately 41% of the customers are located in Virginia, approximately 17% in the District of Columbia and approximately 42% in Maryland.[4] In addition to its gas distribution operations, Washington Gas offers financing for the purchase of natural gas, electrical appliances and other energy-related products and services, and operates steam and chilled water facilities located in a mixed residential commercial complex in Washington DC. Washington Gas is subject to regulation regarding retail rates and transportation service, the issuance of securities, affiliate transactions and other matters by the VSCC, the Public Service Commission of the District of Columbia, (''PSC–DC'') and the Public Service Commission of Maryland (''PSC–MD'').

Washington Gas directly owns 100% of the outstanding voting securities of three active Nonutility subsidiaries: (i) Hampshire, which operates an underground gas storage field; (ii) Crab Run, which holds an investment in a partnership that is engaged in the exploration and production of oil and gas; and (iii) WGR, which serves as the holding company for other wholly owned, Nonutility subsidiaries. WGR's direct subsidiaries are: (i) Washington Gas Energy Services, Inc., an unregulated energy marketer which holds all of the voting securities of three other subsidiaries which are engaged in providing commercial energy services and in real estate development activities; (ii) American Combustion Industries, Inc., which designs, sells, installs and services commercial heating, ventilating and air-conditioning (''HVAC'') equipment in Washington, DC and surrounding areas; (iii) WG Maritime Plaza I, Inc., whose sole purpose is to hold Washington Gas' interest in a venture to develop a 12-acre parcel of land in Washington, DC; and (iv) Washington Gas Consumer Services, Inc., which operates a fee-based program matching customers with finance companies for energy-related equipment.

Washington Gas also holds a 50% equity interest in Primary Investors, a Delaware limited liability company which serves as the holding company for investments in after-market products and services for residential and light commercial HVAC customers.

For the 12 months ended December 31, 1999, Washington Gas reported consolidated operating revenues of $1,148,853,000, of which $985,287,000 (85.8%) were derived from regulated sales of gas and transportation service, and $163,566,000 (14.2%) from diversified nonutility activities, including unregulated sales of gas and the sale, installation and servicing of residential and commercial HVAC equipment. At December 31, 1999, Washington Gas reported consolidated assets of $1,891,626,000, including net property, plant, and equipment of $1,409,036,000 and current assets of $373,143,000. Common equity represents 50% of Washington Gas' total capitalization, including short-term debt.

WGL Holdings requests that the Commission find that Washington Gas' gas distribution system constitutes an integrated gas utility system within the meaning of section 2(a)(29)(B) of the Act and that all of the direct and indirect Nonutility subsidiaries and investments are retainable under the standards of section 11(b)(1) of the Act and, as applicable, section 2 of the Gas-Related Activities Act.

In addition, the Applicants are seeking authority through December 31, 2005, (''Authorization Period'') for certain financing activities related to WGL Holdings, and the utility and Nonutility subsidiaries (''Subsidiaries''), described below.

WGL Holdings Long-Term Financing

WGL Holdings proposes to issue and sell up to an aggregate amount of $300 million of securities in the form of common stock, preferred stock, long-term debt securities and other forms of preferred or equity linked securities. WGL Holdings also proposes to issue stock options, performance shares, stock appreciation rights (''SARs''), debentures, warrants or other stock purchase rights that are exercisable for Common Stock and to issue Common Stock upon the exercise of such options, SARs, warrants or other stock purchase rights.

Common stock may be issued in one or more public or private transactions through underwriters or dealers, through agents or directly to a limited number of purchasers or a single purchaser. If underwriters are used in the sale of Common Stock, such securities will be acquired by the underwriters for their own account and may be resold from time to time in one or more transactions, including negotiated transactions, at a fixed public offering price or at varying prices determined at the time of sale. Common Stock may be offered to the public either through underwriting syndicates or directly by one or more underwriters acting alone. Common Stock may be sold directly by WGL Holdings or through agents designated by WGL Holdings from time to time.

WGL Holdings may use Common Stock as consideration for the acquisition of the securities or assets of other, existing companies WGL Holdings seeks to acquire provided that the acquisition of any such equity securities or assets has been authorized in a separate proceeding or is exempt under the Act or the rules thereunder. If Common Stock or other securities linked to Common Stock is used as consideration in connection with any such authorized or exempt acquisition, the market value of the Common Stock on the day before closing of the acquisition, or the average high and low market prices for a period prior to the closing, as negotiated by the parties, will be counted against the proposed $300 million limitation on financing.

WGL Holdings also proposes to issue Common Stock under Washington Gas' Dividend Reinvestment and Common Stock Purchase plan (''DRP''). Under the DRP, as amended, participating shareholders of WGL Holdings will be entitled to reinvest dividends and make optional cash purchases of shares of Common Stock. The DRP may also be amended to allow for purchases of Common Stock under the plan by new investors.

WGL Holdings also seeks authorization to issue Common Stock under current and possible future stock based plans maintained for the benefit of Washington Gas' employees and directors which WGL Holdings intends to adopt. Shares of Common Stock for use under the Stock Plans may either be newly issued shares, treasury shares or shares purchased in the open market. WGL Holdings will make open-market purchases of Common Stock in accordance with the terms of or in connection with the operation of the plans under rule 42. WGL Holdings may also acquire treasury shares through other open-market purchases. WGL Holdings also proposes to issue and/or sell shares of Common Stock pursuant to the existing Stock Plans and similar plans or plan funding arrangements hereafter adopted without any additional prior Commission order. Stock transactions of this variety would thus be treated the same as other stock transactions permitted pursuant to this Application/Declaration.

WGL Holdings Short-Term Debt

WGL Holdings seeks authorization to issue short-term debt up to an aggregate amount of $300 million outstanding at any one time to provide financing for general corporate purposes, other

[4] This number reflects data gathered from the companies operating separately as of December 31, 1999.

working capital requirements and investments in new enterprises until long-term financing can be obtained. The effective cost of money on short-term debt authorized in this proceeding will not exceed at the time of issuance 300 basis points over LIBOR for maturities of one year or less. WGL Holdings may sell commercial paper, from time to time, in established domestic or European commercial paper markets. Commercial paper would typically be sold to dealers at the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and maturities sold to commercial paper dealers generally.

WGL Holdings also proposes to establish bank lines in an aggregate principal amount sufficient to support projected levels of short-term borrowings and to provide an alternative source of liquidity. Loans under these lines will have maturities not more than one year from the date of each borrowing. WGL Holdings may also engage in other types of short-term financing generally available to borrowers with comparable credit ratings as it may deem appropriate in light of its needs and market conditions at the time of issuance.

Washington Gas Short-Term Debt

Washington Gas requests authority to issue and sell from time to time during the Authorization Period notes and other evidence of indebtedness having a maturity of one year or less in an aggregate principal amount outstanding at any one time not to exceed $350 million. Washington Gas also proposes to establish bank lines of credit in an aggregate principal amount sufficient to support projected levels of short-term borrowings and to provide an alternative source of liquidity. Short-term financing could include, without limitation, commercial paper sold in established domestic or European commercial paper markets in a manner similar to WGL Holdings, bank lines of credit and other debt securities. The effective cost of money on short-term debt of Washington Gas authorized in this proceeding will not exceed at the time of issuance 300 basis points over LIBOR for maturities of one year or less.

Nonutility Subisdiary Loans

Applicants request authority to make loans to associate, Nonutility subsidiaries at interest rates and maturities designed to provide a return to the lending company of not less than its effective cost of capital on the condition that the Nonutility is not directly or indirectly, wholly owned by WGL Holdings and does not sell goods or services to Washington Gas.

Guarantees

WGL Holdings requests authorization to enter into guarantees and capital maintenance agreements, obtain letters of credit, enter into expense agreements or otherwise provide credit support on behalf, or for the benefit, of any Subsidiary as may be appropriate to enable such Subsidiary to carry on its business in an aggregate principal amount not to exceed $400 million outstanding at any one time. WGL Holdings proposes to charge the cost of providing guarantees to the Subsidiary company receiving the guarantee. The cost will be determined by multiplying the amount of the WGL Holdings guarantee by the cost of obtaining the liquidity necessary to perform the guarantee for the period of time the guarantee remains outstanding. [5]

The Nonutility subsidiaries of WGL Holdings propose to provide guarantees and other forms of credit support on behalf, or for the benefit of, of other Nonutility subsidiaries in an aggregate principal amount not to exceed $200 million outstanding at any one time, exclusive of any guarantees and other forms of credit support that are exempt under rule 45(b)(7) and rule 52(b). The Nonutility subsidiary providing any such credit support may charge its associate company a fee for each guarantee provided on its behalf determined in the same manner as guarantees offered by WGL Holdings to its Subsidiaries.

Hedging Transactions

WGL Holdings, and to the extent not exempt under rule 52, its Subsidiaries, request authorization to enter into interest rate hedging transactions with respect to existing indebtedness (''Interest Rate Hedges''), subject to certain limitations and restrictions, in order to reduce or manage interest rate cost. Interest Rate Hedges would only be entered into with counterparties (''Approved Counterparties'') whose senior debt ratings, or the senior debt ratings of the counterparties' parent companies, as published by Standard and Poor's Ratings Group, are equal to or greater than BBB, or an equivalent rating from Moody's Investors Service, Fitch Investor Service or Duff and Phelps. Interest Rate Hedges will involve the use of financial instruments commonly used in today's capital markets, such as interest rate swaps, caps, collars, floors, and structured notes (*i.e.*, a debt instrument in which the principal and/or interest payments are indirectly linked to th value of an underlying asset or index), or transactions involving the purchase or sale, including short sales, of U.S. Treasury obligations. The transactions would be for fixed periods and stated notional amounts. Fees, commissions and other amounts payable to the counterparty or exchange (excluding, however, the swap or option payments) in connection with an Interest Rate Hedge will not exceed those generally obtainable in competitive markets for parties of comparable credit quality.

Anticipatory Hedges

In addition, WGL Holdings and the Subsidiaries request authorization to enter into interest rate hedging the transactions with respect to anticipated debt offerings (''Anticipatory Hedges''), subject to certain limitations and restrictions. Anticipatory Hedges would only be entered into with Approved Counterparties, and would be utilized to fix and/or limit the interest rate risk associated with any new issuance through (i) A forward sale of exchange-traded U.S. Treasury futures contracts, U.S. Treasury obligations and/or a forward swap (each a ''Forward Sale''), (ii) the purchase of put options on U.S. Treasury obligations (a ''Put Options Purchase''), (iii) a Put Options Purchase in combination with the sale of call options on U.S. Treasury obligations (a ''Zero Cost Collar''), (iv) transactions involving the purchase or sale, including short sales, of U.S. Treasury obligations, or (v) some combination of a Forward Sale, Put Options Purchase, Zero Cost Collar and/or other derivative or cash transactions, including, but not limited to structured notes, caps and collars, appropriate for the Anticipatory Hedges. Anticipatory Hedges may be executed on-exchange (''On-Exchange Trades'') with brokers through the opening of futures and/or options positions traded on the Chicago Board of Trade (''CBOT''), the opening of over-the-counter positions with one or more counterparties (''Off-Exchange Trades''), or a combination of On-Exchange Trades and Off-Exchange Trades. WGL Holdings or a subsidiary will determine the optimal structure of each Anticipatory Hedge transaction at the time of execution. WGL Holdings or a Subsidiary may decided to lock in interest rates and/or limit its exposure to interest rate increases. All open positions under Anticipatory Hedges will be closed on or prior to the date of the new issuance and neither WGL

[5] Necessary liquidity may include bank line commitment fees or letter of credit fees. In addition, WGL Holdings will pass along the cost of other transactional expenses to the Subsidiary company receiving the guarantee.

Holdings nor any Subsidiary will, at any time, take possession or make delivery of the underlying U.S. Treasury Securities.

System Money Pool

WGL Holdings, Washington Gas, Hampshire, Crab Run, WGR, Washington Gas Energy Systems, Inc., Washington Gas Energy Services, Inc., Brandywood Estates, Inc., American Combustion Industries, Inc., Washington Gas Consumer Services, and WG Maritime Plaza I, Inc. propose to establish a system money pool (''Money Pool'') and, to the extent not exempted by rule 52, also request authorization to make unsecured short-term borrowings from the Money Pool, to contribute surplus funds to the Money Pool, and to lend and extend credit to (and acquire promissory notes from) one another through the Money Pool. Washington Gas requests authority to borrow up to $350 million at any one time outstanding from the Money Pool. WGL Holdings may lend to the Money Pool but may not borrow from it. Under the proposed terms of the Money Pool Agreement, short-term funds would be available from the following sources for short-term loans to the participating Subsidiaries from time to time: (1) Surplus funds in the treasuries of Money Pool participants other than WGL Holdings, (2) surplus funds in the treasury of WGL Holdings, and (3) proceeds from bank borrowings and/or commercial paper sales by WGL Holdings or any Money Pool participant (''External Funds''). The determination of whether Washington Gas at any time has surplus funds to lend to the Money Pool or shall lend funds to the Money Pool would be made by Washington Gas' chief financial officer or treasurer, or by a designee thereof, on the basis of cash flow projections and other relevant factors in Washington Gas' sole discretion. Only those Nonutility subsidiaries identified above shall borrow through the Money Pool. WGL Holdings shall undertake to file a post-effective amendment in this proceeding seeking approval to add any additional Nonutility subsidiary to borrow through the Money Pool. It is proposed that, without further authorization of the Commission, other current or future Nonutility subsidiaries may participate in the Money Pool as lenders but not as borrowers.

Proceeds of any short-term borrowings from the Money Pool may be used by a participant (i) For the interim financing of its construction and capital expenditure programs; (ii) for its working capital needs; (iii) for the repayment, redemption or refinancing of its debt and preferred stock; (iv) to meet unexpected contingencies, payment and timing differences, and cash requirements; and (v) to otherwise finance its own business and for other lawful general corporate purposes.

Changes in Capital Stock

WGL Holdings requests authority to change the terms of any wholly owned Subsidiary's authorized capital stock capitalization by an amount deemed appropriate by WGL Holdings or other intermediate parent company. A Subsidiary would be able to change the par value, or change between par value and no-par stock, without additional Commission approval. Any such action by a utility subsidiary would be subject to and would only be taken upon the receipt of any necessary approvals by the state commissions in the state or states in which such utility subsidiary is incorporated and doing business.

Financing Subsidiaries

The Applicants request authority to acquire, directly or indirectly, the equity securities of one or more corporations, trusts, partnerships or other entities (''Financing Subsidiaries'') created specifically for the purpose of facilitating the financing of the authorized and exempt activities (including exempt and authorized acquisitions) of WGL Holdings and the Subsidiaries through the issuance of long-term debt or equity securities, including but not limited to monthly income preferred securities, to third parties. Financing Subsidiaries would loan, dividend or otherwise transfer the proceeds of the financing to its parent or to other Subsidiaries. The terms of any loan of the proceeds of any securities issued by a Financing Subsidiary would mirror the terms of those securities. WGL Holdings may, if required, guarantee or enter into expense agreements in respect of the obligations of any Financing Subsidiary which it organizes. The Subsidiaries may also provide guarantees and enter into expense agreements, if required, on behalf of any Financing Subsidiaries which they organize pursuant to Rules 45(b)(7) and 52, as applicable. If the direct parent company of a Financing Subsidiary is authorized in this proceeding or any subsequent proceeding to issue long-term debt or similar types of equity securities, then the amount of securities issued by that Financing Subsidiary would count against the limitation applicable to its parent for those securities. However, the guarantee by the parent of that security issued by its Financing Subsidiary would not be counted against the limitations on WGL Holdings guarantees or Subsidiary guarantees. In other cases, in which the parent company is not authorized in this or in a subsequent proceeding to issue similar types of securities, the amount of any guarantee not exempt under rules 45(b)(7) and 52 that is entered into by the parent company with respect to securities issued by its Financing Subsidiary would be counted against the limitation on WGL Holdings guarantees or Subsidiary guarantees, as the case may be.

Intermediate Subsidiaries

WGL Holdings proposes to acquire, directly or indirectly through a Nonutility subsidiary, the securities of one or more new subsidiary companies (''Intermediate Subsidiaries'') which may be organized exclusively for the purpose of acquiring, holding and/or financing the acquisition of the securities of or other interest in one or more exempt wholesale generators as defined in section 32 of the Act (''EWGs''), foreign utility companies as defined under section 33 of the Act (''FUCOs''), companies, the acquisition of which are, exempted from section 9(a) of the Act under rule 58 (''Rule 58 Companies''), exempt telecommunication companies as defined under section 34 of the Act (''ETCs'') or other non-exempt Nonutility subsidiaries provided that Intermediate Subsidiaries may also engage in development activities and administrative activities relating to these Subsidiaries. To the extent such transactions are not exempt from the Act or otherwise authorized or permitted by rule, regulation or order of the Commission, WGL Holdings requests authority for Intermediate Subsidiaries to provide management, administrative, project development and operating services to such entities. Such services may be rendered at fair market prices to the extent they qualify for any of the exceptions from the ''at cost'' standard provided by rule 90(d)(1). WGL Holdings also requests that Washington Gas' investments prior to the date of the reorganization in Subsidiaries engaged in ''energy-related'' activities under rule 58 be disregarded for purposes of calculating the dollar limitation on such investments under rule 58.

An Intermediate Subsidiary may be organized, among other things, (1) In order to facilitate the making of birds or proposals to develop or acquire an interest in any EWG or FUCO, Rule 58 Company, ETC or other non-exempt Nonutility subsidiary; (2) after the award of a bid proposal, in order to

facilitate closing on the purchase or financing of the acquired company; (3) at any time subsequent to the consummation of an acquisition of an interest in a company in order, among other things, to effect an adjustment in the respective ownership interests in the business held by WGL Holdings and non-affiliated investors; (4) to facilitate the sale of ownership interests in one or more acquired Nonutility companies; (5) to comply with applicable laws of foreign jurisdictions limiting or otherwise relating to the ownership of domestic companies by foreign nationals; (6) as a part of tax planning in order to limit WGL Holdings' exposure to U.S. and foreign taxes; (7) to insulate WGL Holdings and Washington Gas from operational or other business risks that may be associated with investments in Nonutility companies; or (8) for other lawful business purposes.

Investments in Intermediate Subsidiaries may take the form of any combination of the following: (1) Purchase of capital shares, partnership interests, member interests in limited liability companies, trust certificates or other forms of equity interests; (2) capital contributions; (3) open account advances with or without interest; (4) loans; and (5) guarantees issued, provided or arranged in respect of the securities or other obligations of any Intermediate Subsidiaries. Funds for any direct or indirect investment in any Intermediate Subsidiary will be derived from (1) financings authorized in this proceeding; (2) any appropriate future debt or equity securities issuance authorization obtained by WGL Holdings from the Commission; and (3) other available cash resources, including proceeds of securities sales by a Nonutility subsidiary under rule 52. To the extent that WGL Holdings provides funds or guarantees directly or indirectly to an Intermediate Subsidiary which are used for the purpose of making an investment in any EWG or FUCO or a rule 58 Company, the amount of such funds or guarantees will be included in WGL Holdings' ''aggregate investment,'' as calculated in accordance with rule 53 or rule 58, as applicable.

WGL Holdings requests authorization to consolidate or otherwise reorganize under one or more direct or indirect Intermediate Subsidiaries WGL Holdings' ownership interests in existing and future Nonutility subsidiaries. These transactions may take the form of a Nonutility subsidiary selling, contributing or transferring the equity securities of a Subsidiary as a dividend to an Intermediate Subsidiary, and Intermediate Subsidiaries acquiring, directly or indirectly, the equity securities of such companies, either by purchase or by receipt of a dividend. The purchasing Nonutility subsidiary in any transaction structured as an intrasystem sale of equity securities may execute and deliver its promissory note evidencing all or a portion of the consideration given. Each transaction would be carried out in compliance with all applicable U.S. or foreign laws and accounting requirements and any transaction structured as a sale would be carried out for a consideration equal to the book value of the equity securities being sold. WGL Holdings will report each such transaction in the next quarterly certificate filed under rule 24 in this file, as described below.

Energy Consumer Financing Activities

Washington Gas currently offers financing to its customers for the purchase of natural gas and electric appliances and other energy-related products and services and may continue to do so after the Reorganization. WGL Holdings proposes to expand its financing program for purchases from nonassociate vendors of energy-related equipment and related products and services to include financing for purchases of new or replacement gas or oil furnaces, gas swimming pool heaters, gas or electric hot water heaters, gas fireplace inserts, heat pumps, air conditioning equipment, electric and gas kitchen appliances, air and water treatment equipment and other energy conservation equipment, products and services, and for the costs of any related installation and remodeling work, such as duct work, plumbing and electrical work.

WGL Holdings proposes to offer the expanded consumer financing through one or more existing or newly formed, direct or indirect, Nonutility subsidiaries. The proposed financing activities will be limited to Virginia, Maryland and the District of Columbia. It is anticipated that in the vast majority of cases, the individuals or businesses to whom consumer financing is provide will be natural gas customers of Washington Gas or individuals or businesses who are not currently served by any natural gas supplier. Consumer financing may take the form direct loans to customers, guarantees of third-party loans or purchases, with or without recourse, from vendors of the equipment, supplies or services of installment purchase obligations executed by customers.

During the Authorization Period, WGL Holdings proposes to invest not more than $100 million in existing or new Nonutility Subsidiaries that are engaged in the business of providing financing for purchase of energy-related equipment, goods and services. These investments would be in the form of purchases of stock or other equity securities, loans, cash capital contributions and/or open account advances, WGL Holdings will use the proceeds of the financing authorized in this proceeding and/or other available cash to make such investments.

Payment of Dividends Out of Capital or Unearned Surplus

WGL Holdings proposes, on behalf of each of its current ad future non-exempt, Nonutility subsidiaries that these companies be permitted to pay dividends with respect to the securities of such companies out of capital and unearned surplus (including revaluation reserve), to the extent permitted under applicable corporate law. However, a non-exempt, Nonutility subsidiary will seek approval of the Commission before declaring or paying any dividend out of capital or unearned surplus if the subsidiary derives any material part of its revenues from the sales of goods, services, electricity or natural gas to Washington Gas.

Services

Washington Gas has been providing administrative, management, technical, legal and other support services to its subsidiaries for many years, subject to approval of the terms of those arrangements by the VSCC–VA and also to the oversight of the PSC–DC C and PSC–MD. In addition, there have been occasions when subsidiaries of Washington Gas have provided services to Washington Gas or to other Washington Gas subsidiaries. Accordingly, Washington Gas requests authorization to provide administrative, management, technical, legal and other support services to the Nonutilities and to provide similar services to WGL Holding after the Reorganization. Consistent with Section 13(a) of the Act, WGL Holdings would not be able to provide any services to Washington Gas. The Nonutilities seek to provide services to Washington Gas or other Nonutilities as may be reasonably necessary. All services or goods shall be provided in accordance with rules 90 through 92.

For the Commission by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 00–19094 Filed 7–27–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–24563; 812–11956]

Colchester Street Trust, et al.; Notice of Application

July 24, 2000.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of application for an order under (a) section 6(c) of the Investment Company Act of 1940 (the ''Act'') for exemptions from sections 18(f) and 21(b); (b) sections 6(c) and 17(a) for exemptions from sections 17(a)(1) and 17(a)(3); (c) section 12(d)(1)(J) for an exemption from section 12(d)(1); and (d) section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint transactions.

Summary of Application: Applicants request an order that would amend a prior order (''Prior Order'') [1] that permits an interfund lending and borrowing facility.

Applicants: Colchester Street Trust, Fidelity Aberdeen Street Trust, Fidelity Advisor Series I, Fidelity Advisor Series II, Fidelity Advisor Series III, Fidelity Advisor Series IV, Fidelity Advisor Series VI, Fidelity Advisor Series VII, Fidelity Advisor Series VIII, Fidelity Beacon Street Trust, Fidelity Boston Street Trust, Fidelity California Municipal Trust, Fidelity California Municipal Trust II, Fidelity Capital Trust, Fidelity Charles Street Trust, Fidelity Commonwealth Trust, Fidelity Concord Street Trust, Fidelity Congress Street Fund, Fidelity Contrafund, Fidelity Court Street Trust, Fidelity Court Street Trust II, Fidelity Covington Trust, Fidelity Destiny Portfolios, Fidelity Devonshire Trust, Fidelity Exchange Fund, Fidelity Financial Trust, Fidelity Fixed-Income Trust, Fidelity Garrison Street Trust, Fidelity Hastings Street Trust, Fidelity Hereford Street Trust, Fidelity Income Fund, Fidelity Investment Trust, Fidelity Magellan Fund, Fidelity Massachusetts Municipal Trust, Fidelity Money Market Trust, Fidelity Mt. Vernon Street Trust, Fidelity Municipal Trust, Fidelity Municipal Trust II, Fidelity New York Municipal Trust, Fidelity New York Municipal Trust II, Fidelity Oxford Trust, Fidelity Phillips Street Trust, Fidelity Puritan Trust, Fidelity Revere Street Trust, Fidelity School Street Trust, Fidelity Securities Fund, Fidelity Select Portfolios, Fidelity Summer Street Trust, Fidelity Trend Fund, Fidelity Union Street Trust II, Newbury Street Trust, Variable Insurance Products Fund, Variable Insurance Products Fund II, Variable Insurance Products Fund III (collectively, the ''Funds''); Fidelity Management & Research Company (together with any person controlling, controlled by, or under common control with Fidelity Management & Research Company (''FMR''); and all other registered open-end management investment companies for which FMR serves as investment adviser.[2]

Filing Dates: The application was filed on January 31, 2000, and an amendment was filed on July 14, 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 p.m. on August 18, 2000, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESS: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Applicants, 82 Devonshire Street, Boston, Massachusetts 02109.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Special Counsel, at (202) 942–0572, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 5th Street, N.W., Washington, D.C. 20549–0102 (tel. (202) 942–8090).

Applicants' Representations

1. Each Fund is registered under the Act as an open-end management investment company and currently is organized as either a Massachusetts or Delaware business trust. Certain of the Funds are organized as series investment companies. FMR acts as each Fund's investment adviser. Fidelity Management & Research Company is an investment adviser registered under the Investment Advisers Act of 1940 (the ''Advisers Act'').

2. The Prior Order permits the Funds to participate in a joint lending and borrowing facility under certain conditions (''Credit Facility''). The Credit Facility enables the Funds to lend money to each other for temporary purposes, such as when redemptions exceed anticipated levels (''Interfund Loans''). The Credit Facility is designed both to reduce the cost of borrowing for the Funds and enhance the lending Fund's ability to earn higher rates of interest on investment of their short-term balances. The Prior Order requires that the interest rate for loans made through the Credit Facility (''Interfund Loan Rate'') be based on the average of the current rate of overnight repurchase agreements (the ''FICASH Rate'') [3] and a benchmark rate representing the lowest bank loan rate available to the Funds (''Bank Loan Rate''). Applicants request an order amending the Prior Order to permit FMR to calculate the Interfund Loan Rate as the average of (a) the higher of the overnight time deposit rate (the ''OTD Rate'') and the FICASH Rate, and (b) the Bank Loan Rate.

Applicants' Legal Analysis

1. Section 17(a)(3) of the Act generally prohibits any affiliated person, or affiliated person of an affiliate person (''second-tier affiliate''), from borrowing money or other property from a registered investment company. Section 21(b) generally prohibits any registered management investment company from lending money or other property to any person if that person controls or is under common control with the company. Section 2(a)(3)(c) of the Act defines an ''affiliated person'' of another person, in part, to be any person directly or indirectly controlling, controlled by, or under common control with, the other person. Applicants state that the Funds may be deemed to be under common control because they either

[1] *Colchester Street Trust, et al.,* Investment Company Act Release Nos. 23787 (Apr. 15, 1999) (notice) and 23831 (May 11, 1999) (order).

[2] All existing investment companies that currently intend to rely on the requested order are named as applicants. Any other existing or future investment company that subsequently relies on the requested order will comply with the terms and conditions of the application.

[3] FICASH is a joint account that was established pursuant to SEC exemptive orders. In the Matter of Daily Money Fund, *et al.,* Investment Company Act Releases Nos. 11962 (Sept. 29, 1981) (notice) and 12061 (Nov. 27, 1981) (order); In the Matter of Daily Money Fund, *et al.,* Investment Company Act Release Nos. 19594 (July 26, 1993) (notice) and 19647 (Aug. 23, 1993) (order). Pursuant to these orders, during each trading day, the Funds' cash balances may be deposited in FICASH. FICASH invests these cash balances in one or more large, short-term repurchase agreements. FMR administers FICASH as part of its duties under its existing advisory contract with each of the Funds, and does not charge any additional fee for this service.

share a common investment adviser or have an investment adviser that is under common control with the investment adviser of the other Funds.

2. Section 17(a)(1) of the Act generally prohibits an affiliated person of a registered investment company, or a second-tier affiliate, from selling any securities or other property to the company. Section 12(d)(1) of the Act generally makes it unlawful for a registered investment company to purchase or otherwise acquire any security issued by any other investment company except in accordance with the limitations set forth in that section. Applicants believe that the obligation of a borrowing Fund to repay an Interfund Loan may constitute a security under sections 17(a)(1) and 12(d)(1).

3. Section 18(f)(1) of the Act prohibits an open-end investment company from issuing any senior security except that the company is permitted to borrow from any bank; provided that immediately after any such borrowing there is an asset coverage of at least 300 per centum for all borrowings of the company. Under section 18(g) of the Act, ''senior security'' includes any bond, debenture, note, or similar obligation or instrument constituting a security and evidencing indebtness. The Prior Order granted relief from section 18(f)(1) to the limited extent necessary to implement the credit facility (because the lending Funds are not banks).

4. Section 17(b) of the Act authorizes the SEC to exempt a proposed transaction from section 17(a) provided that the terms of the transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and the transaction is consistent with the policy of the investment company as recited in its registration statement and with the general purposes of the Act. Section 6(c) of the Act provides that an exemptive order may be granted where an 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. Section 12(d)(1)(J) of the Act provides that the SEC may exempt persons or transactions from any provision of section 12(d)(1) of and to the extent such exception is consistent with the public interest and the protection of investors.

5. Section 17(d) of the Act and rule 17d–1 under the Act generally prohibit any affiliated person of a registered investment company, or second-tier affiliate, when acting as principal, from effecting any joint transaction in which the company participates unless the transaction is approved by the SEC. Rule 17d–1 provides that in passing upon such applications, the SEC will consider whether the participation of a registered investment company in a joint enterprise on the basis proposed is consistent with the provisions, policies, and purposes of the Act and the extent to which the company's participation is on a basis different from or less advantageous than that of other participants.

6. Applicants request an order under (a) section 6(c) of the Act for exemptions from sections 18(f) and 21(b); (b) sections 6(c) and 17(a) for exemptions from sections 17(a)(1) and 17(a)(3); (c) section 12(d)(1)(J) for an exemption from section 12(d)(1); and (d) section 17(d) of the Act and rule 17d–1 under the Act. The requested order would amend the Prior Order to permit FMR to calculate the Interfund Loan Rate as the average of (a) the higher of the OTD Rate and the FICASH Rate, and (b) the Bank Loan Rate. Applicants state that the requested relief meets the standards for relief under sections 6(c), 12(d)(1)(J), and 17(b), and rule 17d–1.

7. Applicants state that the OTD Rate is at times a more accurate indicator of the actual overnight investment rate available to the lending Funds than the FICASH Rate. Applicants also state that using the higher of the OTD Rate and the FICASH Rate to calculate the Interfund Loan Rate will make it more likely that the lending Funds will receive a market rate of return in excess of other market alternatives while the borrowing Funds receive a loan rate lower than the Bank Loan Rate.

8. Applicants state that the Credit Facility will not involve any potential that one Fund might receive a preferential rate to the disadvantage of another Fund. Applicants assert that under the Credit Facility, rates will be set pursuant to a pre-established formula, approved the board of trustees of each Fund (the ''Board''). Applicants state that all Funds participating in the Credit Facility on any given day will receive the same rate.

Applicants' Conditions

Applicants agree that the requested order will be subject to the following conditions:

1. The interest rates to be charged to the Funds under the Credit Facility will be the average of (a) the higher of the OTD Rate and the FICASH Rate and (b) the Bank Loan Rate.

2. The cash management department of Fidelity Service Company, Inc. (''Cash Management Department'') on each business day will compare the Interfund Loan Rate set pursuant to the formula calculated as provided in condition 1 with the OTD Rate, the FICASH Rate negotiated that day, and all short-term borrowing rates quotes to any of the Funds by any bank with which any Fund has a loan agreement. At least three such quotations will be obtained each day in which any Fund borrows through the Credit Facility prior to such borrowing. The Cash Management Department will make cash available for Interfund Loans only if the Interfund Loan Rate is more favorable to the lending Fund than both the OTD Rate and the FICASH Rate and more favorable to the borrowing Fund than the lowest quoted Bank Loan Rate.

3. If a Fund has outstanding borrowings from one or more banks, any Interfund Loans to the Fund (a) will be at an interest rate equal to or lower than any outstanding bank loan, (b) will be secured at least on an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding bank loan that requires collateral, (c) will have a maturity no longer than any outstanding bank loan (and in no event over seven days), and (d) will provide that, if an event of default occurs under any agreement evidencing an outstanding bank loan, it will automatically (without need for action or notice by the lending Fund) constitute an immediate event of default under the Interfund Loan agreement entitling the lending Fund to call the loan (and exercise all rights with respect to any collateral) and that the call will be made if the lending bank exercises its right to call its loan under its agreement with the borrowing Fund.

4. A Fund may make an unsecured borrowing through the Credit Facility if its outstanding borrowings from all sources immediately after the interfund borrowing total 10% or less of its total assets, provided that if the Fund has a secured loan outstanding from any other lender, including but not limited to another Fund, the Fund's interfund borrowing will be secured on at least an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding loan that requires collateral. If a Fund's total outstanding borrowings immediately after an interfund borrowing would be greater than 10% of its total assets, the Fund may borrow through the Credit Facility only on a secured basis. A Fund could not borrow through the Credit Facility or from any other source if its total outstanding borrowings immediately after the interfund borrowing would be more than 33⅓% of its total assets.

5. Before any Fund that has outstanding interfund borrowings may,

through additional borrowings, cause its outstanding borrowings from all sources to exceed 10% of its total assets, the Fund must first secure each outstanding Interfund Loan by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan. If the total outstanding borrowings of a Fund with outstanding Interfund Loans exceed 10% of its total assets for any other reason (such as decline in net asset value or because of shareholder redemptions), the Fund will within one business day afterwards: (a) Repay all its outstanding Interfund Loans, (b) reduce its outstanding indebtedness to 10% or less of its total assets, or (c) secure each outstanding Interfund Loan by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan until the Fund's total outstanding borrowings cease to exceed 10% of its total assets, at which time the collateral called for by this condition will no longer be required. Until each Interfund Loan that is outstanding at any time that a Fund's total outstanding borrowings exceeds 10% is repaid or the Fund's total outstanding borrowings cease to exceed 10% of its total assets, the Fund will mark the value of the collateral to market each day and will pledge additional collateral as is necessary to maintain the market value of the collateral that secures each outstanding Interfund Loan at least equal to 102% of the outstanding principal value of the loan.

6. No Fund may loan funds through the Credit Facility if the loan would cause its aggregate outstanding loans through the credit facility to exceed 15% of its current net assets at the time of the loan.

7. A Fund's Interfund Loans to any one Fund will be limited to 5% of the lending Fund's net assets.

8. The duration of the Interfund Loans will be limited to the time required to receive payment for securities sold, but in no event more than seven days. Loans effected within seven days of each other will be treated as separate loan transactions for purposes of this condition.

9. All loans may be called on one business day's notice by a lending Fund and may be repaid on any day by a borrowing Fund.

10. A Fund's participation in the Credit Facility must be consistent with its investment policies and limitations and declaration of trust. No Fund may borrow through the Credit Facility unless the Fund has a fundamental policy that prevents the Fund from borrowing for other than temporary or emergency purposes (and not for leveraging), except that certain Funds may engage in reverse repurchase agreements for any purpose.

11. The Cash Management Department will calculate total Fund borrowing and lending demand through the Credit Facility, and allocate loans on an equitable basis among Funds, without the intervention of the portfolio manager of any Fund. The Cash Management Department will not solicit cash for the Credit Facility from any Fund or prospectively publish or disseminate loan demand data to portfolio mangers. The Cash Management Department will invest amounts remaining after satisfaction of borrowing demand in FICASH or money market funds that are advised by FMR or return remaining amounts for investment directly by the portfolio managers of the Funds.

12. FMR will monitor the interest rates charged and the other terms and conditions of the Interfund Loans and will make quarterly report to the Board and each Fund concerning the participation of the Funds in the Credit Facility and the terms and other conditions of any extensions of credit thereunder.

13. Each Fund's Board, including a majority of the trustees who are not interested persons of the Funds as defined in section 2(a)(19) of the Act (''Independent Trustees''), will: (a) Review, no less frequently than quarterly, the Fund's participation in the Credit Facility during the preceding quarter for compliance with the conditions of any order permitting such transactions; (b) establish the Bank Loan Rate formula used to determine the interest rate on Interfund Loans, and review, no less frequently than annually, the continuing appropriateness of the Bank Loan Rate formula; and (c) review, no less frequently than annually, the continuing appropriateness of the Fund's participation in the Credit Facility.

14. In the event an Interfund Loan is not paid according to its terms and the default is not cured within two business days from its maturity or from the time the lending Fund makes a demand for payment under the provisions of the Interfund Loan agreement, FMR will promptly refer the loan for arbitration to a retired Independent Trustee previously selected by the Board of each Fund, who no longer has any fiduciary responsibilities to any Fund, and who will serve a arbitrator of disputes concerning Interfund Loans. The arbitrator will resolve any problem promptly, and the arbitrator's decision will be binding on both Funds. The arbitrator will submit, at least annually, a written report to the Boards setting forth a description of the nature of any dispute and the actions taken by the Funds to resolve the dispute.

15. Each Fund will maintain and preserve, for a period of not less than six years from the end of the fiscal year in which any transaction under the Credit Facility occurred, the first two years in an easily accessible place, written records of all transactions setting forth a description of the terms of the transactions, including the amount, the maturity and the rate of interest on the loan, the rate of interest available at the time on short-term repurchase agreements and commercial bank borrowings, and any other information presented to the Fund's Boards in connection with the review required by conditions 12 and 13.

16. Compliance with the conditions to any order issued on the application will be considered by the external auditors as part of their internal control procedures, performed in connection with Fund audit examinations, which form the basis, in part, of the auditors' report on internal accounting controls in Form N–SAR.

17. No Fund will be permitted to participate in the Credit Facility unless it has fully disclosed in its registration statement all material facts about its intended participation.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 00–19093 Filed 7–27–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43043; File No. SR–CBOE–00–25]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Board Options Exchange, Inc. To Trade Standardized Equity Options on Trust Issued Receipts

July 17, 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 June 23, 2000, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II 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 and to approve the proposed rule change on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to adopt new listing and maintenance standards to allow the Exchange to trade standardized equity options on trust issued receipts. The text of the proposed rule change follows. *Italics* indicate text to be added.

* * * * *

Chicago Board Options Exchange, Incorporated Rules

* * * * *

Rule 5.3 Criteria for Underlying Securities

(a)–(b) Unchanged.

** * * Interpretations and Policies*

.01–.06 Unchanged.

.07 Securities deemed appropriate for options trading shall include shares or other securities (''Trust Issued Receipts'') that are principally traded on a national securities exchange or through the facilities of a national securities association and reported as a national market security, and that represent ownership of the specific deposited securities held by a trust, provided:

(a)(i) the Trust Issued Receipts meet the criteria and guidelines for underlying securities set forth in Interpretation and Policy .01 to this Rule 5.3; or

(ii) the Trust Issued Receipts must be available for issuance or cancellation each business day from the Trust in exchange for the underlying deposited securities; and

(b) not more than 20% of the weight of the Trust Issued Receipt is represented by ADRs on securities for which the primary market is not subject to a comprehensive surveillance agreement.

* * * * *

Rule 5.4 Withdrawal of Approval of Underlying Securities

Unchanged.

** * * Interpretations and Policies*

.01–.08 Unchanged.

.09 Absent exceptional circumstances, securities initially approved for options trading pursuant to Interpretation and Policy .07 under Rule 5.3 (such securities are defined and referred to in that Interpretation and Policy as ''Trust Issued Receipts'') shall not be deemed to meet the Exchange's requirements for continued approval, and the Exchange shall not open for trading any additional series of option contracts of the class covering such Trust Issued Receipts, whenever the Trust Issued Receipts are delisted and trading in the Receipts is suspended on a national securities exchange, or the Trust Issued Receipts are no longer traded as national market securities through the facilities of a national securities association. In addition, the Exchange shall consider the suspension of opening transactions in any series of options of the class covering Trust Issued Receipts in any of the following circumstances:

(1) In accordance with the terms of paragraphs (a) through (g) of Interpretation and Policy .01 of this Rule 5.4 in the case of options covering Trust Issued Receipts when such options were approved pursuant to paragraph (a)(i) of Interpretation and Policy .07 under Rule 5.3;

(2) The Trust has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of Trust Issued Receipts for 30 or more consecutive trading days;

(3) The Trust has fewer than 50,000 receipts issued and outstanding,[3]

(4) The market value of all receipts issued and outstanding is less than $1,000,000; or

(5) Such other event shall occur or condition exist that in the opinion of the Exchange makes further dealing in such options on the Exchange inadvisable.

.10 For Holding Company Depositary Receipts (HOLDRs), the Exchange will not open additional series of options overlying HOLDRs (without prior Commission approval) if: (1) the proportion of securities underlying standardized equity options to all securities held in a HOLDRs trust is less than 80% (as measured by their relative weightings in the HOLDRs trust); or (2) less than 80% of the total number of securities held in a HOLDRs trust underlie standardized equity options.

* * * * *

[3] The Exchange has confirmed that ''Trust'' should be capitalized in the proposed rule text. Telephone conversation between Angelo Evangelou, Attorney, Legal Division, CBOE, and Heather Traeger, Attorney, Division of Market Regulation, SEC, on July 12, 2000.

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 CBOE 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 III below. The CBOE 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 the proposed rule change is to provide for the trading of options, including FLEX equity options,[4] on exchange-listed trust issued receipts. The Exchange believes that the listing and maintenance criteria proposed in its new rule are consistent with the options listing and maintenance criteria for trust issued receipts currently used by the American Stock Exchange LLC (''Amex'').[5] Trust issued receipts are exchange-listed securities representing beneficial ownership of the specific deposited securities represented by the receipts. They are negotiable receipts issued by a trust representing securities of issuers that have been deposited and are held on behalf of the holders of the trust issued receipts. Trust issued receipts, which trade in round-lots of 100, and multiples thereof, may be issued after their initial offering through a deposit with the trustee of the required number of shares of common stock of the underlying issuers. This characteristic of trust issued receipts is similar to that of exchange-traded fund shares, which also may be created on any business day upon deposit of the requisite securities comprising a creation unit.[6] The trust will only issue receipts upon the deposit of the shares of underlying securities that are represented by a round-lot of 100 receipts. Likewise, the trust will cancel, and an investor may

[4] FLEX equity options provide investors with the ability to customize basic option features including size, expiration date, exercise style and certain exercise prices.

[5] The Amex provisions were approved by the Commission on June 15, 2000. *See* Securities Exchange Act Release No. 42947 (June 15, 2000), 65 FR 39211 (June 23, 2000) (SR–Amex–99–37).

[6] The Exchange received approval to trade options on exchange-traded fund shares on July 2, 1998. *See* Securities Exchange Act Release No. 40166 (July 2, 1998), 63 FR 37430 (July 10, 1998).

obtain, hold, trade or surrender trust issued receipts in a round-lot and round-lot multiples of 100 receipts.

Generally, options (including FLEX equity options) on trust issued receipts are proposed to be traded on the Exchange pursuant to the same rules and procedures that apply to trading in options on equity securities or indexes of equity securities. The Exchange will list option contracts covering 100 trust issued receipts, the minimum required round-lot trading size for the underlying receipts. Strike prices for the non-FLEX contracts will be set to bracket the trust issued receipts at the same intervals that apply to other equity options under CBOE Rule 5.5 (*i.e.,* 2½ point intervals for underlying equity values up to $25; 5 point intervals for underlying equity values greater than $25 up to $200; and 10 point intervals for underlying equity values greater than $200). The proposed position and exercise limits for non-FLEX options on trust issued receipts would be the same as those established for other non-FLEX equity options, as set forth in CBOE Rule 4.11. The Exchange anticipates that most options on trust issued receipts will initially qualify for the lowest position limit. However, as with other equity options, applicable position limits will be increased for options if the volume of trading in the trust issued receipts increases to the extent needed to permit a higher limit. As is the case of all FLEX equity options, no position and exercise limits will be applicable to FLEX equity options overlying trust issued receipts.

The listing and maintenance standards proposed for options on trust issued receipts are set forth respectively in proposed Interpretation and Policy .07 under CBOE Rule 5.3, and in proposed Interpretation and Policy .09 under CBOE Rule 5.4. Pursuant to the proposed initial listing standards, the Exchange will list only trust issued receipts that are principally traded on a national securities exchange or through the facilities of a national securities association and reported as national market securities. In addition, the initial listing standards require that either: (i) The trust issued receipts meet the uniform options listing standards in Interpretation and Policy .01 of CBOE Rule 5.3, which include criteria covering the minimum public float, trading volume, and share price of the underlying security in order to list the option;[7] or (ii) the trust issued receipts must be available for issuance or cancellation each business day from the trust in exchange for the underlying deposited securities.

In addition, listing standards for options on trust issued receipts will require that any American Depositary Receipts (ADRs) in the portfolio on which the Trust is based for which the securities underlying the ADRs' primary markets are in countries that are not subject to comprehensive surveillance agreements will not in the aggregate represent more than 20 percent of the weight of the portfolio.

The Exchange's proposed maintenance standards provide that if a particular series of trust issued receipts should cease to trade on an exchange or as national market securities in the over-the-counter market, there will be no opening transactions in the options on the trust issued receipts, and all such options will trade on a liquidation-only basis (*i.e.,* only closing transactions to permit the closing of outstanding open options positions will be permitted). In addition, the Exchange will consider the suspension of opening transactions in any series of options of the class covering trust issued receipts if: (i) For options on trust issued receipts that were listed pursuant to the equity option listing standards of Interpretation and Policy .01 of CBOE Rule 5.3, the options fail to meet the option maintenance standards in Interpretation and Policy .01 of CBOE Rule 5.4;[8] (ii) the trust has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of trust issued receipts for 30 or more consecutive trading days; (iii) the trust has fewer than 50,000 receipts issued and outstanding; (iv) the market value of all receipts issued and outstanding is less than $1,000,000; or (v) such other event shall occur or condition exists that, in the opinion of the Exchange, makes further dealing in such options on the Exchange inadvisable. Furthermore, the Exchange will not open additional series of options on any Holding Company Depositary Receipts (''HOLDRs'') a type of trust issued receipt, without prior Commission approval, if: (1) The proportion of securities underlying standardized equity options to all securities held in a HOLDRs trust is less than 80 percent (as measured by the relative weightings in the HOLDRs trust);[9] or (2) less than 80 percent of the number of securities held by a HOLDR trust underlie standardized options.

Options on trust issued receipts will be physically settled and will have the American-style exercise feature used on all non-FLEX equity options, and not the European-style feature. The Exchange, however, also proposes to trade FLEX equity options which will be available with both the American-style and European-style exercise feature, as well as other FLEX equity features.[10]

The proposed margin requirements for options on trust issued receipts are at the same levels that apply to options generally under CBOE Chapter 12, except, with respect to trust issued receipts based on a broad-based portfolio, minimum margin must be deposited and maintained equal to 100 percent of the current market value of the option plus 15 percent of the market value of equivalent units of the underlying security value. Trust issued receipts that hold securities based upon a narrow-based portfolio must have options margin that equals at least 100 percent of the current market value of the contract plus 20 percent of the market value of equivalent units of the underlying security value. In this respect, the margin requirements proposed for options on trust issued receipts are comparable to margin requirements that currently apply to broad-based and narrow-based index options. Also, holders of options on trust issued receipts who exercise and receive the underlying trust issued receipts must receive a product description or prospectus, as appropriate.

Lastly, the Exchange believes it has the necessary systems capacity to support the additional series of options that would result from the trading of options on HOLDRS.

[7] Specifically, Interpretation and Policy .01 of CBOE Rule 5.3 requires the underlying security to have a public float of 7,000,000 shares, 2,000 holders, trading volume of 2,400,000 shares in the preceding 12 months, a share price of $7.50 for the majority of the business days during the three calendar months preceding the date of the selection, and that the issuer of the underlying security is in compliance with the Act.

[8] Specifically, Interpretation and Policy .01 of CBOE Rule 5.4 provides that an underlying security will not meet the Exchange's requirements for continued listing when, among other things: (i) There are fewer than 6,300,000 publicly held shares; (ii) there are fewer than 1,600 holders; (iii) trading volume was less than 1,800,000 shares in the preceding twelve months; and (iv) the share price of the underlying security closed below $5 on a majority of the business days during the preceding six months.

[9] The Exchange represents that the weight of each security in a HOLDR trust will be determined by calculating the sum of the number of shares of each security (represented in a single HOLDR) and underlying options multiplied by its respective share price divided by the sum of the number of shares of all securities (represented in a single HOLDR) multiplied by their respective share prices.

[10] An American-style option may be exercised at any time prior to its expiration, while a European-style option may be exercised only at its expiration date.

2. Statutory Basis

The CBOE believes that, by providing investors with a better means to hedge their positions in the underlying trust issued receipts, as well as an alternative market center in which to trade these products, thereby increasing competition, the proposed rule change is consistent with Section 6(b)(5) of the Act.[11] Section 6(b)(5) requires that exchange rules be designed to promote just and equitable principles of trade, 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.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. CBOE–00–25 and should be submitted by August 18, 2000.

[11] 15 U.S.C. 78f(b)(5).

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with the requirements of Section 6(b)(5).[12] The Commission notes that is has previously approved similar listing standards proposed by the Amex for options on trust issued receipts, and believes that the CBOE's proposal contains adequate safeguards, matching those previously approved.[13] As the Commission found in its previous approval of the listing standards proposed by the Amex, the listing and trading of options, including FLEX equity options on exchange-traded trust issued receipts, should give investors a better means to hedge their positions in the underlying trust issued receipts. The Commission also believes that pricing of the underlying trust issued receipts may become more efficient, and market makers in these shares, by virtue of enhanced hedging opportunities, may be able to provide deeper and more liquid markets. In sum, the Commission believes that options on trust issued receipts likely will engender the same benefits to investors and the marketplace that exist with respect to options on common stock, thereby serving to promote the public interest, to remove impediments to a free and open securities market, and to promote efficiency, competition, and capital formation.[14]

The Commission finds that the Exchange's listing and delisting criteria for options on trust issued receipts are adequate. The proposed listing and maintenance requirements should ensure that there exist adequate supplies of the underlying trust issued receipts in case of the exercise of an option, and a minimum level of liquidity to control against manipulation and to allow for the maintenance of fair and orderly markets. The CBOE's additional requirements for opening additional series or options on HOLDRs will also ensure that the underlying securities are options eligible, and for the most part will satisfy minimum thresholds previously approved by the Commission.

The Commission also believes that the surveillance standards developed by the CBOE for options on trust issued receipts are adequate to address the concerns associated with the listing and trading of such securities. The CBOE's proposal to limit the weight of the portfolio that may be composed of ADRs whose primary markets are in countries that are not subject to comprehensive surveillance agreements is similar to that previously approved by the Commission.[15] As to domestically traded trust issued receipts themselves and the domestic stocks in the underlying portfolio, the Intermarket Surveillance Group (''ISG'') Agreement will be applicable to the trading of options on trust issued receipts.[16]

Finally, the Commission believes that the CBOE's proposed margin requirements are appropriate. The Commission notes that they are comparable to margin requirements that currently apply to broad-based and narrow-based index options, and to those previously approved for use at the Amex.[17]

The Commission finds good cause for approving the proposed rule change (SR–CBOE–00–25) prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register** under Section 19(b)(2) of the Act.[18] As noted above, the trading requirements for options on trust issued receipts at the CBOE will be substantially similar to those at the Amex, which the Commission has approved.[19] The Commission does not believe that the proposed rule change raises novel regulatory issues that were not already addressed and should benefit holders of trust issued receipts by permitting them to use options to manage the risks of their positions in the receipts. Accordingly, the Commission finds that there is good cause, consistent with Section 6(b)(5) of the Act,[20] to approve the proposal on an accelerated basis.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[21] that the proposed rule change (SR–CBOE–00–25) is hereby approved on an accelerated basis.

[12] *Id.*

[13] *See supra* note 5.

[14] In approving this rule, 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).

[15] *See supra* note 5.

[16] ISG was formed on July 14, 1983, to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets.

[17] *See supra* note 5.

[18] 15 U.S.C. 78s(b)(2).

[19] *See supra* note 5.

[20] 15 U.S.C. 78f(b)(5).

[21] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[22]

Jonathan G. Katz,

Secretary.

[FR Doc. 00–19054 Filed 7–27–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43056; File No. SR–CBOE–99–15]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 3 to the Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Membership Rules

July 19, 2000.

I. Introduction

On April 12, 1999, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''Commission'' or ''SEC''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to revise the CBOE's membership rules. The CBOE amended its proposal on July 15, 1999, November 3, 1999, and April 26, 2000.[3]

Notice of the proposed rule change and Amendment Nos. 1 and 2 were published for comment in the **Federal Register** on November 18, 1999.[4] The Commission received no comment letters regarding the proposal. This order approves the proposal, as amended. In addition, the Commission is publishing notice to solicit comments on, and is simultaneously approving, on an accelerated basis, Amendment No. 3 to the proposal.

II. Description of the Proposal

As described below, the CBOE proposes to make extensive changes to revise and update its membership rules.

A. Definitions

The CBOE proposes to amend the definition of ''lessor'' in CBOE Rule 1.1(ff) to clarify that a member organization that is a lessor of an Exchange membership may transact business with the public, provided the organization is approved to do so pursuant to CBOE Rule 9.1, ''Exchange Approval.'' Specifically, CBOE proposes to delete the second sentence of CBOE Rule 1.1(ff) because the CBOE believes that the sentence could be ready to imply that a lessor member organization is not permitted to transact business with the public.

The CBOE proposes to amend the definition of ''nominee'' in CBOE Rule 1.1(pp) to: (1) Clarify that under the CBOE's rules, as amended, not all nominees are required to have an authorized floor function,[5] and (2) eliminate a provision in the current definition indicating that all nominees shall be deemed to be Exchange members because CBOE Rule 3.8(b), as amended, states that a nominee of a member organization approved to act solely as a lessor shall be deemed an associated person of the organization and not an individual member.

B. CBOE Rules 3.1, 3.2, and 3.3

The CBOE proposes to revise CBOE Rule 3.1, ''Public Securities Business,'' to clarify that the members referred to in subparagraphs (b)(1)(i) and (b)(1)(ii) are member organizations. CBOE Rule 3.1(b)(1)(i) refers to member organizations approved to transact business with the public in accordance with CBOE Rule 9.1, and CBOE Rule 3.1(b)(ii) refers to member organizations approved to clear Exchange transactions.

In addition, the CBOE proposes to delete CBOE Rule 3.1(b)(2), which requires compliance with Section 11(a) of the Act[6] for the following reasons: (1) CBOE Rule 4.2, ''Adherence to Law,'' currently requires compliance with the Act; and (2) CBOE Rule 3.1(b) is intended to set forth permissible membership capacities for the purpose of satisfying the requirement under Section 2.2 of Article II of the CBOE Constitution and CBOE Rule 3.1(a) that every member have as the principal purpose of its membership the conduct of a public securities business.

The CBOE also proposes to amend CBOE Rule 3.1 to refer separately to the membership capacity of a nominee and the membership capacity of an individual who has registered his or her membership for a member organization.

CBOE Rule 3.2, ''Qualifications and Membership Statuses of Individual Members,'' as amended, clarifies certain requirements for individual members and lists individual membership statuses. Specifically, CBOE Rule 3.2(a) indicates that the current requirement that an individual member must be 21 years of age applies to every individual member and not solely to individual members who own memberships. CBOE Rule 3.2(b) and CBOE Rule 3.2, Interpretation and Policy .01, list all of the individual membership statuses under the Exchange's rules, including those that are approved by the CBOE's Membership Committee (''Membership Committee'') and those that are approved by Exchange bodies other than the Membership Committee.[7] CBOE Rule 3.2(c) states that every individual member who is a lessee, a Chicago Board of Trade (''CBOT'') exerciser, or an owner (who is not a lessor) must have an authorized floor function. CBOE Rule 3.2(c) also codifies the definition of an authorized floor function by indicating that an individual is deemed to have an authorized floor function if the member is approved by the Membership Committee to act as a market maker and/or floor broker.

[22] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Arthur B. Reinstein, Assistant General Counsel, CBOE, to Kenneth Rosen, Attorney, Division of Market Regulation (''Division''), Commission, dated July 14, 1999 (''Amendment No. 1''); letter from Arthur B. Reinstein, Assistant General Counsel, CBOE, to Yvonne Fraticelli, Division, Commission, dated November 3, 1999 (''Amendment No. 2''); and letter from Arthur R. Reinstein, Assistant General Counsel, CBOE, to Yvonne Fraticelli, Division, Commission, dated April 25, 2000 (''Amendment No. 3''). Amendment No. 1 made numerous technical changes to the proposed rule language and corresponding changes in the Purpose section of the CBOE's filing. Amendment No. 2 made minor technical corrections to the text of the proposed rule and made a conforming change by deleting Section 8(h) from the Exchange's Option Trading Lease Pool Procedures. Amendment No. 3 revised the requirements proposed in CBOE Rule 3.4 for foreign member organizations.

[4] *See* Securities Exchange Act Release No. 42111 (November 5, 1999), 64 FR 63065.

[5] Under proposed CBOE Rules 3.8(a)(iii) and 3.8(b)(iii), nominees of member organizations approved solely to transact business with the public and nominees of lessor member organizations are not required to have an authorized floor function.

[6] 15 U.S.C. 78k(a).

[7] CBOE Rule 3.2(b) states that the individual membership statuses approved by the Membership Committee include: (i) owner; (ii) lessor; (iii) lessee; (iv) Chicago Board of Trade (''CBOT'') exerciser; (v) sole proprietor; (vi) individual with a membership that has been registered for a member organization; (vii) nominee of a member organization; (viii) market maker; (ix) floor broker; (x) member eligible to trade securities pursuant to Chapter XXX of the CBOE's rules; and (xi) trust member. Proposed CBOE Rule 3.2(b) also notes that the individual permit statuses that are approved by the Membership Committee are IPC Permit exerciser and Options Trading Permit holder. Proposed Interpretation and Policy .01 lists the following individual membership statuses that are approved by CBOE bodies other than the Membership Committee: (i) Designated Primary Market Maker (''DPM'') designee; (ii) FLEX appointed market maker for FLEX index options; (iii) FLEX qualified market maker for FLEX equity options; (iv) lead market maker in OEX or DJX options; and (v) supplemental market maker in OEX or DJX options. CBOE Rule 3.3, Interpretation and Policy .02 states that member organization membership statuses that are approved by CBOE bodies other than the Membership Committee include Designated Primary Market Makers.

CBOE Rule 3.3, ''Qualifications and Membership Statuses of Member Organizations,'' as amended, is similar in structure to CBOE Rule 3.2 and sets forth all of the membership statuses of member organizations under the Exchange's rules, including those that are approved by the Membership Committee and those that are approved by Exchange bodies other than the Membership Committee. [8] CBOE Rule 3.3(c) sets forth the longstanding Exchange policy that a member organization that is a clearing member or an order service firm must possess at least one membership for which the organization is not a lessor. CBOE Rule 3.3(d) clarifies that a member organization that desires to become a different type of business entity must apply for membership in the name of the new entity.

CBOE Rule 3.3, Interpretation and Policy .01, indicates that the members of a limited liability company will be deemed its principal shareholders, and its members with management responsibility and its managers will be deemed executive officers.

C. CBOE Rule 3.4

Currently, CBOE Rule 3.3 provides that an organization not organized under United States law may not become a member organization unless the organization is organized under other laws approved by the Exchange's Board of Directors. Due to the increasingly global nature of the securities markets, the Exchange has decided to amend its rules to permit foreign entities to become members of the Exchange, provided that the foreign entities satisfy the requirements set forth in new CBOE Rule 3.4, ''Qualifications of Foreign Member Organizations,'' that are designed to eliminate potential hindrances to regulating foreign members. On April 26, 2000, the CBOE filed Amendment No. 3 to the proposal, which provides additional requirements for foreign member organizations.[9] CBOE Rule 3.4, as amended, requires an organization not organized under the laws of the United States to:

- Be organized under the laws of a country with respect to which an information sharing agreement, memorandum of understanding, or treaty is in effect that provides the Commission with access to securities trading activity in that country;
- Disclose to the CBOE all persons associated with the organization and all tiers of ownership, until the ultimate beneficial owners of the organization are disclosed;
- Maintain in english at a location in the U.S. the books and records of the organization relating to the organization's business on the CBOE, including trading records, and any other books and records that a broker or dealer registered under Section 15 of the Act would be required to maintain;
- Maintain its financial records in accordance with U.S. accounting standards;
- Agree to permit inspections by the CBOE and by the Commission of the foreign operations of the organization related to its securities business;
- Waive applicable secrecy laws and be exempted from any applicable blocking statutes in its domiciliary jurisdiction;
- Provide the CBOE with an opinion of legal counsel of the domiciliary jurisdiction of the organization certifying that there are no applicable secrecy laws or blocking statutes or that the organization has effectively waived any applicable secrecy laws or is exempted from applicable blocking statutes in that jurisdiction;
- Require any customer of the organization that utilizes the organization to execute orders on the CBOE to have waived any applicable secrecy laws and be exempted from any applicable blocking statutes in the domiciliary jurisdiction of the organization;
- Agree to submit to the jurisdiction of the federal courts of the U.S. and the courts of Illinois and to irrevocably waive any objection the organization may have based on venue or forum non conveniens;
- Own its CBOE membership;
- Register as a broker or dealer pursuant to Section 15 of the Act; [10] and
- Meet the other qualification requirements for membership under the CBOE's Constitution and rules.[11]

D. CBOE Rule 3.5

New CBOE Rule 3.5, ''Denial of and Conditions to Membership and Association,'' a revised version of current CBOE Rule 3.4, clarifies the criteria for denial or conditioning membership or association with a member that are applicable only to broker-dealer applicants and revises one of the current grounds for denial or conditioning approval of a broker-dealer applicant. Specifically, CBOE Rule 3.5(a) states that the Membership Committee shall deny membership where an applicant has failed a required membership test. CBOE Rule 3.5(c)(i) provides that the Membership Committee may deny or condition the approval of a broker-dealer applicant if the applicant is an individual and has net worth (excluding personal assets) below $25,000 or if the applicant is an organization and has net worth (excluding personal assets) below $50,000. The CBOE believes that the proposed standard is appropriate in light of the financial resources typically not required to operate as an Exchange member.

Revised CBOE Rule 3.5(c)(i) also reflects the Exchange's intention to refrain from using an applicant's failure to pay debts that have been discharged in bankruptcy as a ground for denial or conditioning approval of an applicant. However, the CBOE notes that this provision is not intended to limit the CBOE's consideration of fraud or other violations of just and equitable principles of trade in connection with a bankruptcy proceeding in determining whether to deny or condition approval of the applicant.

CBOE Rule 3.5(e) states that any decision by the Membership Committee to deny or condition approval of an applicant must be consistent with both the provision of CBOE Rule 3.5 and the provisions of the Act.

[8] CBOE Rule 3.3(b) states that the member organization membership statuses approved by the Membership Committee for member organizations include: (i) owner; (ii) lessor; (iii); lessee; (iv) member organization for which an individual member has registered his or her membership; (v) member organization approved to transact business with the public; (vi) clearing member; and (vii) order service firm. CBOE Rule 3.3, Interpretation and Policy .02, indicates that the membership organization status approved by a body other than the Membership Committee includes is that of designated primary market maker. Proposed CBOE Rule 3.3(b) notes that member organization permit statuses approved by the Membership Committee are IPC permit exerciser and option trading permit holder. IPC permits were issued to persons who were member of the Bolsa Mexicana de Valores as of January 1, 1996. *See* CBOE Rule 3.26, ''IPC Permits.''

[9] Amendment No. 3 provides that: (1) a foreign member organization must be organized under the laws of a country which has an information sharing agreement, memorandum of understanding, or treaty in effect that provides the Commission with access to information concerning securities trading activity in that country; (2) clarifies that foreign member organizations must maintain in English at a location in the U.S. any books and records a U.S. broker-dealer is required to maintain at a location in the U.S.; (3) requires foreign member organizations to agree to permit inspections of their foreign securities operations by the Commission or the CBOE; (4) requires that foreign member organizations be exempted from applicable blocking statutes in their domiciliary jurisdiction; and (5) requires that customers of the organization that utilize the organization to execute orders on the CBOE to waive any applicable secrecy laws and be exempted from any applicable blocking statutes in the domiciliary jurisdiction of the organization. *See* Amendment No. 3, *supra* note 3.

[10] 15 U.S.C. 78o.

[11] *See* Amendment No. 3 *supra* note 3.

E. CBOE Rule 3.6

CBOE Rule 3.6, ''Persons Associated with Member Organization,'' a revised version of current CBOE Rule 3.5, clarifies that the associated persons of a member organization that must be disclosed to the Exchange and approved by the Membership Committee include those associated persons that must be disclosed on the organization's Form BD as direct owners or executive officers, or, if the organization is a non-broker-dealer lessor member organization, those associated persons that would be required to be disclosed on Form BD in these capacities if the organization was broker-dealer. CBOE Rule 3.6 also states that no person may become associated with a member organization in the capacity of a direct owner or executive officer that is, or would be, required to be disclosed on Form BD unless and until the Membership Committee approves the association.

F. CBOE Rule 3.7

Many of the provision of CBOE Rule 3.7, ''Certain Documents Required of Member, Applicants, and Associated Persons,'' restate with greater specifically the current requirements set forth in CBOE Rule 3.6 regarding documents that a member organization or applicant must file with the CBOE. For example, CBOE Rule 3.7(a) requires a member organization or applicant that is a corporation to file with the Membership Department a copy of the organization's articles or certificate of incorporation, by-laws, and amendments to those documents. CBOE Rule 3.7 establishes comparable requirements for member organizations or applicants that are partnerships and limited liability companies. In addition, CBOE Rule 3,7 requires member organizations and applicants to file with the Membership Department documents relating to the registration, governance, capital structure, or ownership of the organization that the CBOE requests and documents the CBOE, requests that are reasonable related to the member's businesses on the CBOE.

CBOE Rule 3.7 also requires members, member applicants, and their covered employees to comply with the provisions of Section 17(f) of the Act [12] and Exchange Act Rule 17f–2 [13] regarding fingerprinting. In addition, CBOE 3.7 requires members and member applicants that are registered broker-dealers to comply with the requirement under Section 15 of the Act that broker-dealers complete and keep current Form BD. Members and member applicants that are not registered broker-dealers must file and keep current a list of associated persons that have been or are applying to be approved by the Membership Committee. CBOE Rule 3.7, Interpretation and Policy .01, states that a limited liability company must file with the Membership Department a copy of the limited liability company's registration certificate, operating agreement and any amendments to those documents.

G. CBOE Rule 3.8

Currently, CBOE Rule 3.8, ''Nominees,'' requires every member organization that owns leases a membership to authorize an individual nominee to represent the organization with respect to the membership in all matters relating to the CBOE. The CBOE proposes to amend CBOE Rule 3.8, which will be retitled as ''Nominees and Members Who Register Their Memberships for Member Organizations,'' to restate and provide additional details regarding the requirements applicable nominees and members who register their memberships for member organizations.[14] CBOE Rule 3.8(a) requires each member organization that is not acting as a lessor and each member organization that a lessee of a membership to designate an individual nominee to represent the member organization with respect to CBOE matters, and to designate a different nominee for each membership the member organization owns a leases. The nominee, who must be approved for membership, must have an authorized floor function, except for the nominee for a member organization that is approved solely to transact business with the public. Each nominee will be deemed to be an individual member.

CBOE Rule 3.8(b) formalizes and clarifies the CBOE's rules regarding nominees of lessor member organizations. CBOE Rule 3.8(b) requires each lessor member organization to designate a single nominee to represent the organization in all matters relating to the Exchange with respect to all of the memberships for which the organization is a lessor. The nominee must satisfy all of the qualification requirements for membership other than the requirements that are not applicable to lessors or that are applicable solely to members who will have an authorized floor function. The nominee of a lessor will be considered an associated person of the lessor member organization and not an individual member by virtue of being approved to act as a nominee in this capacity.

CBOE Rule 3.8(c) sets forth the current requirements that are applicable to an individual member who owns a membership or a CBOT exerciser that applies to register his or her membership for a member organizations. An individual who registers his or her membership for a member organization will represent the organization in all matters relating to the CBOE in the same manner that a nominee a member organization.

CBOE Rule 3.8(d) states that a member organization represented by a nominee or an individual who has registered his or her membership for the organization must agree to be responsible for all obligations arising out of that person's representation of the member organization in all matters relating to the CBOE and to guarantee payment of all monetary disciplinary sanctions assessed against that person with respect to activity that take place while the person is a nominee of the organization or has registered his or her membership for the organization.

CBOE Rule 3.8(d) also clarifies that a nominee shall not, solely by virtue of being a nominee of a member organization, have any person liability to the Exchange or to any other member for Exchange transactions and other securities transactions made by the nominee on behalf to the member organization. CBOE Rule 3.8, Interpretation and Policy .01, makes clear that nothing in CBOE Rule 3.8(d) is intended to define or limit: (1) Any obligations between a nominee of a member organization, or an individual who has registered his or her membership for a member organization, and the member organization itself; (2) any responsibility such a person may have for obligations of the member organization by virtue of a contractual obligation or ownership relationship to the organization beyond merely being a nominee or individual who has registered his or her membership for the organization; or (3) the ability of the Exchange to sanction or take other remedial action against such a person pursuant to other Exchange rules for rule violations or other activity for which remedial measures may be imposed.

[12] 15 U.S.C. 78q(f).

[13] 17 CFR 240.17f–2.

[14] Under CBOE Rule 3.8(c), each individual member who owns a membership and each CBOT exerciser may apply to register his or her membership for a member organization. Upon approval of the application, an individual who has registered his or her membership for a member organization shall represent the organization in all matters relating to the CBOE in the same manner that a nominee represents a member organization. An individual who registers his or her membership for a member organization must have an authorized floor function.

CBOE Rule 3.8(e) provides that each nominee of a member organization and each individual who has registered his or her membership for a member organization must be materially involved in the daily operation of the Exchange business activities of the member organization. According to the CBOE, this provision in intended to eliminate the potential ability under the Exchange's current rules for an organization to qualify for membership by associating with an individual who is designated as that organization's nominee or who registers his or her membership for the organization but who has little or no involvement with the organization's Exchange business activities. The Exchange proposes to prohibit such arrangements because they would dilute the value of the membership rights of other Exchange members and allow a person who is not materially involved in an organization's Exchange business activities to be designated to represent the member organization in all matters relating to the Exchange.

CBOE Rule 3.8(g) specifies rules and requirements applicable to inactive nominees of member organizations.

H. CBOE Rule 3.9

The CBOE proposes to amend CBOE Rule 3.9, ''Application Procedures and Approval or Disapproval,'' to restate and revise the CBOE's membership application procedures. Proposed CBOE Rule 3.9(a) states that the following individuals or organizations must submit an application to the Membership Department: (1) Any individual or organization desiring to become a CBOE member; (2) any applicant or member desiring to act in one or more of the membership statuses set forth in CBOE, Rules 3.2(b) or 3.3(b); (3) any associated person that must be approved by the Membership Committee pursuant to CBOE Rule 3.6(b); and (4) any member desiring to change the clearing member that guarantees the member's CBOE transactions.

The CBOE proposes to add CBOE Rule 3.9(d), which will require each applicant to promptly update the applicant's application materials if any information provided in the materials becomes inaccurate or incomplete after the date when the application is submitted to the Membership Department and prior to approval of the application. This requirement is currently set forth in the application materials.

CBOE Rule 3.9(e) clarifies the current procedure allowing the Membership Committee to utilize a posting period for any type of membership application.[15] CBOE Rule 3.9(f) states that the CBOE's Membership Department shall investigate each applicant applying to be a member organization, each associated person required to be approved by the Membership Committee pursuant to CBOE Rule 3.6(b), and each applicant applying to be an individual member, except for an individual member applicant who was an individual member within six months prior to the Membership Department's receipt of the applicant's application.[16] The CBOE states that CBOE Rule 3.9(f) clarifies that the Exchange typically does not investigate an individual member applicant who was an individual member within the prior six months because the person was recently an Exchange member.[17]

CBOE Rule 3.9(g) sets forth requirements applicable to persons required to have an authorized floor function, including the requirement that a person score 75% or better on the Floor Member Qualification Exam to pass the exam. The CBOE notes that these requirements were approved previously by the Commission but are not currently set forth in CBOE Rule 3.9.[18]

CBOE Rule 3.9(h) allows the Membership Committee to approve an application only if the applicable posting period requirement has been satisfied, any investigation has been completed, and any applicable orientation and exam requirements have been satisfied. CBOE Rule 3.9(i) requires each applicant and each person associated with the applicant to submit any additional information requested by the CBOE and notes that such persons may be required to appear before the Membership Committee for an in-person interview or interviews.

CBOE Rule 3.9, Interpretation and Policy .01, requires a member to apply to the Membership Department to change the clearing member that guarantees the member's Exchange transactions. With its application, the member must include a financial statement setting forth the member's assets and liabilities. The Membership Department will provide a copy of the financial statement to the new clearing member designated in the application and will post notice to the membership that the application has been received unless the clearing member(s) that will no longer be guaranteeing the member's Exchange transactions waive this requirement. The amendment is intended to permit the clearing member(s) that will no longer be clearing the member's Exchange transactions, as well as other members, to notify the Membership Department of any outstanding liabilities that bear upon the member's qualification for membership and to provide the new clearing firm with information regarding the member's financial standing so that the clearing member will have the information available to manage the risk associated with the member's trading activities.

CBOE Rule 3.9, Interpretation and Policy .02 clarifies that a member organization seeking to change its name must submit an application to the Membership Department and that the Membership Committee may disapprove the name change application or membership application of an organization if the Membership Committee determines that the proposed name of the organization is confusingly similar to the name of an existing member organization.

I. CBOE Rule 3.10

The CBOE proposes to amend CBOE Rule 3.10, which will be retitled as ''Effectiveness of Membership or Approved Person Status,'' to provide that each applicant for membership, for one of the membership statuses set forth in CBOE Rule 3.2(b) or 3.3(b), or for

[15] CBOE Rule 3.9(b) currently states that the name of an applicant for membership shall be published in the Exchange Bulletin and posted on the Exchange Bulletin Board following the receipt of the application. CBOE Rule 3.9(e) states that for an application for membership, an application to change membership capacity statuses set forth in CBOE Rule 3.2(b) or 3.3(b), or an application to change clearing members, the name of the applicant and the application request shall be published in the Exchange Bulletin and posted on the Exchange Bulletin Board. The required posting period will be no less than 10 days, although the Membership Committee may shorten or waive the posting period. In addition, the required posting period for a member's application to change clearing members shall be waived if the clearing member(s) that will no longer be guaranteeing the member's CBOE transactions consents to a waiver.

[16] CBOE Rule 3.9(c) currently states every individual applicant and, in the case of applicant organizations, all persons associated with the organization, shall be investigated by the Membership Department before the Membership Committee approves an application.

[17] The CBOE generally conducts a less extensive review of the applications of individual member applicants who have been members within the previous six months, but will conduct a more extensive review if warranted. Telephone conversation between Arthur B. Reinstein, Assistant General Counsel, CBOE, and Yvonne Fraticelli, Special Counsel, Division, Commission, on June 9, 2000 (''June 9 Conversation'').

[18] *See* Securities Exchange Act Release No. 32943 (September 22, 1993), 58 FR 50984 (September 29, 1993) (order approving File No. SR–CBOE–91–38) (''Membership Qualification Exam Order'') (regarding procedural provisions related to the Exchange's requirement that individual membership applicants applying for an authorized floor function must pass the Exchange's Floor Member Qualification Exam).

approved associated person status under CBOE Rule 3.6(b), must become effective in the status within 90 days of the applicant's approval for the status, except that an applicant to become a lessor may become effective in that status within six months of the date of the applicant's approval for that status. The CBOE is adopting the six-month requirement for lessors because a lessor generally must purchase a membership to become an effective lessor and it is often difficult for a lessor to purchase a membership within 90 days.

J. CBOE Rule 3.11

The CBOE proposes to amend CBOE Rule 3.11, which will be retitled as ''Notice of Effectiveness of Membership or Approved Associated Person Status,'' to reflect the Exchange's current procedures for notifying the CBOE membership of the effectiveness of any membership, membership status, or associated person status by publishing notice of the effectiveness in the Exchange Bulletin. The CBOE is deleting from CBOE Rule 3.11 the current requirements that such notices be mailed to all members and posted on the Exchange Bulletin Board because the notices are included in the Exchange Bulletin (which is forwarded to all members) and because the notices relate to statuses that have been approved, unlike notices of pending membership applications which are posted on the Exchange Bulletin Board so that members may submit comments to the Membership Department regarding an applicant's fitness for membership.

K. CBOE Rule 3.12

The CBOE proposes to amend CBOE Rule 3.12, which will be retitled ''Membership Rights and Restrictions on Their Transfer,'' to indicate that certain rights may be granted to the grantee of an Authorization to Sell, as discussed more fully below, pursuant to new CBOE Rules 3.14(b) and 3.15(b). CBOE Rule 3.12(b)(ii) incorporates a provision currently contained in CBOE Rule 3.15(g) regarding restrictions on the transfer of membership rights.

L. CBOE Rule 3.13

The CBOE proposes to amend CBOE Rule 3.13, ''Purchase of Membership,'' to clarify that: (1) Newly issued memberships may be purchased pursuant to procedures established by the CBOE; (2) only those approved to be an owner or a lessor may purchase a membership; (3) any bid to purchase a membership shall be canceled at such time that the bidder is no longer approved to be an owner or lessor; and (4) the purchaser of a membership must pay for the membership within two business days of the acceptance of a bid for a newly issued membership or the matching of a bid and offer for an outstanding transferable membership.

M. CBOE Rule 3.14

The CBOE proposes several amendments to CBOE Rule 3.14, ''Sale and Transfer of Membership.'' Specifically, the CBOE proposes to indicate in CBOE Rule 3.14(a) that the lowest offer for a CBOE membership will be published in the Exchange Bulletin as well as on the Exchange Bulletin Board. The CBOE proposes to amend CBOE Rule 3.14(b), ''Sale by Exchange,'' to apply its provisions to members who are lessees as well as owner of transferable memberships.

The CBOE proposes to amend CBOE Rule 3.14(c) to require that an owner transferring a membership to an organization pursuant to CBOE Rule 3.14(c)(iii) must maintain an interest in the organization at least equal in value to the current market price of the membership, rather than an interest equal to the lower of the current market price or cost of the membership, as the rule currently provides. The CBOE notes that because the market price of a membership has increased significantly over the years, an ownership interest in an organization that equals the original cost of the membership may not longer reflect a material ownership interest in the organization. The CBOE also proposes to make a conforming change to CBOE Rule 3.14(c) to eliminate a deposit required under the current membership claims process, which the CBOE is revising as part of this proposed rule change.

The CBOE notes that Interpretation and Policy .01 to CBOE Rule 3.15, ''Proceeds from the Sale of Membership,'' currently allows the Exchange to recognize and give effect to a valid instrument by which a member, in consideration of a loan or guarantee of a loan by another member for the purpose of purchasing a membership, has authorized the lending or guaranteeing member for the purpose of purchasing a membership, has authorized the lending or guaranteeing member to sell that membership. The CBOE proposes to adopt new CBOE Rule 3.14(d), ''Authorizations to Sell,'' to replace this provision and expand upon it by permitting the owner of a transferable membership to voluntarily grant an Authorization to Sell the membership to any other member, including, but not limited to, another member who has provided or guaranteed a loan to the membership owner for the purpose of purchasing a membership.

CBOE Rule 3.14(d) states that a membership owner will not be permitted to grant an Authorization to Sell a particular membership to more than one member. The grantee of an Authorization to Sell will have all of the authority granted under the Exchange's Constitution and rules relating to the sale of the membership that would otherwise be vested in the membership owner, although the grantee must notify the membership owner in writing at least three business days prior to exercising the grantee's right to sell the membership. An Authorization to Sell will be irrevocable and may only be canceled if the grantee of the Authorization to Sell consents to its cancellation. A membership owner that grants an Authorization to Sell will have no authority to direct the sale or transfer of the membership.

The Exchange will take direction solely from the grantee of an Authorization to Sell a membership with respect to matters relating to the sale of the membership. A membership owner and the grantee of an Authorization to Sell may enter into a written agreement, which must be filed with the Membership Department, setting forth the circumstances under which the grantee may exercise the grantee's authority to sell the membership, and any breaches of this written contract may be redressed through arbitration under Chapter XVIII of the Exchange's rules or through other means permitted by Chapter XVIII. The grantee of an Authorization to Sell that exercises its right to sell the membership may not be the purchaser of the membership unless the membership owner consents. The Membership Department will provide a member's clearing member(s) with a copy of any Authorization to Sell granted by the member, a cancellation of the Authorization to Sell, or a contract concerning the exercise of authority under the Authorization to Sell.

The grant of an Authorization to Sell will include the grant of a security interest in any proceeds from the sale of the membership that the grantee is authorized to receive under CBOE Rule 3.15(b), as discussed below. The Exchange will recognize a security interest of the grantee in any proceeds from the sale of a membership that the grantee is entitled to receive pursuant to CBOE Rule 3.15(b), but will not recognize any other lien or security interest in a membership or in the proceeds from the sale of a membership.

N. CBOE Rule 3.15

Current CBOE Rule 3.15 and certain provisions of CBOE rules 3.14, ''Sale and Transfer of Membership,'' and Rule 3.16, ''Special Provisions Regarding Memberships,'' provide a claims process whenever a membership is sold or transferred without a sale, at the beginning of a membership lease, and at the end of a membership lease. At these times, the Exchange, the Options Clearing Corporation (''OCC''), and CBOE members may submit claims against the owner of the membership that is being sold, transferred, or leased. At the end of a membership lease, the Exchange, the OCC, and CBOE members also may submit claims against the lessee of the membership.

In the case of a sale, claims that the Board of Directors determines are valid are satisfied from the proceeds of the sale. In the case of a transfer or the beginning or end of a lease, the owner of the membership that is the subject of the transfer or lease must post cash with the Exchange in an amount equal to the last membership sale or obtain a letter of guarantee from a clearing member to satisfy the payment of any valid claims.[19]

The Exchange proposes to modify the membership claims process so that the only permissible claimant under the process will be the grantee of an Authorization to Sell. Under the revised procedures, the claims process will occur only upon the sale of a membership and lessors will no longer be liable under the claims process for the debts and liabilities of their lessees. The Exchange believes that it is not equitable for a lessor to be liable under the membership claims process for the debts and liabilities of a lessee, particularly when, as is usually the case, the lessor had no involvement in incurring a lessee's debts and liabilities and no means to monitor the lessee's activities. The Exchange also believes that the proposed modifications to the membership claims process, when coupled with the ability to grant an Authorization to Sell a membership, will produce greater demand for ownership of Exchange memberships. In addition, the CBOE believes that the proposed modifications will eliminate the significant administrative burden on the Exchange, clearing members, and other members that is a byproduct of the current membership claims process. At the same time, the CBOE notes that members will continue to have the right to pursue claims against other members through the arbitration process.

Accordingly, the CBOE proposes to amend CBOE Rule 3.15 to establish a modified claims process following the sale of a membership. Specifically, CBOE Rule 3.15 provides that, following the sale of a membership for which an Authorization to Sell has been granted, the grantee will have two business days from the date of the sale to notify the Membership Department of any claims the grantee has against the member whose membership was sold. The claims must be related to the CBOE business activities of the member whose membership was sold.[20] The member whose membership was sold will have five business days from the date of the sale to either acknowledge or contest the claims. The Exchange will remit to the grantee the portion of the sale proceeds applicable to the claims acknowledged by the member whose membership was sold, escrow the portion of the sale proceeds applicable to any claims contested by the member whose membership was sold, and remit to the member whose membership was sold any remaining portion of the sale proceeds.

Any portion of the sale proceeds applicable to contested claims that have been escrowed will remain in escrow until the grantee and the member whose membership was sold resolve the claims through arbitration under Chapter XVIII of the Rules or through other means permitted by that Chapter. However, the Exchange may release to the member whose membership was sold sale proceeds that have been escrowed due to contested claims if the Exchange determines that the grantee of the Authorization to Sell is not proceeding in good faith to resolve the contested claims. Following the resolution of any contested claims for which sale proceeds have been escrowed, the Exchange will remit the escrowed proceeds to the grantee and the member whose membership was sold in accordance with the resolution of the claims.

O. CBOE Rule 3.16

The CBOE proposes to amend CBOE Rule 3.16, which will be retitled ''Special Provisions Regarding Chicago Board of Trade Exerciser Memberships,'' to clarify that a nontransferable CBOT exerciser membership acquired pursuant to Paragraph (b) of Article Fifth of the Exchange's Certificate of Incorporation will terminate upon receipt by the Membership Department of written notice from the CBOT exerciser member that he or she is surrendering the membership or at such time when the CBOT exerciser member is no longer entitled to membership on the Exchange in accordance with Paragraph (b) of Article Fifth. In addition, the CBOE proposes to delete the provisions regarding leased memberships currently contained in CBOE Rule 3.16(b) and restate them in an amended form in new CBOE Rule 3.17, ''Leased Memberships.''[21]

P. CBOE Rule 3.17

CBOE Rule 3.17 restates many of the provisions regarding leased memberships that currently are contained in CBOE Rule 3.16(b) and also incorporates several substantive changes to those provisions. CBOE Rule 3.17(a) states that the owner of a transferable membership in good standing may lease the membership provided that the lessee is approved for membership, the lease is made pursuant to a written lease agreement, and the lease is preapproved by the CBOE. CBOE Rule 3.17(a) also clarifies that the Exchange will bear no liability to a lessor or lessee in connection with the Exchange's review and approval of a lease agreement.

In connection with the modification of the current membership claims process and the elimination of a lessor's liability under the process for claims against a lessee, the Exchange proposes to include a provision in CBOE rule 3.17(b) stating that a lessor of a membership will have no liability for claims against a lessee of the membership solely by virtue of being a lessor of the membership. CBOE Rule 3.17(b) also clarifies that this provision is not intended to limit or define any responsibility a lessor may have for claims against a lessee by virtue of a contractual obligation or ownership relationship between the lessor and lessee beyond the lease of a membership. Similarly, the Exchange proposes to eliminate the current provision of CBOE Rule 3.16(b) stating that any division of rights and responsibilities between the lessor and lessee will not affect the lessor's obligation to pay all amounts due to the CBOE.

[19] *See* CBOE Rule 3.16(b)(ii).

[20] For purposes of CBOE Rule 3.15, claims related to CBOE business activities include claims associated with CBOE transactions, securities or futures transactions other than on the CBOE that are related to CBOE transactions or positions resulting from CBOE transactions, loans or guarantees of loans for the purpose of purchasing a CBOE membership, and services provided in connection with the foregoing. The CBOE will determine whether a claim is related to Exchange business activities. *See* CBOE Rule 3.15(b)(ii).

[21] Current CBOE Rule 3.17, ''Death, Retirement, Withdrawal and Resignation,'' will be revised and will appear in new CBOE Rule 3.19, ''Termination from Membership.''

CBOE Rule 3.17(c) states that the Exchange may specify that particular provisions be included in membership lease agreements in addition to those specifically designated in CBOE rule 3.17(c).

CBOE Rule 3.17(d) requires a lessee to promptly file the lease agreement and any amendments to the lease agreement with the Membership Department and to promptly notify the Membership Department of any termination of the lease before the termination becomes effective. The CBOE proposes to place these obligations on lessees because lessees are present at the Exchange to conduct their activities.

CBOE Rule 3.17(e) provides that if a lessor sells or transfers a membership while it is being leased, the purchaser or transferee of the membership must lease the membership to the lessee pursuant to the terms of the lessee's existing lease agreement for a period of 20 business days following the date the membership is transferred to the purchaser or transferee. The purchaser or transferee may also satisfy this requirement by making arrangements with another membership owner to permit the lessee to lease a membership from that owner for the required time period pursuant to the terms of the lessee's existing lease agreement.

CBOE Rule 3.17(e) states that a lessor will violate CBOE Rule 3.17(e) if the lessor circumvents the requirements of proposed CBOE Rule 3.17(e) by improperly terminating a membership lease prior to the sale or transfer of the membership for the purpose of avoiding the applicability of proposed CBOE Rule 3.17(e). If the Exchange determines that a lessor has improperly terminated a membership lease to avoid the applicability of CBOE Rule 3.17(e), the Exchange may impose the requirements of CBOE Rule 3.17(e) upon the purchaser or transferee of the membership and/or take disciplinary action against the lessor.

CBOE Rule 3.17(f) states that a lessor that sells or transfers a membership while it is being leased must remit to the purchaser or transferee any amounts paid to the lessor under the lease agreement for any portion of the lease period, up to 20 business days, during which the lessor will no longer be leasing the membership. The lessor must remit these amounts to the purchaser or transferee no later than the date the membership is transferred. By the transfer date the lessor also must remit to the lessee any remaining amounts the lessee has paid to the lessor under the lease agreement for any portion of the lease period beyond the foregoing 20 business day period.

Q. CBOE Rule 3.18

The CBOE proposes to adopt new CBOE Rule 3.18, ''Members and Associated Persons Who Are or Become Subject to a Statutory Disqualification,'' to modify its procedures for determining whether, or under what conditions, to permit the continued membership or association of a member or associated person who is or becomes subject to a statutory disqualification.[22]

Currently, CBOE Rule 3.4 authorizes the Membership Committee to determine whether to permit a member or associated person who is or becomes subject to a statutory disqualification to continue in membership or association with a member or to condition such continuance in membership or association. Under the CBOE's current rules, the member or associated person has the right to appeal the Membership Committee's decision to the Exchange's Appeals Committee and to appeal the Appeals Committee's decision to the Exchange's Appeals Committee and to appeal the Appeals Committee's decision to the Board of Directors. These appeal rights must be exhausted before the membership Committee's decision can take effect. Therefore, the CBOE notes that it is possible for a member or associated person to become subject to a statutory disqualification, such as a serious felony conviction, and continue to act as a member or associated person for an extended period of time while the appeal proceedings are pending.

Accordingly, the Exchange proposes to adopt more expedited procedures. The CBOE believes that its revised procedures will provide due process to the member or associated person that is or has become subject to a statutory disqualification without a right of appeal to the Appeals Committee and then to the Board of Directors.

Under the modified procedures in CBOE Rule 3.18, a member or associated person who is or becomes subject to a statutory disqualification and wants to continue in Exchange membership or association with a member must submit an application to the Membership Department within 10 days of becoming subject to the statutory disqualification.[23] Following receipt of the application, or in the event the Exchange becomes aware that a member or associated person is subject to statutory disqualification and has failed to submit an application to continue in membership or association within the required time period, the Chairperson of the Membership Committee will appoint a panel composed of the Membership Committee Chairperson and two other members of the Membership Committee to conduct a hearing concerning the matter. The hearing panel will hold a hearing 14 or more days following the receipt of the application or the initiation of the proceeding, and both the subject of the proceeding and Exchange staff will be afforded an opportunity to present relevant information, arguments, and witnesses during the hearing. Any person who is the subject of a proceeding under CBOE Rule 3.18 is entitled to be accompanied, represented, and advised by counsel at all stages of the proceeding.

Following the hearing, the hearing panel will present its recommended decision in writing to the Membership Committee, which may ratify or amend the decision. The Membership Committee will render its decision in writing and promptly provide its decision to the subject of the hearing and the Executive Committee, which may determine within seven days after the issuance of the Membership Committee's decision to order a review of the decision. If the Executive Committee does not order review of the decision, the Membership Committee's decision will become the final decision of the Exchange.

If the Executive Committee orders review of the Membership Committee's decision, the Executive Committee or a panel comprised of at least three members of the Executive Committee will conduct the review. The Executive Committee must ratify the panel's decision. The Executive Committee's decision, which must be in writing, will be the final decision of the Exchange.

The CBOE notes that the CBOE's Executive Committee is composed of the Exchange's Chairman, Vice Chairman, President, and at least four other Exchange directors. According to the CBOE, the Executive Committee generally is authorized under Section 7.2 of Article VII of the Exchange's Constitution to exercise all the powers and authority of the CBOE's Board of Directors in the management of the business and affairs of the Exchange. The Exchange proposes to utilize the Executive Committee as the review body under CBOE Rule 3.18, instead of the Board of Directors, because the Executive Committee is generally able to

[22] Current CBOE Rule 3.18, ''Dissolution and Liquidation of Member Organizations,'' will be amended and renumbered as CBOE Rule 3.20.

[23] In addition, CBOE Rule 3.18, Interpretation and Policy .02, requires a member to provide immediate written notice to the Membership Department of the name of any associated person who is or becomes subject to a statutory disqualification, the person's capacity with the member, and the nature of the statutory disqualification.

convene more quickly than the Board of Directors because of its smaller size.

If the Exchange decided to permit a member or associated person who is subject to a statutory disqualification to remain in membership or association, the Exchange would also submit a notice to the Commission to the extent required by Rule 19h–1 under the Act.[24]

CBOE rule 3.18, Interpretation and Policy .01, allows the CBOE to waive the provisions of proposed CBOE Rule 3.18 when a proceeding is pending before another self-regulatory organization to determine whether to permit an associated person or a member to continue in association or membership. In addition, CBOE Rule 3.18, Interpretation and Policy .01 states that if the CBOE waives the provisions of CBOE Rule 3.18, the Department of Financial and Sales Practice Compliance will determine whether the CBOE will concur in any Exchange Act Rule 19h–1 filing made by another self-regulatory organization.

R. CBOE Rule 3.19

CBOE Rule 3.19, ''Termination from Membership,'' which replaces current CBOE Rule 3.17, clarifies that the membership status of a member terminates automatically if the member does not possess a membership through ownership, lease, or registration of a membership to the member. In addition, CBOE Rule 3.19 states that the membership of a member organization terminates automatically if the member organization has no nominee or person who has registered his or her membership for the member organization.

S. CBOE Rule 3.20

CBOE Rule 3.20, ''Dissolution and Liquidation of Member Organizations,'' restates the provisions currently set forth in current CBOE Rule 3.18 and amends those provisions by requiring a member organization to provide written notice of the adoption of a plan of liquidation or dissolution, and any actual liquidation or dissolution, to both the Department of Financial and Sales Practice Compliance and the Membership Department.

T. CBOE Rule 3.21

CBOE Rule 3.21, ''Obligations of Terminating Members,'' restates requirements applicable to terminating members which are currently set forth in current CBOE Rule 3.19. In addition, in connection with the elimination of the Exchange's ability to submit claims against the proceeds of a membership sale, the Exchange proposes to delete the provision of current CBOE Rule 3.19 which permits the Exchange to withhold the distribution of the proceeds of the sale of a membership if the seller is not current in the payment of Exchange fees or the submission of various filing.

U. CBOE Rule 1.1(hh), 3.20, 3.21, 3.22, 3.22A, and 6.20

The CBOE proposes to delete current CBOE Rules 3.20, 3.21, 3.22, 3.22A, and 6.20, Interpretation and Policy .03, which relate to government securities options permits, because all the government securities options permits have expired. Similarly, the CBOE proposes to delete CBOE Rule 1.1.(hh), which defines a government securities options permit holder.

V. CBOE Rule 3.25

The CBOE proposes to amend CBOE Rule 3.25, ''Transfer of Individual Membership in Trust,'' to clarify that: (1) A member who owns a membership may transfer the membership only into a living trust: (2) a member who wishes to transfer a membership into trust must submit an application to the Membership Department, which must be approved by the Exchange; (3) a member who has transferred a membership in trust (''Trust Member'') must submit to the Membership Department any amendments to the trust agreement and notify the Membership Department of any changes in the information set forth in the application to transfer the membership in trust, any changes in the successor trustee, any release of the membership out of trust, and any termination of the trust; and (4) the Exchange will deem a membership held in trust to have reverted to the Trust Member to be held directly and not in trust if the membership is released from the trust, the trust terminates, or the trust agreement is amended so that it no longer complies with the requirements of CBOE Rule 3.25. CBOE Rule 3.25(c) also notes that a member may grant an Authorization to Sell with respect to a membership held in trust.

W. CBOE Rule 3.27

In connection with the modification of the current claims process that applies to memberships, the Exchange proposes to amend CBOE Rule 3.27 to make the same modifications to the corollary claims process that is applicable to Options Trading Permits. The CBOE proposes to make a corresponding conforming change to Regulatory Bulletin 00–37, ''Option Trading Permit lease Pool Procedures,'' by deleting paragraph 8.h, which states that a lease of an Options Trading Permit will not become effective until a letter of guarantee equal to the last sale price of an Options Trading Permit has been deposited with the Membership Department.[25]

X. CBOE Rule 3.28

The CBOE proposes to adopt CBOE Rule 3.28, ''Extension of Time Limits,'' to clarify that the Membership Committee may extend any time limit imposed on an applicant, member, or other person under Chapter III of the Exchange's rules if the Membership Committee determines that such an extension is warranted due to extenuating circumstances. This proposed provision is similar to CBOE Rule 17.13 ''Extension of Time Limits,'' which authorizes the Exchange to extend time limits provided for under Chapte XVII of the Exchange's rules.

Y. CBOE Rule 3.29

The CBOE states that because there are many types of membership-related applications and approvals provided for under Chapter III, the Membership Committee may wish to delegate to the Membership Department the authority to act on certain routine types of applications and approvals to allow the Membership Committee to focus its attention on more significant types of membership-related applications and approvals. Accordingly, new CBOE Rule 3.29, ''Delegation of Authority,'' clarifies that all of the authority granted to the Exchange under Chapter III of the Exchange's rules may be exercised by the Membership Committee and/or the Membership Department and that the Membership Committee may delegate to the Membership Department any of the authority that is granted to the Membership Committee under the Exchange's rules.

Z. CBOE Rule 6.76A

The CBOE proposes to adopt CBOE Rule 6.76A, ''Automated Billing Process for Market Maker Brokerage Bills,'' to streamline the processing and payment of bills for brokerage services that floor brokers and order service firms provide to market makers. The CBOE also proposes to implement the automated billing process because floor brokers and order service firms will no longer have the ability to submit claims for outstanding brokerage bills as part of the membership claims process. The automated billing process operates as follows:

[24] 17 CFR 240.19h–1.

[25] *See* Amendment No. 2, *supra* note 3.

• Each floor broker and order service firm must submit a written bill by the sixth day of the month to each market maker customer of the floor broker or order service firm for brokerage fees the market maker incurred during the prior month.

• A market maker will have until the tenth day of the month to inform the floor broker or order service firm if the market maker disputes any portion of the bill.

• A floor broker or order service firm that has submitted a bill to a market maker by the sixth day of the month will notify the Exchange's Accounting Department by the twelfth day of the month of the amount to bill each market maker customer of the floor broker or order service firm for brokerage fees incurred during the prior month.

• The CBOE will take direction solely from the floor broker or order service firm with respect to the amount to bill a market maker pursuant to the automated billing process. If the market maker disputes the amount a floor broker or order service firm has instructed the CBOE to bill, the market maker may pursue a claim against the floor broker or order service firm in arbitration under Chapter XVIII of the CBOE's rules or through other means provided by Chapter XVIII. In addition, if a floor broker or order service firm improperly instructs the Exchange to bill a market maker for brokerage fees which the floor broker or order service firm is not entitled to receive, the Exchange may discipline the floor broker or order service firm pursuant to Chapter XVII of the Exchange's rules for violating CBOE Rule 4.6, ''False Statements,'' by submitting false statements to the Exchange.

• By the twenty-first day of the month, the Accounting Department will provide a monthly market maker floor brokerage billing list to each clearing member that clears market maker transactions. The list will set forth the amounts floor brokers and order service firms have instructed the Accounting Department to bill each market maker that clears through that clearing member for brokerage fees incurred by the market maker during the prior month.

• A clearing member may instruct the Accounting Department not to draft the clearing member pursuant to the automated billing process for that portion of the brokerage fees billed to a market maker that would cause the market maker to have a negative balance in the market maker's account at the clearing member.

• On the twenty-fifth day of the month, the Exchange will draft from each clearing member's account at the OCC the total amount billed pursuant to the automated billing process to market makers that clear through that clearing member. The Exchange will then promptly distribute the amounts drafted to the applicable floor brokers and order service firms. Each clearing member will be authorized to deduct from a market maker's account at the clearing member the amounts the CBOE has drafted from the clearing member's account at the OCC for brokerage fees billed to the market maker.

• If a clearing member instructs the Accounting Department not to draft a portion of the brokerage fees billed to a market maker, the Exchange will distribute brokerage fees which were drafted from the clearing member for that market maker on a pro rata basis to the floor brokers and order service firms that submitted instructions to bill the market maker.

• If a clearing member instructs the Accounting Department not to draft a portion of the brokerage fees billed to a market maker and the market maker later has a positive balance in the market maker's account at the clearing member, the clearing member must deduct from the account the amount of the brokerage fees that the clearing member previously instructed the Accounting Department not to draft and distribute the funds to the floor brokers and order service firms who previously did not receive full payment.

• If a floor broker or order service firm fails to satisfy the submission deadlines provided for under the automated billing process, the floor broker or order service firm may not bill the market maker for brokerage fees pursuant to the automated billing process. However, the floor broker or order service firm may bill the market maker for brokerage fees in the regular, non-automated fashion.

To contribute to defraying the Exchange's cost of administering the automated billing process, the Exchange proposes to assess, in a form and manner prescribed by the Exchange: (1) A $0.50 fee to each floor broker and order service firm for each bill of $5.00 or more from the floor broker or order service firm that is assessed to a market maker under this billing process; and (2) a $0.50 fee to each market maker for each bill of $5.00 or more from a floor broker or order service firm that is assessed to the market maker under this billing process.

AA. CBOE Rules 6.72, 6.78 and 8.5

The CBOE proposes to amend CBOE Rules 6.72, ''Letters of Authorization,'' 6.78, ''Letters of Guarantee Required of Order Service Firms,'' and 8.5, ''Letter of Guarantee,'' to provide that the CBOE will post notice of a clearing member's revocation of its guarantee only at the clearing member's request. The Exchange does not believe that it is necessary to require the posting of all revocations because most are routine and arise because a member is terminating from membership or is changing the clearing member that guarantees the member's Exchange transactions.

In addition, revised CBOE Rule 6.72 states that: (1) A revocation will not relieve a clearing member of responsibility for transactions guaranteed prior to the effective date of the revocation; and (2) a floor broker may only have one letter of authorization guarantee from a clearing member in effect at a time.

The CBOE proposes to amend CBOE Rule 8.5 to clarify that a market maker that clears transactions through more than one clearing member must have a letter of guarantee issued by each clearing member to cover the CBOE transactions executed by the market maker through the clearing member. The CBOE also proposes to add Interpretation and Policy .04 to CBOE Rule 8.5, which states that the CBOE will notify each clearing corporation that has approved a letter of guarantee for a market maker of the issuance and revocation, if applicable, of all other letters of guarantee issued to that market maker with regard to transactions subject to the rules of any other clearing corporation.

BB. CBOE Rule 8.9

The CBOE proposes to add Interpretation and Policy .08 to CBOE Rule 8.9, ''Securities Accounts and Orders of Market Makers.'' Interpretation and Policy .08 clarifies that each participant in a joint account will be jointly and severally liable for any losses incurred by the joint account. However, Interpretation and Policy .08 also states that for a joint account participant that is the nominee of a member organization, or an individual who has registered his or her membership for a member organization, and who is not acting as an independent market maker pursuant to CBOE Rule 3.8(f), the member organization and not the participant will be liable for losses incurred by the joint account. The clarification is intended to make applicable to joint accounts the general provisions in CBOE Rule 3.8(d), which clarify that neither a nominee nor an individual who has registered his or her membership for a member organization shall, solely by virtue of being a nominee of a member organization or

having registered his or her membership for a member organization, have any personal liability to the Exchange or to any other member for Exchange transactions and other securities transactions made by the nominee or individual on behalf of the member organization.

CC. CBOE Rules 9.3, 10.11, and 15.1

The CBOE proposes to amend CBOE Rule 9.3, ''Registration and Termination of Representatives,'' to clarify the associated persons who are required to complete Form U–4 (*i.e.,* persons who perform duties for member organizations approved to transact business with the public which are customarily performed by sales representatives, solicitors, customers' men, or branch office managers). Notwithstanding the foregoing, the Exchange may continue to require other applicants to complete Form U–4 during the application process solely as an information gathering tool. In addition, the CBOE proposes to add new Interpretation and Policy .01 to CBOE Rule 9.3, which will clarify that the application form referred to in CBOE Rule 9.3(a) is the Form U–4, and that any person required to file Form U–4 must promptly file any required amendments to Form U–4.

The CBOE proposes to amend CBOE Rule 10.11, ''Contracts of Suspended Parties,'' to refer to the claims resolution procedures in CBOE Rule 3.15.

The CBOE proposes to amend Interpretation and Policy .01 to CBOE Rule 15.1, ''Maintenance, Retention and Furnishing of Books, records and Other Information,'' to revise references to specific CBOE rules regarding the maintenance of books and records and the furnishing of information to the CBOE. The new references reflect the proposed changes to the CBOE's membership rules.

DD. CBOE Rule 18.2

To ensure that clearing members receive notice of proceedings involving disputed trades, the CBOE proposes to add Interpretation and Policy .01 to CBOE Rule 18.2, ''Procedures in Member Controversies,'' which will require each party to an arbitration concerning the alleged failure to honor a trade to promptly provide copies of all documents filed or received in the arbitration by that party to the clearing member(s) that guaranteed that party's Exchange transactions when the alleged trade took place.

EE. CBOE Rules 6.72, 24A.15, 26.11, 26.13, and 30.74

The CBOE proposes to make conforming changes to CBOE Rules 6.72, 24A.15, ''Letter of Guarantee or Authorization,'' 26.11, ''Market Makers,'' 26.13, ''Floor Broker Financial Requirements,'' and 30.74, ''Clearing of System Transactions,'' that delete references to the current membership claims process.

FF. Membership Fee Circular

The Exchange is proposing to amend its Membership Fee Circular (''Circular'') to delete two introductory paragraphs regarding certain rule requirements related to membership that will be set forth more fully in the membership rules themselves. The revised Circular will contain only information regarding membership fees.

The Exchange proposes to amend the description in the Membership Fee Circular of the fee payable by an applicant who is subject to a statutory disqualification to reflect that the rule provisions that govern such applicants are set forth in new CBOE Rule 3.18. The CBOE also proposes to clarify the fees relating to partnership agreement amendments by indicating that a fee is payable each time a member organization's bylaws, partnership agreement, or operating agreement is amended. In addition, the revised Circular will state that a CBOT exerciser, as well as other members, must pay the fingerprint processing fee.

GG. Special Members

The CBOE proposes to delete references to special members from CBOE Rules 3.12, 3.14, 3.16, 6.5, and 9.1 because all special memberships on the CBOE have expired.[26]

HH. Effectiveness of the Proposed Rule Change

The CBOE proposes to provide that the rule change will become effective 30 days from the date of its approval by the Commission. The CBOE believes that the 30-day period will provide the Exchange with an opportunity to notify the Exchange's membership of the effectiveness of the rule change and provide members who wish to grant or receive Authorization to Sell with an opportunity to do so before the amended rule provisions take effect.

III. Discussion

For the reasons discussed below, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange. In particular, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.[27] Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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. In addition, as described more fully below, the Commission finds that various provisions of the proposal are consistent with the requirements of Sections 6(b)(1), 6(b)(4), and 6(c)(3) of the Act, and with Rules 15c3–1 and 19h–1 under the Act.[28]

A. Definitions

The Commission finds that the proposed amendments to CBOE Rule 1.1 will update and clarify CBOE Rule 1.1 and ensure consistency with other CBOE rules. Specifically, the Commission believes that the revised definition of ''lessor'' make clear that a lessor may conduct a public securities business, provided that the organization is approved to do so pursuant to CBOE Rule 9.1. Similarly, the revised the definition of ''nominee'' makes clear that all nominees need not have an authorized floor function, making the definition of ''nominee'' consistent with new CBOE Rules 3.8(a)(iii) and 3.8(b)(iii). In addition, the revised definition of ''nominee'' eliminates the provision in the current definition stating that a nominee will be deemed to be an Exchange member, thereby making the definition of ''nominee'' consistent with new CBOE Rule 3.8(b)(v), which states that the nominee of a member organization acting as a lessor will be deemed to be an associated person of the organization and not an individual member.

B. CBOE Rules 3.1, 3.2, and 3.3

The Commission finds that the proposed changes to CBOE Rules 3.1, 3.2, and 3.3 will clarify the rules and help to ensure consistency in the CBOE's rules. Specifically, the Commission believes that amending CBOE Rules 3.1(b)(1)(i) and (b)(1)(ii) to refer to member organizations, rather

[26] *See* CBOE Constitution, Article II, Section 2.1(d).

[27] 15 U.S.C. 78f(b)(5).

[28] 15 U.S.C. 78f(b)(1), 78f(b)(4), 78f(c)(3), 17 CFR 240.15c3–1, and 17 CFR 240.19h–1. In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

than members, will add clarity and consistency to the CBOE's rules because only member organizations may perform the functions referred to in subparagraphs (b)(1)(i) and (b)(1)(ii).

The Commission believes that amendments to CBOE Rule 3.1(a)(3) and (4) that refer separately to the membership capacity of a nominee and the membership capacity of an individual who has registered his or her membership for a member organization make clear that both a nominee and an individual who has registered his or her membership for a member organization are CBOE members.

The Commission believes that the deletion of current CBOE Rule 3.1(b)(2), which requires compliance with Section 11(a) of the Act, will clarify CBOE Rule 3.1 by limiting its scope to the principal purpose of an Exchange membership, *i.e.,* the conduct of a public securities business, and the membership capacities that satisfy that requirement. At the same time, the Commission notes that the CBOE's rules and policies will continue to require compliance with Section 11(a) of the Act. In this regard, the Commission notes that CBOE Rule 4.2 prohibits CBOE members from engaging in conduct that violates the Act and other rules insofar as they relate to the reporting or clearance of any CBOE transactions,[29] and CBOE Rule 4.1, ''Just and Equitable Principles of Trade,'' prohibits members and associated persons from engaging in acts or practices inconsistent with just and equitable principles of trade. In addition, CBOE Regulatory Circular RG94–11 explains the requirements of Section 11(a) of the Act to CBOE members.

The Commission believes that the proposal to amend CBOE Rule 3.2 to clarify that every individual member must be 21 years of age will help to ensure that only qualified persons will be eligible to become CBOE members. The Commission believes that the proposal to list in CBOE Rule 3.2 all of the individual membership statuses will help to inform individual members of the available individual membership statuses provided under the CBOE's rules. In addition, the Commission believes that CBOE Rule 3.2(c), which specifies the individual members who must have an authorized floor function, will help to notify individual members of the requirement applicable to them. The Commission believes that it is reasonable for the CBOE to further clarify this requirement by indicating that an individual member will be deemed to have an authorized floor function if the member is approved to act as a market maker and/or floor broker.

The Commission believes that the proposal to amend CBOE Rule 3.3 to set forth all of the member organization membership statuses will help to inform member organizations of the available member organization membership statuses provided under the CBOE's rules. The Commission also believes that the CBOE's proposal to codify in CBOE Rule 3.3(c) its long-standing policy that a clearing member or order service firm must possess at least one membership for which the organization is not a lessor will help to ensure that clearing members and order service firms are aware of the requirement. In addition, the Commission believes that the proposal to provide in CBOE Rule 3.3(d) that a member that wishes to become a different type of business entity must reapply for membership in the name of the new entity will help the CBOE to ensure that the new entity continues to satisfy the CBOE's membership requirements.

The Commission believes that the CBOE's proposal to amend CBOE Rule 3.3, Interpretation and Policy .01, to state that the limited liability company's members will be deemed principal shareholders and its members with management responsibility and its managers will be deemed executive officers will clarify the treatment of limited liability companies under the CBOE's rules.

C. CBOE Rule 3.4

New CBOE Rule 3.4 sets forth the membership requirements for entities that are not organized under the laws of one of the states of the United States. The Commission believes that the requirement under CBOE Rule 3.4 that a foreign organization register as a broker or dealer pursuant to Section 15 of the Act will help to protect investors and the public interest by ensuring that foreign CBOE members are subject to the same regulatory requirements a U.S. broker-dealers. The Commission also believes that the requirement that foreign members disclose all associated persons and all parents of the organization, including the ultimate individual beneficial owners of organization, will facilitate the CBOE's review of membership applications submitted by foreign organizations and help the CBOE to ensure that foreign applicants for membership satisfy all of the CBOE's requirements for membership.

The Commission also believes that it is reasonable for the CBOE to clarify that, in addition to satisfying the requirements of CBOE Rule 3.4, a foreign organization must satisfy the other membership qualification requirements under the CBOE's rules and Constitution, as well any additional requirements that the CBOE reasonably deems appropriate. The Commission believes that these provisions will clarify that a foreign organization, like a U.S. applicant for membership, must satisfy all of the CBOE's membership qualification requirements and provide the CBOE with flexibility to impose additional requirements that the CBOE reasonably believes are necessary with respect to foreign members.

In addition, the Commission believes that CBOE Rule 3.4 will facilitate the CBOE's examinations of foreign members, thereby helping the CBOE to enforce compliance by its foreign members with the CBOE's rules and the federal securities law, consistent with Section 6(b)(1) of the Act. The Commission also believes that CBOE Rule 3.4 will facilitate any CBOE or Commission investigation of a foreign member. In this regard, the Commission notes that CBOE Rule 3.4 requires a foreign CBOE member to maintain in English, at a location in the U.S., all of the books and records of the organization relating to its CBOE activities; to permit inspections by the CBOE and the Commission of the foreign operations of the organization related to its securities business; and to be located in a country in which an information sharing agreement, Memorandum of Understanding, or treaty enables the Commission to obtain information about securities trading in that country. In addition, CBOE Rule 3.4 requires that both a foreign member and any of its customers that utilize the organization to execute orders on the CBOE waive any applicable secrecy laws or obtain exemptions from blocking statutes.

The Commission believes that it is reasonable for the CBOE to require a foreign member to keep its financial records in accordance with U.S. accounting standards because all brokers or dealers registered under Section 15 of the Act must maintain their financial records in accordance with U.S. Generally Accepted Accounting Principles (''GAAP''). In this regard, the Commission notes that a broker-dealer's net capital is computed under Rule 15c3–1 under the Act, in

[29] CBOE Rule 4.2 states that ''[n]o member shall engage in conduct in violation of the Securities Exchange Act of 1934, as amended, rules or regulations thereunder, the Constitution or the Rules of the Exchange, or the Rules of the Clearing Corporation insofar as they relate to the reporting or clearance of any Exchange transactions, or any written interpretation thereof. Every member shall so supervise persons associated with the member as to assure compliance therewith.''

accordance with U.S. GAAP. Accordingly, requiring a foreign member to maintain its financial records in accordance with U.S. GAAP will help the CBOE to monitor the financial status of foreign members and ensure their compliance with Rule 15c3–1 under the Act, and with Section 6(c)(3)(A) of the Act, which section provides, in part, that a national securities exchange may deny membership to, or condition the membership of, a registered broker or dealer if the broker or dealer does not meet the standards of financial responsibility prescribed by the rules of the exchange.

The Commission believes that the requirements under CBOE Rule 3.4 that a foreign member appoint a process agent in Illinois and agree to submit to the jurisdiction of the federal courts and the courts of Illinois will help a U.S. person involved in a dispute with a foreign CBOE member to pursue any available legal or equitable remedies against the member.

The Commission believes that it is reasonable for the CBOE to require a foreign member to own its CBOE membership. In addition, the Commission believes that it is reasonable for the CBOE to provide consistency with CBOE Rule 3.3, Interpretation and Policy .01 by providing in CBOE Rule 3.4, Interpretation and Policy .01 that the CBOE will deem a foreign member organized as a limited liability company to be a corporation for purposes of eligibility for membership.

D. CBOE Rule 3.5

The Commission finds that the proposed changes in CBOE Rule 3.5 will clarify the CBOE's membership requirements by indicating the criteria for denial or conditioning membership or association are applicable only to broker-dealer applicants. In addition, the Commission believes that the proposed net worth requirements will strengthen the CBOE's membership requirements and help the CBOE to deny or condition membership to individuals and organizations that have not demonstrated the ability to assume the economic responsibilities attendant to CBOE membership. In addition, the Commission believes that it is reasonable for the CBOE to indicate that it will not use an applicant's failure to pay debts that have been discharged in bankruptcy as a ground for denial or conditioning approval of the application, while reserving the right to consider fraudulent activity or other violations of just and equitable principles of trade in connection with a bankruptcy proceeding in determining whether to deny or condition approval of an applicant. The Commission also believes that it is reasonable for the CBOE to state in CBOE Rule 3.5 that any Membership Committee decision to deny or condition membership must be consistent with the provisions of CBOE Rule 3.5 and the Act.

E. CBOE Rule 3.6

The Commission believes that CBOE Rule 3.6 will clearly identify the associated persons that must be disclosed to the CBOE and approved by the Membership Committee and help to ensure that the Membership Committee has an opportunity to review the qualifications of those associated persons. CBOE Rule 3.6 also makes clear that no person may become associated with a member organization in the capacity of a direct owner or executive officer that is, or would be, required to be disclosed on Form BD unless and until the Membership Committee approves the association.

F. CBOE Rule 3.7

The Commission believes that the proposed changes in CBOE Rule 3.7 identify with greater specificity the documents that member organizations and member organization applicants must file with the CBOE, as well as the additional documents that member organizations and member organization applicants must file with the CBOE upon request. Accordingly, the Commission believes the proposed changes will more clearly notify member organizations and applicants of the documents they must file with the CBOE.

The Commission believes that the requirement that member organizations and applicants file, upon request, documents reasonably related to the member's business or proposed business on the CBOE and documents relating to the registration, governance, capital structure or ownership of the organization, will facilitate the CBOE's review of membership applications and help the CBOE to examine and verify the qualifications of an applicant for membership, consistent with Section 6(c)(3) of the Act. The requirements also should help the CBOE to enforce compliance by its members and associated persons with the Act, and the rules and regulations thereunder, and the rules of the CBOE, consistent with Section 6(b)(1) of the Act.

The Commission also believes that it is reasonable for the CBOE to add provisions in CBOE Rule 3.7 notifying members and applicants of their obligation to comply with Section 17(f) under the Act and Exchange Act Rule 17f–2. Similarly, the Commission believes that it is reasonable for the CBOE to notify members and member applicants that are registered brokers or dealers of their obligation to file and keep current Form BD and to require members and member applicants that are not registered broker-dealers to file with the CBOE and keep current a list of associated persons that must be approved by the Membership Committee pursuant to CBOE Rule 3.6(b).

The Commission believes that CBOE Rule 3.7, Interpretation .01, which specifies the documents that a limited liability company must file with the Membership Department, will clarify the CBOE's requirement with respect to limited liability companies and notify limited liability companies of the documents they must file with the Membership Department.

G. CBOE Rule 3.8

The Commission believes that the proposed changes to CBOE Rule 3.8 will clarify the CBOE's rules regarding nominees and individual members who register memberships for member organizations. By specifying requirements both for member organizations that are not lessors of memberships and for member organizations that are leasing memberships, the proposal helps to ensure that the CBOE will know which individual of a member organization will represent the organization in matters before the CBOE. In addition, by clarifying the procedures applicable to nominees and individual members who register memberships for member organization, the proposed changes should better inform CBOE member organizations and prospective member organizations of the requirements for obtaining these statuses, as well as the rights and obligations of nominees and individual members who register memberships for member organizations.

The Commission notes that the proposal provides that the nominee of a member organization that is not acting as a lessor, other than a member approved solely to transact business with the public, and an individual that registers a membership for a member organization, must have an authorized floor function. In addition, the proposal states that a nominee or individual who registers a membership for a member organization must be materially involved in the daily operation of the CBOE business activities of the member organization for which the person is a nominee or has registered his or her membership. The Commission believes that these requirements will help to

ensure that qualified persons represent member organizations in matters relating to the CBOE. In addition, the Commission believes that the requirements are consistent with Sections 6(c)(3)(A) and (B) of the Act, which provide that a national securities exchange may prescribe standards of training, experience, and competence for members or persons associated with its members.

The Commission believes that it is reasonable for the CBOE to clarify in CBOE Rule 3.8(d) that neither a nominee nor an individual member who has registered a membership for a member organization will have any personal liability, solely by virtue of being a nominee or an individual member who has registered a membership for a member organization, to the CBOE or to other members for transactions made by the nominee or individual member on behalf of the member organization. Similarly, the Commission believes that it is reasonable for the CBOE to clarify in CBOE Rule 3.8, Interpretation and Policy .01, that CBOE Rule 3.8(d) is not intended to limit any obligations between a nominee or individual member who has registered a membership for a member organization and the member organization, any responsibility that a nominee or individual member who has registered a membership for a member organization may have for obligations of the member organization by virtue of a contractual obligation or ownership relationship, or the CBOE's ability to sanction or take other remedial measures against a nominee or an individual member who has registered a membership for a member organization. The Commission believes that these changes will help to clarify the rights and obligations of members and nominees.

The Commission also believes that it is reasonable for the CBOE to provide that: (1) A member organization may designate one or more inactive nominees; (2) an inactive nominee of a member organization must become an effective nominee of the member organization, with authorized floor functions, within 90 days of approval for membership; and (3) an individual may be an inactive nominee of only one member organization. The Commission believes that these provisions will help to clarify the CBOE's policies, ensure that member organizations have an appropriate number of inactive nominees, and ensure that only qualified persons will be eligible to serve as nominees.

H. CBOE Rule 3.9

The Commission believes the proposed changes to CBOE Rule 3.9 will clarify the CBOE's application procedures and requirements by codifying several existing CBOE policies, thereby helping to notify members and applicants for membership of the CBOE's application procedures and requirements and helping to ensure compliance with those rules. In this regard, the Commission notes that the proposal codifies in CBOE Rule 3.9 requirements related to the CBOE's Floor Member Qualification Exam, which the Commission has approved previously,[30] as well as the requirement currently set forth in the CBOE's application materials (the Form U–4) that an applicant promptly update its application if any of the information contained in the application becomes inaccurate or incomplete after the date the applicant submits the materials to the CBOE and prior to approval of the application. The Commission believes that it is reasonable for the CBOE to codify these existing requirements in CBOE Rule 3.9.

CBOE Rule 3.9(e) clarifies the CBOE's use of posting periods for membership applications, applications to change a membership capacity status, and applications to change clearing members. CBOE Rule 3.9(e) also allows the Membership Committee to implement a posting requirement for other types of applications and to shorten or waive a required posting period. The Commission believes that it is reasonable for the CBOE to codify its posting requirements to notify members and membership applicants of the requirements. The Commission believes that the posting periods should provide CBOE members with an opportunity to provide the CBOE with comments and information relevant to an application, including comments relating to an applicant's fitness for membership. In addition, the Commission believes that providing the Membership Committee with the flexibility to implement a posting period for other types of applications and to reduce or waive a posting period will help the Membership Committee to utilize the posting requirements effectively.

CBOE Rule 3.9(f) makes clear that the Membership Department typically does not investigate an individual member applicant who was an individual member within the prior six months, since the person recently had been a CBOE member. CBOE Rule 3.9(f) also indicates that the Membership Department will investigate associated persons that the Membership Committee must approve pursuant to CBOE Rule 3.6(b), rather than all persons associated with an organization, as required currently under CBOE Rule 3.9(c)(1). In addition, CBOE Rule 3.9(f) states that the Membership Department may investigate any other person or organization that submits an application pursuant to CBOE Rule 3.9(a).

The Commission believes that CBOE Rule 3.9(f), as amended, will ensure that the Membership Department conducts necessary investigations of applicants for membership and of associated persons that the Membership Committee must approve pursuant to CBOE Rule 3.6(a), thereby helping to ensure that only qualified individuals and organizations become CBOE members or approved associated persons. The Commission believes that the provision in CBOE Rule 3.9(f) indicating that the Membership Department may conduct a less extensive review of an individual member applicant who was an individual member within the previous six months will provide the Membership Department with flexibility in reviewing the applications of individuals whom the Membership Department has investigated recently. The Commission notes, in addition, that the CBOE will conduct a more extensive review of an individual member applicant who was a member within the previous six months if such a review is warranted.[31] The Commission believes that the provision in CBOE Rule 3.9(f) allowing the Membership Department to investigate any other person or organization that submits an application pursuant to CBOE Rule 3.9(a) clarifies the Membership Department's authority and ensures that the Membership Department will have the flexibility to conduct necessary investigations.

The Commission believes that the requirements in CBOE Rule 3.9 applicable to a member seeking to change the clearing member that guarantees the member's CBOE transactions will help to ensure the financial integrity of CBOE members. Specifically, CBOE Rule 3.9 requires a member seeking to change clearing members to submit an application to the Membership Department, along with a financial statement setting forth the applicant's assets and liabilities. In addition, the application to change clearing members must be posted, unless the clearing member(s) that will not longer guarantee the applicant's CBOE transactions waives the posting

[30] *See* Membership Qualification Exam Order, *supra* note 18.

[31] *See* June 9 Conversation, *supra* note 17.

requirement. The Commission believes that the posting requirement will allow the clearing member(s) that will no longer clear the applicant's CBOE transactions, and other members, to notify the Membership Department of outstanding liabilities that may be relevant to the applicant's qualifications for membership. In addition, the information regarding the applicant's financial standing should help the new clearing member to manage the risk associated with the applicant's trading activities.

The Commission believes that CBOE Rule 3.9, Interpretation and Policy .02, which allows the Membership Committee to disapprove the name change application or membership application of an organization with a name that is confusingly similar to the name of an existing member organization will help to avoid confusion and help the CBOE to maintain a fair and orderly market.

I. CBOE Rule 3.10

The Commission finds that the provisions in CBOE Rule 3.10 requiring an applicant for membership, for certain membership statuses, and for approved associated person status to become effective in the status within 90 days will clarify the CBOE's rules and notify members of the CBOE's requirements. In addition, the Commission believes that it is reasonable for the CBOE to provide a lessor with six months to become effective in the status to allow lessors sufficient time to purchase a membership.

J. CBOE Rule 3.11

The Commission believes that the proposal to amend CBOE Rule 3.11 to reflect the CBOE's current procedures for notifying the CBOE membership of the effectiveness of any membership, membership status, or associated person status will help to inform members of the CBOE's current practice for providing such notifications. The Commission believes that it is reasonable for the CBOE to eliminate the requirement in CBOE Rule 3.11 that the CBOE mail notices to members because the Exchange Bulletin now is forwarded to all members and will accomplish the same purpose as mailing notices to members. In addition, the Commission believes that it is reasonable for the CBOE to eliminate the requirement that notices of approved statuses be posted on the CBOE's bulletin board because the notices relate to statuses that have been approved, rather than to pending applications on which members may wish to submit comments.

K. CBOE Rule 3.12

The Commission finds that the provisions of CBOE Rule 3.12 that restate current provisions of the CBOE's rules do not raise new regulatory issues. The Commission believes that the new reference in CBOE Rule 3.12 to an Authorization to Sell will help to ensure clarity and consistency in the CBOE's rules.

L. CBOE Rule 3.13

The Commission believes that the proposed amendments to CBOE Rule 3.13 will help to notify members of the CBOE's requirements and procedures for the purchase of memberships, thereby facilitating compliance with the CBOE's rules. In addition, the Commission finds that the provisions limiting the purchase of memberships to those approved by the Membership Committee to be an owner or lessor will help to ensure that only qualified individuals and organizations purchase CBOE memberships. The Commission finds that the provision requiring payment for a membership within two business days will clarify the CBOE's rule and help to facilitate the orderly transfer of CBOE memberships.

M. CBOE Rule 3.14

The Commission believes that amending CBOE Rule 3.14(a) to provide that the lowest offer to sell a membership will be published in the Exchange Bulletin may better inform members of sale offers and facilitate the sale of memberships.

The Commission believes that it is reasonable for the CBOE to amend CBOE Rule 3.14(b) to apply its provisions to lessees as well as members as a means to clarify the CBOE's authority to sell a membership if the lessee satisfies one of the conditions listed in CBOE Rule 3.14(b).

The Commission believes that amending CBOE Rule 3.14(c)(iii) to require a transferor to maintain an interest at least equal in value to the current market price of the membership will help to ensure that a transferor maintains a substantial ownership interest in the organization to which the transferor transfers his or her membership. The Commission believes that the proposed change will help to preserve the original intent of this provision in light of the increase in prices for CBOE memberships.

The Commission believes that it is reasonable for the CBOE to adopt the Authorization to Sell procedures specified in CBOE Rule 3.14(d). As the CBOE notes, CBOE Rule 3.14(d) expands upon the current provisions of CBOE Rule 3.15, Interpretation and Policy .01, which allow the CBOE to recognize and give effect to a valid instrument by which a member, in consideration of a loan or guarantee of a loan by another member for the purpose of purchasing a membership, has authorized the lending or guaranteeing member to sell that membership.

The Commission believes that CBOE Rule 3.14(d) expands upon and strengthens the CBOE's current rule by clarifying the rights and obligations of both a grantee and a membership owner that grants an Authorization to Sell. For example, CBOE Rule 3.14(d) states that a membership owner and a grantee may enter into a written contract setting forth the circumstances under which the grantee may exercise its authority to sell the membership. In addition, CBOE Rule 3.14(d) provides that any breaches of the written contract may be redressed through arbitration under Chapter XVIII of the CBOE's rules or other means permitted under Chapter XVIII. CBOE Rule 3.14(d) also clarifies, among other things, that a membership owner may grant only one Authorization to Sell a particular membership; that a grantee shall have all authority relating to the sale of a membership; and that a grantee shall have a security interest, which the grantee may act to perfect, in any proceeds from the sale of the membership that the grantee is entitled to receive pursuant to CBOE Rule 3.15(b). The Commission believes that the Authorization to Sell provisions should function with the revised claims process established in CBOE Rule 3.15, as discussed below, to provide an orderly and efficient procedure for resolving claims among CBOE members.

N. CBOE Rule 3.15

The Commission believes that the revised membership claims process will promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market by enhancing the CBOE's procedures for resolving claims between members. The Commission believes that the revised membership claims process is a reasonable effort by the CBOE to reduce the administrative burdens associated with its current claims process and to provide members with a fair and efficient means for resolving claims between the grantee of an Authorization to Sell and the membership owner who granted the Authorization to Sell.

CBOE Rule 3.15 revises the membership claims process by providing that the only possible claimant under the membership claims

process will be the grantee of an Authorization to Sell. Specifically, CBOE Rule 3.15 provides, among other things, that the grantee must submit in writing within two business days any claims related to the CBOE business activities of a member whose membership was sold.[32] The member whose membership was sold has five business days from the date of the sale to acknowledge or contest the claims. Contested claims will be resolved through arbitration under Chapter XVIII of the CBOE's rules or through other means permitted by Chapter XVIII.

Although the CBOE, the OCC, and other CBOE members will not be able to pursue claims against a member that has granted an Authorization to Sell under the revised claims process, they will continue to have the ability to pursue claims against the member who has granted an Authorization to Sell through arbitration under Chapter XVIII of the CBOE's rules or through other means permitted under Chapter XVIII. Accordingly, the Commission believes that the revised membership claims process, together with the CBOE's arbitration facilities, will provide fair procedures for the resolution of disputes involving CBOE members, the CBOE, or the OCC when an Authorization to Sell has been granted.

O. CBOE Rule 3.16

The Commission believes that the proposed changes to CBOE Rule 3.16 will help to notify members of the circumstances under which a CBOT exerciser membership terminates. In addition, the proposed changes will clarify the CBOE's rules by moving provisions relating to leased memberships from CBOE Rule 3.16 to CBOE Rule 3.17.

P. CBOE Rule 3.17

The Commission believes that new CBOE Rule 3.17 will clarify the requirements, rights, and obligations applicable to leased memberships. For example, CBOE Rule 3.17 makes clear that the CBOE must pre-approve a lease; that the CBOE will bear no liability to a lessor or lessee in connection with its review and approval of a lease agreement; and that the CBOE may specify additional provisions that must be included in a membership lease, in addition to those designated in CBOE Rule 3.17. CBOE Rule 3.17 also clarifies that a lessee must file a lease and any amendments to the lease with the Membership Department and notify the Membership Department of any termination of the lease before the termination becomes effective.

Consistent with the revised membership claims process, CBOE Rule 3.17 indicates that a lessor will have no liability for claims against a lessee solely by virtue of being a lessor of the membership. However, CBOE Rule 3.17 also states that this provision is not intended to limit or define any responsibility a lessor may have for claims against a lessee by virtue of a contractual obligation or ownership relationship between the lessor and lessee beyond the lease of the membership. Similarly, to provide consistency with the revised membership claims process, the Exchange is eliminating the current provision of CBOE Rule 3.16(b) which states that any division of rights and responsibilities between the lessor and lessee will not affect the lessor's obligation to pay all amounts due to the CBOE.

CBOE Rules 3.17(e) and 3.17(f) contain provisions that apply when a lessor sells or transfers a membership that is being leased. Specifically, CBOE Rule 3.17(e) requires a purchaser or transferee of a membership that is being leased to lease the membership to the lessee pursuant to the terms of the existing lease agreement for a period of 20 business days following the date of the transfer to the purchaser or transferee. The Commission believes that the 20-day period will provide a lessee with time to obtain the lease of another membership, thereby helping to ensure that a lessee will be able to continue its business uninterrupted if the membership it is leasing is sold or transferred during the term of the lease. By allowing a lessee to continue in business without interruption, the proposal will protect lessees and contribute to the maintenance of a fair and orderly market on the CBOE.

CBOE Rule 3.17(f) clarifies the application of CBOE Rule 3.17(e) by specifying the allocation of amounts paid under a lease agreement when the membership being leased is sold or transferred. The Commission believes that CBOE Rules 3.17(e) and 3.17(f) will notify members of the rights and obligations of a lessor, lessee, and transferee when a leased membership is sold or transferred.

Q. CBOE Rule 3.18

As described more fully above, the CBOE proposes to revise its procedures for determining whether to permit a member or associated person who becomes subject to a statutory disqualification to continue in membership or association and, if so, whether to condition such continuance in membership or association. The procedures adopted in new CBOE Rule 3.18 are similar to the procedures set forth in National Association of Securities Dealers (''NASD'') Rules 9520 through 9526, which the Commission approved previously.[33] The Commission finds that new CBOE Rule 3.18 is consistent with Section 6(b)(5) in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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 believes that CBOE Rule 3.18 should enhance investor protection by enabling more rapid identification of statutorily disqualified individuals. In this regard, the Commission notes, for example, that CBOE Rule 3.18 requires a member or associated person that becomes subject to a statutory disqualification to submit an application seeking to continue in membership or association to the Membership Department within 10 days of becoming subject to a statutory disqualification, rather than within 30 days of becoming subject to a statutory disqualification, as provided under current Policy .02 sets forth a member's obligation to notify the Membership Department of the name of an associated person who is or becomes subject to a statutory disqualification, the person's capacity with the member, and the nature of the statutory disqualification.

CBOE Rule 3.18 further expedites the CBOE's current procedures by requiring a panel of the Membership Committee to hold a hearing within 14 days following the receipt of an application to continue in membership or association, or the initiation of a proceeding by the CBOE if a member or associated person subject to a statutory disqualification fails to submit the required application to continue in membership or association. Following the hearing, the panel will present its recommended decision to the Membership Committee, which may ratify or amend the decision. The Membership Committee will present its decision to the Executive Committee, which may determine within seven days to review the Membership Committee's

[32] As noted above, CBOE Rule 3.15 defines claims related to CBOE business activities to include, among other things, claims associated with CBOE transactions and loans or loan guarantees for the purpose of purchasing a CBOE membership. The Exchange will determine whether a claim is related to CBOE business activities.

[33] *See* Securities Exchange Act Release No. 40853 (December 28, 1998), 64 FR 555 (January 5, 1999) (order approving File No. SR–NASD–98–57).

decision. If the Executive Committee does not order a review of the Membership Committee's decision, the Membership Committee's decision will become the final decision of the CBOE. If the Executive Committee orders a review of the Membership Committee's decision, the Executive Committee or a panel of the Executive Committee, whose decision must be ratified by the Executive Committee, will conduct the review. The Executive Committee's decision, which must be in writing, will become the final decision of the CBOE.

The Commission believes that CBOE Rule 3.18 will streamline the CBOE's procedures and allow the CBOE to proceed more expeditiously to discontinue or condition the membership or association of a member or associated person who is or becomes subject to a statutory disqualification. The CBOE's revised procedures should protect investors and the public interest by helping to ensure that CBOE members and associated persons are qualified and eligible for membership.

The Commission believes that it is reasonable for the CBOE to provide in CBOE Rule 3.18, Interpretation and Policy .01, that the CBOE may waive the provisions of CBOE Rule 3.18 when a proceeding is pending before another self-regulatory organization to determine whether to permit an associated person to continue in membership with the member notwithstanding a statutory disqualification, and to provide that, if the CBOE waives the provisions of CBOE Rule 3.18, the Department of Financial and Sales Practice Compliance will determine whether the CBOE will concur in any filing made under Rule 19h–1 of the Act by another self-regulatory organization. The Commission finds that this provision is consistent with Rule 19h–1 under the Act.

R. CBOE Rule 3.19

The Commission finds that new CBOE Rule 3.19, a revised version of current CBOE Rule 3.17, will clarify that a member's membership status will terminate automatically when the member does not possess a membership and when a member organization has no nominee or member who has registered a membership for the member organization. The Commission believes that new CBOE Rule 3.19 will help to notify members of the CBOE's rules regarding the termination of membership status and provide consistency with the CBOE's requirement that a member organization select a nominee or member who has registered a membership for the member organization to represent the organization in all matters relating to the CBOE.

S. CBOE Rule 3.20

The Commission believes that the new requirements in CBOE Rule 3.20 that a member organization provide written notice to the Membership Department and the Department of Financial and Sales Practice Compliance of the adoption of a plan of liquidation or dissolution, and any actual liquidation or dissolution, will protect investors and the public interest by helping the CBOE to monitor the status and financial condition of its members.

T. CBOE Rule 3.21

The Commission believes that the deletion from CBOE Rule 3.21 of provisions allowing the CBOE to withhold the distribution of the proceeds of a sale of a membership if the seller is not current in the payment of CBOE fees or the submission of various fillings will ensure that CBOE Rule 3.21 is consistent with the CBOE's revised claims process.

U. CBOE Rules 1.1(hh), 3.20, 3.21, 3.22, 3.22A, and 6.20

The Commission believes that it is reasonable for the CBOE to delete CBOE Rules 1.1(hh), 3.20, 3.21, 3.22, 3.22A, and 6.20, Interpretation and Policy .03, which relate to government securities options permits, because all of the government securities options permits have expired. Accordingly, the Commission believes that eliminating these rules will clarify the CBOE's rules.

V. CBOE Rule 3.25

The Commission believes that the proposed changes to CBOE Rule 3.25 will clarify the CBOE's rules regarding a membership held in trust, thereby facilitating compliance with the CBOE's rules and requirements for memberships held in trust. Among other things, CBOE Rule 3.25, as amended, clarifies that a member transferring a membership into a trust must transfer the membership into a living trust. In addition, CBOE Rule 3.25 clarifies that the CBOE will deem the membership to have reverted to the Trust Member if the membership is released from the trust, the trust terminates, or the trust agreement no longer complies with the requirements of CBOE Rule 3.25. The requirement that a Trust Member submit to the Membership Department amendments to the trust agreement, any release of the membership out of trust, and any termination of the trust will help the CBOE monitor the status of a membership held in trust and determine whether a trust continues to satisfy the requirements of CBOE Rule 3.25.

W. CBOE Rule 3.27

The Commission believes that it is reasonable for the CBOE to amend CBOE Rule 3.27 and Regulatory Bulletin 00–37 to provide consistency with the revised membership claims process.

X. CBOE Rule 3.28

The Commission believes that new CBOE Rule 3.28 will provide necessary flexibility in the administration of the rules in Chapter III of the CBOE's rules by allowing the Membership Committee and/or the Membership Department to extend any time limit imposed under Chapter III of the CBOE's rules, relating to membership. The Commission notes that new CBOE Rule 3.28 is similar to current CBOE Rule 17.13, which allows the CBOE to extend time limits for the submission of materials required under Chapter XVII of the CBOE's rules.

Y. CBOE Rule 3.29

The Commission believes that new CBOE Rule 3.29 will facilitate the orderly administration of the CBOE's rules by clarifying that the Membership Committee and/or the Membership Department may exercise all of the authority granted to the CBOE under Chapter III of the CBOE's rules. In addition, CBOE Rule 3.29 will clarify the Membership Committee's ability to delegate authority to the Membership Department, thereby helping to ensure that the Membership Committee will be able to focus its attention on more significant membership applications and approvals.

Z. CBOE Rule 6.76A

The Commission believes that the automated billing process established in CBOE Rule 6.76A will streamline the processing and payment of bills for brokerage services performed by floor brokers and order service firms. The Commission believes that new CBOE Rule 6.76A will establish an efficient and effective automated billing process that will facilitate the prompt payment of amounts market makers owe to floor brokers and order service firms while providing market makers with an opportunity to review and dispute bills submitted by floor brokers and order service firms. In this regard, CBOE Rule 6.76A states that a market maker that disputes a bill may pursue a claim against the floor broker or order service firm in arbitration under Chapter XVIII of the CBOE's rules or through other means permitted by Chapter XVIII. In addition, the Commission notes that the

CBOE may discipline a floor broker or order service firm for violating CBOE Rule 4.6 by submitting a false statement to the CBOE if the floor broker or order service firm improperly instructs the CBOE to bill a market maker for brokerage fees which the floor broker or order service firm is not entitled to receive.

The Commission believes that CBOE Rule 6.76A provides a detailed description of the automated billing system that will notify members of the procedures and obligations associated with the new billing system, including monthly deadlines for submitting bills and instructions under the new procedures. In addition, CBOE Rule 6.76A(a)(vii) provides that a clearing member may instruct the CBOE's accounting department not to draft the clearing member for brokerage fees that would cause the market maker to have a negative balance in the market maker's account at the clearing member, thereby clarifying that a clearing member will not serve as a guarantor for a market maker's brokerage service bills. CBOE Rule 6.76A also establishes procedures for making deductions from a market maker's account if a clearing member instructs the accounting department not to draft the clearing member pursuant to CBOE Rule 6.76A(a)(vii) and the account subsequently has a positive balance.

The Commission notes that the automated billing system established in CBOE Rule 6.76A is similar to the Integrated Billing System established in CBOE Rule 3.23 for CBOE invoices, which the Commission has approved.[34]

The Commission believes that the fees that the CBOE proposes to assess to help to defray the CBOE's cost of administering the automated billing process provides for the equitable allocation of reasonable dues, fees, and other charges among members, consistent with Section 6(b)(4) of the Act.

AA. CBOE Rules 6.72, 6.78 and 8.5

The Commission believes that it is reasonable for the CBOE to amend CBOE Rules 6.72, 6.78, and 8.5 to provide that the CBOE will post notice of a clearing member's revocation of its letter of authorization only at the request of the clearing member because, according to the CBOE, most revocations are routine and arise because a member is terminating from membership or is changing the clearing member that guarantees the member's Exchange transactions.

The amendments to CBOE Rule 6.72 also clarify the rules applicable to letters of authorization by stating that: (1) A revocation will not relieve a clearing member of responsibility for transactions guaranteed prior to the effective date of the revocation; and (2) a floor broker may have only one letter of authorization guarantee from a clearing member in effect at a time. The Commission believes that these amendments will help to notify members of the rules applicable to floor brokers' letters of authorization.

In addition, the Commission believes that it is reasonable for the CBOE to amend CBOE Rule 8.5 to clarify that a market maker that clears transactions through more than one clearing member must have a letter of guarantee issued by each clearing member to cover the CBOE transactions executed by the market maker through the clearing member. The Commission believes that this amendment to CBOE Rule 8.5 will protect investors and the public interest by helping to ensure the financial integrity of market makers.

The Commission also believes that it is reasonable for the CBOE to amend CBOE Rule 8.5, Interpretation and Policy .04, to provide that the CBOE will notify each clearing corporation that has approved a letter of guarantee for a market maker of the issuance and revocation, if applicable, of all other letters of guarantee issued to the market maker in respect of transactions subject to the rules of any other clearing corporation. The Commission believes that the proposed change will help to inform a clearing corporation of the financial status of a market maker for whom the clearing corporation has approved a letter of guarantee.

BB. CBOE Rule 8.9

The Commission believes that new Interpretation and Policy .08 to CBOE Rule 8.9 will clarify the obligations of members by stating that each participant in a joint account will be jointly and severally liable for any losses incurred by the joint account. In addition, Interpretation and Policy .08 will provide consistency with CBOE Rule 3.8(d) by indicating that when a joint account participant that is the nominee of a member organization, or an individual who has registered his or her membership for a member organization, and the participant is not acting as an independent market maker pursuant to CBOE Rule 3.8(f), the member organization, rather than the participant, will be liable for losses incurred by the joint account.

CC. CBOE Rules 9.3, 10.11, and 15.1

The Commission believes that new Interpretation and Policy .01 to CBOE Rule 9.3 will clarify an existing CBOE requirement by stating that the application that associated persons who are representatives must file with the CBOE is the Form U–4. Similarly, Interpretation and Policy .01 will set forth the existing requirement that a person required to file Form U–4 also must file any required amendments to Form U–4. The Commission believes that the proposed changes will help to notify associated persons of their obligations with respect to Form U–4.

The Commission believes that the proposed amendment to CBOE Rule 10.11 will provide clarity and consistency in the CBOE's rules by referring to the claims resolution procedures established in CBOE Rule 3.15. Similarly, the proposed amendments to Interpretation and Policy .01 to CBOE Rule 15.1 will revise references to specific CBOE rules to reflect the changes to the CBOE's membership rules.

DD. CBOE Rule 18.2

The Commission believes that CBOE Rule 18.2, Interpretation and Policy .01, which will ensure that clearing members receive notice of proceedings involving disputed trades, is reasonable because it will help to keep clearing members apprised of proceedings involving members whose trades the clearing member has guaranteed.

EE. CBOE Rules 6.72, 24A.15, 26.11, 26.13, and 30.74

The Commission believes that the conforming changes to CBOE Rules 6.72, 24A.15, 26.11, 26.13, and 30.74, will provide clarity and consistency in the CBOE's rules by deleting references to the current membership claims process.

FF. Membership Fee Circular

The Commission believes that the amendments to the Circular will clarify the Circular by limiting the Circular solely to information regarding membership fees while moving the deleted portions of the Circular to the CBOE's rules. The Commission believes that the revised fees set forth in the Circular provide for the equitable allocation of reasonable dues, fees, and other charges among members, consistent with Section 6(b)(4) of the Act.

GG. Special Members

The Commission believes that the deletion of references to special members in CBOE Rules 3.12, 3.14,

[34] *See* Securities Exchange Act Release No. 20962 (May 15, 1984), 49 FR 21586 (May 22, 1984) (order approving File No. SR–CBOE–84–10).

3.16, 6.5, and 9.1 will clarify the CBOE's rules because all special memberships on the CBOE have expired.[35]

HH. Effectiveness of the Proposed Rule Change

The Commission believes that it is reasonable for the proposed rule change to become effective 30 days from the date of its approval by the Commission. The Commission believes that the 30-day period will provide the CBOE with an opportunity to notify the Exchange's membership of the effectiveness of the rule change.

The Commission finds good cause for approving Amendment No. 3 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register.** Amendment No. 3 strengthens the CBOE's proposal by providing additional requirements for foreign organizations seeking to become CBOE members. Accordingly, the Commission believes that granting accelerated approval of Amendment No. 3 is appropriate and consistent with Sections 6(b)(5) and 19(b)(2) of the Act.[36]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 3, including whether Amendment No. 3 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 filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–CBOE–99–15 and should be submitted by August 18, 2000.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[37] that the proposed rule change (SR–CBOE–99–15), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[38]

Jonathan G. Katz,

Secretary.

[FR Doc. 00–19055 Filed 7–27–00; 8:45 am]

BILLING CODE 8010–01–M

[35] *See* note 22, *supra.*

[36] 15 U.S.C. 78f(b)(5) and 78s(b)(2).

[37] 15 U.S.C. 78s(b)(2).

[38] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43059; File No. SR–Phlx–00–58]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Certain PACE Rule Provisions

July 20, 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 June 30, 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 Phlx. On July 18, 2000, the Exchange submitted Amendment No. 1 to the proposed rule change.[3] The Exchange has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[4] which renders the proposal effective upon receipt of this filing by the Commission.[5] 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 under the Act,[6] proposes to implement a change to the Phlx Automated Communication and Execution (''PACE'') System. By incorporating two provisions into Phlx Rule 229 (concerning PACE), this change will provide an entering member organization with additional elections with respect to certain features of PACE similar to those currently provided for in the Rule. Specifically, the language ''unless the entering member organization otherwise elects'' is proposed to be added to both Supplementary Material .10(a)(i) and (ii).

The proposed change to Supplementary Material .10(a)(i) provides that round-lot orders up to 599 shares, and the round-lot portion of PRL[7] limit orders up to 599 shares, that are entered at the PACE Quote, shall be executed at the PACE Quote.[8] This proposal would codify that such execution guarantee can either be provided by the PACE System automatically or by the specialist, at the election of the entering member. This amendment does not change the fundamental principle of PACE that the specialist must provide the PACE Quote to eligible orders.

Second, the revision would permit the entering member organization to elect whether certain eligible non-marketable limit orders will be executed via PACE in accordance with the ''primary market print protection'' provision set forth in Supplementary Material .10(a)(ii) of the PACE Rule.

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. The Exchange has

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange modified its proposed change to the text of Supplementary Material .10(a)(i). The modification clarifies that qualifying marketable limit orders will continue to be executed at the price quoted in the Phlx Automated Communication and Execution System, whether or not executed automatically. *See* Letter from Edith Hallahan, Deputy General Counsel, Phlx, to Steven Johnston, Special Counsel, Division of Market Regulation, dated July 17, 2000 (''Amendment No. 1'').

[4] 17 CFR 240.19b–4(f)(6).

[5] The Exchange has represented that the proposed rule change: (i) will not significantly affect the protection of investors or the public interest; (ii) will not impose any significant burden on competition; and (iii) will not become operative for 30 days after the date of this filing, unless otherwise accelerated by the Commission. The Exchange also has provided at least five business days notice to the Commission of its intent to file this proposed rule change, as required by Rule 19b–4(f)(6) under the Act. *Id.*

[6] 17 CFR 240.19b–4.

[7] The first paragraph of Rule 229 defines a PRL as a combined round-lot and odd-lot order.

[8] The PACE Quote is defined in Rule 229 as the best bid/ask quote among the American, Boston, Cincinnati, Chicago, New York, Pacific or Philadelphia Stock Exchange, or the Intermarket Trading System/Computer Assisted Execution System (''ITS/CAES'') quote, as appropriate.

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 the proposed rule change is to extend to an entering member organization the ability to control all aspects of the handling of its orders in conjunction with the other elections already provided within the rule. Currently, entering member organizations can make an election regarding the price improvement provisions of Supplementary Material .07. An entering member organization may also elect manual, instead of default automatic execution of market orders if automatic execution would have occurred at a price outside of the day's primary market high-low range (''out-of-range protection''). Finally, under Supplementary Material .10(a)(iii), member organizations that enter limit orders after the opening may elect to have such orders executed manually at or within the New York market high-low range of the day. similar to the proposed elections, these provisions are intended to give member organizations greater flexibility as to the disposition of their orders, which should, in turn, enhance the Exchange's competitive position among firms seeking an appropriate venue for the execution of their order flow.[9]

The PACE System, as described in Rule 229, is the Exchange's automated order routing, delivery, execution and reporting system on the equity floor. PACE is available to member organizations, who are referred to here as either the entering member organizations sending order flow or the specialist on the equity trading floor, both of whom are users of the PACE System.

As stated above, the proposal is designed to provide entering member organizations with two elections similar to those currently noted within the rule. Member organizations may choose not to receive certain guarantees for many different reasons, which are often specific to their types of customers and business, as well as specific to certain securities, order types and sizes.

First, Supplementary material .10(a)(i) generally provides that marketable limit orders up to 599 shares entered at the PACE Quote shall be executed at the PACE Quote. The rule does not currently state that such orders are automatically executed, only that they are to be executed at the PACE Quote. Specifically, the proposal reflects that the automatic execution price guarantee would be available if the order is executed by the specialist or automatically.

Second, the entering member organization could elect not to receive the execution guarantee resulting from primary market trading at that price. A member organization may not wish, for example, to receive a partial execution of 500 shares of a 10,000-share order, if only 1,000 shares trade on the primary market.[10]

The Exchange believes that automatic and other order handling features, such as those provided by PACE, generally facilitate the ability of members firms to satisfy their best execution and other fiduciary obligations to their customers when routing orders to the Phlx. However, as the Commission has recognized, there is no single benchmark for what constitutes ''best execution'' for all customers, all firms and all orders. Member firms consider a variety of factors in determining whether to route their equity orders to the Phlx or to handle their orders in some other fashion, and the Exchange believes that a ''one size fits all'' execution and orer handling methodology for PACE-eligible orders could, in certain circumstances, be an impediment to firms in choosing to route eligible orders to the Phlx floor. The Phlx believes that entering members should have the greatest degree of flexibility in determining, based upon their business, their customers' desires, and the specific capabilities and characteristics of the Phlx equity floor, whether PACE-eligible orders would be equally well handled (or handled better) manually in some fashion other than that provided for in the pre-programmed PACE System.

2. Statutory Basis

The Exchange represents that the proposed rule change is consistent with Section 6(b) of the Act in general,[11] and furthers the objectives of Section 6(b)(5)[12] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as to promote just and equitable principles of trade, by extending an entering member organization's election ability to control all aspects regarding the processing of that firm's orders. This flexibility should increase the Exchange's competitive position as well as provide a more tailored execution venue to member organizations.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange neither received nor solicited written comments.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective upon filing pursuant to Rule 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder, because it: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days after the date of filing or such shorter period as the Commission may designate if consistent with the protection of investors and the public interest; provided that the Exchange has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the filing date of the proposed rule change, or such shorter time as designated by the Commission.

At any time within 60 days of the filing of such 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 purpose 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

[9] Footnote deleted. Telephone conversation between Edith Hallahan, Deputy General Counsel, Phlx, and Steven Johnston, Special Counsel, Division of Market Regulation, Commission, July 19, 2000.

[10] Amendment No. 1. supra.

[11] 15 U.S.C. 78f.

[12] 15 U.S.C. 78f(b)(5).

the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–00–58 and should be submitted by August 18, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Jonathan G. Katz,

Secretary.

[FR Doc. 00–19053 Filed 7–27–00; 8:45 am]

BILLING CODE 8010–01–M

[13] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Pub. L. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. 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.

Written comments and recommendations regarding the information collection(s) should be submitted to the SSA Reports Clearance Officer and to the OMB Desk Officer at the following addresses:

(OMB): Attn: Desk Officer for SSA, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, D.C. 20503

(SSA): Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235

I. The information collections listed below will be submitted to OMB within 60 days from the date of this notice. Your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain a copy of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–4145, or by writing to him at the address listed above.

1. Statement for Continuing Eligibility, Supplemental Security Income (SSI) Cases—0960–0416. SSA uses form SSA–8203–BK for high-error-profile (HEP) redeterminations completed by field offices. SSA employees conduct telephone or face-to face interviews with SSI recipients and representative payees of SSI recipients and document the information gathered during the interview on an SSA–8203–BK. Occasionally, due to systems limitations, the form is mailed to recipients for completion. A tear-off sheet (Pages 7 and 8 of the form) is given to recipients at the conclusion of a face-to-face interview or mailed to recipients at the completion of the telephone interview. It includes information about how, what, when, where, and why SSI recipients report when there is a change in income, resources, or living arrangements. The information collected is used to determine whether SSI recipients have met and continue to meet all statutory and regulatory requirements for SSI eligibility and whether they have been and are still receiving the correct payment amount. Periodic collection of this information is the only way SSA can make these determinations. The respondents are recipients of title XVI (SSI) benefits or their representative payees.

Number of Respondents: 920,000.

Frequency of Response: 1.

Average Burden Per Response: 17 minutes.

Estimated Annual Burden: 260,667 hours.

2. Claimant's Statement About Loan of Food or Shelter (SSA–5062), and Statement About Food or Shelter Provided to Another (SSA–L5063)—0960–0529. Forms SSA–5062 and SSA–L5063 are used to obtain statements about food and/or shelter provided to an SSI claimant. SSA uses the information to determine whether food and/or shelter are a bona fide loan or should be counted as income. This determination can affect eligibility for SSI and the amount of SSI benefits payable. The respondents are claimants for SSI benefits and individuals who provide (loan) food or shelter to SSI Claimants.

	SSA–5062	SSA–L5063
Number of Respondents	65,540	65,540
Frequency of Response	1	1
Average Burden Per Response (minute)	10	10
Estimated Annual Burden (hours)	10,923	10,923

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance package by calling the SSA Reports Clearance Officer on (410) 965–4145, or by writing to him at the address listed above.

1. Request for Withdrawal of Application—0960–0015. Form SSA–521 is completed by SSA when an individual wishes to withdraw his or her application for Social Security benefits. The respondents are individuals who wish to withdraw their applications for benefits.

Number of Respondents: 100,000.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 8,333 hours.

2. Statement of Self-Employment Income—0960–0046. SSA uses the information on Form SSA–766 to expedite the payment of Social Security benefits to an individual who is self-employed and who is establishing insured status in the current year. The respondents are self-employed persons.

Number of Respondents: 5,000.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 417 hours.

3. Certification by Religious Group—0960–0093. The data that SSA collects via form SSA–1458 is used to determine if the religious group meets the qualifications set out in section 1402(g) of the Internal Revenue Code permitting its members to be exempt from payment of certain Social Security taxes. The respondents are spokespersons for a religious group or sect.

Number of Respondents: 180.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 45 hours.

4. You Can Make Your Payment by Credit Card—0960–0462. Forms SSA–4588 and SSA–4589 provide information to SSA on the debtor's

name, Social Security Number, credit card number, the amount being paid and the credit card type so that a remittance can be credited to the debtor's account. The respondents are Title II (Old-Age, Survivors and Disability Insurance) and Title XVI (SSI) debtors, and citizens requesting material through SSA.

Number of Respondents: 19,000.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 1,583 hours.

5. Statement Regarding Contributions—0960–0020. To determine eligibility of child applicants to Social Security benefits, SSA must collect information about the source of support and the amount of contributions. SSA uses the form SSA–783 for this purpose. The respondents are individuals who provide information to SSA about the child's sources of support.

Number of Respondents: 30,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 7,500 hours.

6. Medical Parking Permit Application—0960–NEW. 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 collected on form SSA–3192 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.

Number of Respondents: 144.

Frequency of Response: 1.

Average Burden Per Response: 1 hour.

Estimated Annual Burden: 144 hours.

7. Authorization for Source to Release Information to SSA—0960–NEW. 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.

8. Lump-Sum Death Payment Application (Modernized Claims System)—0960–NEW. The information is collected through a computerized system and is required to authorize payment of the lump-sum death benefit to a widow, widower, or children as defined in Section 202(i) of the Social Security Act. The respondents are widows, widowers or children who apply for a lump-sum death payment.

Number of Respondents: 833,000.

Frequency of Response: 1.

Average Burden Per Response: 20 minutes.

Estimated Annual Burden: 277,667 hours.

9. 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.

Dated: July 21, 2000.

Frederick W. Brickenkamp,

SSA Reports Clearance Officer.

[FR Doc. 00–19041 Filed 7–27–00; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

Bureau of European Affairs

[Public Notice 3374]

Irish Peace Process, Cultural and Training Program Support

Introduction

The United States Department of State announces an open competition for an assistance award. Nongovernmental organizations may apply to establish and manage a program that assists young people from disadvantaged areas of designated counties in Ireland and Northern Ireland that suffer from sectarian violence and high unemployment to enter and work in the United States. Program objectives include developing job skills and conflict resolution abilities in a diverse, cooperative, peaceful, and prosperous environment. Once these skills are achieved, program participants can return home better able to contribute toward economic regeneration and domestic tranquility. The program shall promote cross-community and cross-border understanding to build grassroots support for long-term peaceful coexistence. A cooperative agreement will be subject to the availability of funds.

Authority

Statutory authority for this cooperative agreement is contained in the Irish Peace Process Cultural and Training Program Act of 1998, Public Law 105–319.

Eligible Applicants

Eligible applicants include all nongovernmental institutions, private organizations, and commercial entities.

Availability of Funds

Approximately $3 million remain for expenditure from appropriated funds. Additional funding may be appropriated for this program prior to the expiration of statutory authority in 2005.

Continuing awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Purpose

Primary objectives for this program are to develop employment skills, impart conflict resolution ability, provide social services support for program participants, source jobs in the USA in designated sectors, match program participants and employers for visa certification, and develop information technology support to promote program objectives, track activity, and assist in identifying employment opportunities for their return home.

Evaluation Criteria

Technically eligible applicants will be competitively reviewed under 7 criteria. The criteria are: (1) Program planning and the ability to achieve objectives; (2) Institutional capacity; (3) Cost effectiveness and cost sharing; (4) Ability to objectively evaluate program achievements; (5) ''Multiplier effect/impact''—strengthening of bilateral and multilateral peace and understanding; (6) Support of Diversity; and (7) Cultural sensitivity.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from 10 or more individuals and funded by the cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Application Submission and Deadline

The original and ten (10) copies of the application (Standard Form 424) must be submitted to the U.S. Department of State, Mr. William Zehnder, A/LM/AQM/IP, State Annex #44, Room M–27, 301 4th Street SW., Washington, DC 20547 on or before 1 September 2000. Late applications may only be considered at the sole discretion of the U.S. Department of State grant award officer.

Where To Obtain Additional Information

A detailed program description and application package may be obtained from Mr. William C. Zehnder., U.S. Department of State, A/LM/AQM/IP, State Annex #44, Room M–27, 301 4th Street SW., Washington, DC 20547, telephone (202) 619–4385. Please refer to the ''Irish Peace Process'' when requesting information or sending an application.

Dated: July 24, 2000.

Frank J. Kerber,

Country Officer for Ireland and Northern Ireland, U.S. Department of State.

[FR Doc. 00–19124 Filed 7–27–00; 8:45 am]

BILLING CODE 4710–23–U

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Industry Sector Advisory Committee on Small and Minority Business (ISAC–14)

AGENCY: Office of the United States Trade Representative

ACTION: Notice of open meeting.

SUMMARY: The Industry Sector Advisory Committee on Small and Minority Business (ISAC–14) will hold an open meeting on August, 9, 2000, from 1:30 p.m. to 3 p.m.

DATES: The meeting is scheduled for August 9, 2000, unless otherwise notified.

ADDRESSES: The meeting will be held at the Department of Commerce Room B841, located at 14th Street and Constitution Avenue, NW., Washington, DC, unless otherwise notified.

FOR FURTHER INFORMATION CONTACT: Millie Sjoberg or Cory Churches, Department of Commerce, 14th St. and Constitution Ave., NW., Washington, DC 20230, (202) 482–4792 or Emory Mayfield, Office of the United States Trade Representative, 1724 F St. NW., Washington, DC 20508, (202) 395–6120.

SUPPLEMENTARY INFORMATION: The ISAC–14 will hold an open meeting on August 9, 2000, from 1:30 a.m. to 3:00 p.m. The agenda topic will be development of ISAC 14 advice on the future of the Advisory Committee Process.

Dominic Bianchi,

Acting Assistant, United States Trade Representative for Intergovernmental Affairs and Public Liaison.

[FR Doc. 00–19084 Filed 7–27–00; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Prepare a Tiered Environmental Impact Statement (EIS) and To Conduct Environmental Scoping for Site Approval and the Proposed Acquisition of Land by the State of Illinois for a Supplemental Air Carrier Airport To Serve Northeast Illinois/Northwest Indiana Metropolitan Area

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice to hold a public scoping meeting.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this

notice to advise the public that a tiered Environmental Impact Statement will be prepared to consider the location and proposed acquisition of land by the state of Illinois for a potential future supplemental air carrier airport to serve the northeast Illinois and northwest Indiana metropolitan area. This scope is significantly different from earlier scoping completed in May and September of 1990, January of 1995, and April 1997 that considered development of aviation facilities in addition to site approval and land acquisition. New public scoping will be held in order that all significant issues related to the revised proposed actions are identified.

FOR FURTHER INFORMATION CONTACT: Denis R. Rewerts, Airport Capacity Officer, Federal Aviation Administration, Chicago Airports District Office, Room 320, 2300 East Devon Avenue, Des Plaines, Illinois 60018. Mr. Rewerts can be contacted at (847) 294–7195 (voice), (847) 294–7046 (facsimile).

SUPPLEMENTARY INFORMATION: At the request of the State of Illinois, Department of Transportation, the FAA is preparing a tiered Environmental Impact Statement. The first tier (tier 1) will address FAA site approval for a potential future supplemental air carrier airport. No use of Federal funds or Airport Layout Plan approval is contemplated under this action. A subsequent tier, or tiers, may be prepared and considered at a later date to assess the potential impacts resulting from development of aviation facilities, as these issues become ripe for decision. All reasonable alternatives will be considered including the no-action option.

Copies of a scoping document with additional detail can be obtained by contacting the FAA informational contact person identified above. Federal, State and local agencies and other interested parties are invited to make comments and suggestions to ensure that the full range of issues related to these proposed actions are addressed and all significant issues identified. The FAA informational contact person identified above should receive these comments and suggestions by September 14, 2000.

PUBLIC SCOPING MEETING: To facilitate receipt of comments, two public scoping meetings will be held on August 30, 2000 in Engbretson Hall (Auditorium) at Governors State University, University Park, Illinois. The first meeting will be held between 10:00 AM and 12:00 PM for Federal, State and local agencies. The second meeting will be held from 2:00 PM to 7:00 PM for other interested parties.

Issued in Des Plaines, Illinois on July 21, 2000.

Philip M. Smithmeyer,

Manager, Chicago Airports District Office FAA, Great Lakes Region.

[FR Doc. 00–19039 Filed 7–27–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Sarasota Bradenton International Airport; Sarasota, Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Sarasota Bradenton International Airport (SRQ) under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before August 28, 2000.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, Florida 32822.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Fredrick J. Piccolo, Executive Director of the Sarasota Manatee Airport Authority at the following address: Sarasota Manatee Airport Authority, 6000 Airport Circle, Sarasota, Florida 34243.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Sarasota Manatee Airport Authority under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Vernon P. Rupinta, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, Florida 32822, (407) 812–6331, Extension 24. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Sarasota Bradenton International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On July 12, 2000, the FAA determined that the application to impose and use the revenue from a PFC submitted by Sarasota Manatee Airport Authority was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than November 9, 2000.

The following is a brief overview of the application.

PFC Application No.: 00–04–C–00–SRQ.

Level of the proposed PFC: $3.00.

Proposed charge effective date: April 1, 2002.

Proposed charge expiration date: October 1, 2015.

Total estimated net PFC revenue: $36,126,915.

Brief description of proposed project(s): Airport Terminal Development Debt Service.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operator.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Sarasota Manatee Airport Authority.

Issued in Orlando, Florida on July 12, 2000.

Bart Vernace,

Acting Manager, Orlando Airports District Office Southern Region.

[FR Doc. 00–19040 Filed 7–27–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Voluntary Intermodal Sealift Agreement (VISA)

AGENCY: Maritime Administration, DOT.

ACTION: Notice of open season for enrollment in fiscal year (FY) 2001 VISA Program.

Introduction

The VISA program was established pursuant to section 708 of the Defense Production Act of 1950, as amended (DPA), which provides for voluntary agreements for emergency preparedness programs. VISA was approved for a two year term on January 30, 1997, and published in the **Federal Register** on February 13, 1997, (62 FR 6837). Approval was extended through February 13, 2001, and published in the **Federal Register** on February 18, 1999 (64 FR 8214).

As implemented, VISA is open to U.S.-flag vessel operators of militarily useful vessels, including bareboat charter operators if satisfactory signed agreements are in place committing the assets of the owner to the bareboat charterer for purposes of VISA. By order of the Maritime Administrator on August 4, 1997, participation of U.S.-flag deepwater tug/barge operators in VISA was encouraged. Time, voyage, and space charterers are not considered U.S.-flag vessel operators for purposes of VISA eligibility.

VISA Concept

The mission of VISA is to provide commercial sealift and intermodal shipping services and systems, including vessels, vessel space, intermodal systems and equipment, terminal facilities, and related management services, to the Department of Defense (DOD), as necessary, to meet national defense contingency requirements or national emergencies.

VISA provides for the staged, time-phased availability of participants' shipping services/systems to meet contingency requirements through prenegotiated contracts between the Government and participants. Such arrangements are jointly planned with the Maritime Administration (MARAD), U.S. Transportation Command (USTRANSCOM), and participants in peacetime to allow effective and best valued use of commercial sealift capacity, to provide DOD assured contingency access, and to minimize commercial disruption, whenever possible.

VISA Stages I and II provide for prenegotiated contracts between the DOD and participants to provide sealift capacity to meet all projected DOD contingency requirements. These contracts are executed in accordance with approved DOD contracting methodologies. VISA Stage III will provide for additional capacity to the DOD when Stage I and II commitments or volunteered capacity are insufficient to meet contingency requirements, and adequate shipping services from non-participants are not available through established DOD contracting practices or U.S. Government treaty agreements.

FY 2001 VISA Enrollment Open Season

The purpose of this notice is to invite interested, qualified U.S.-flag vessel operators that are not currently enrolled in the VISA program to participate in the program for FY 2001 (October 1, 2000 through September 30, 2001). Current participants in the VISA program are not required to apply for FY 2001 reenrollment, as VISA participation will be automatically entended for FY 2001. This is the third annual enrollment period since the commencement of VISA. The annual enrollment was initiated because VISA has been fully integrated into DOD's priority for award of cargo to VISA participants. It is necessary to link the VISA enrollment cycle with DOD's peacetime cargo contracting cycle.

New VISA applicants are required to submit their applications for the FY 2001 VISA program as described in this Notice no later than August 31, 2000. This alignment of VISA enrollment and eligibility for VISA priority will solidify the linkage between commitment of contingency assets by VISA participants and receiving VISA priority consideration for the award of FY 2001 DOD peacetime cargo.

This is the only planned enrollment period for carriers to join VISA and derive benefits for DOD peacetime contracts during FY 2001. The only exception to this open season period for VISA enrollment will be for a non-VISA carrier that reflags a vessel into U.S. registry. That carrier may submit an application to participate in the VISA program at any time upon completion of reflagging.

Advantages of Peacetime Participation

Because enrollment of carriers in VISA provides the DOD with assured access to sealift services during contingencies based on a level of commitment, as well as a mechanism for joint planning, the DOD awards peacetime cargo contracts to VISA participants on a priority basis. This applies to liner trades and charter contracts alike. Award of DOD cargoes to meet DOD peacetime and contingency requirements is made on the basis of the following priorities:

- U.S.-flag vessel capacity operated by VISA participants, and U.S.-flag Vessel Sharing Agreement (VSA) capacity held by VISA participants.
- U.S.-flag vessel capacity operated by non-participants.
- Combination U.S.-flag/foreign-flag vessel capacity operated by VISA participants, and combination U.S.-flag/foreign-flag VSA capacity held by VISA participants.
- Combination U.S.-flag/foreign-flag vessel capacity operated by non-participants.
- U.S.-owned or operated foreign-flag vessel capacity and VSA capacity held by VISA participants.
- U.S.-owned or operated foreign-flag vessel capacity and VSA capacity held by non-participants.
- Foreign-owned or operated foreign-flag vessel capacity of non-participants.

Participants

Any U.S.-flag vessel operator organized under the laws of a state of the United States, or the District of Columbia, who is able and willing to commit militarily useful sealift assets and assume the related consequential risks of commercial disruption, may be eligible to participate in the VISA program. While vessel brokers and agents play an important role as a conduit to locate and secure appropriate vessels for the carriage of DOD cargo, they may not become participants in the VISA program due to lack of requisite vessel ownership or operation. However, brokers and agents should encourage the carriers they represent to join the program.

Commitment

Any U.S.-flag vessel operator desiring to receive priority consideration in the award of DOD peacetime contracts must commit no less than 50 percent of its total U.S.-flag militarily useful capacity in Stage III of the VISA program. A participant desiring to bid on DOD peacetime contracts will be required to provide commitment levels to meet DOD-established Stages I and/or II minimum percentages of the participant's military useful, oceangoing U.S-flag fleet capacity on an annual basis. The USTRANSCOM and MARAD will coordinate to ensure that the amount of sealift assets committed to Stages I and II will not have an adverse national economic impact. To minimize domestic commercial disruption, participants operating vessels exclusively in the domestic Jones Act trades are not required to commit the capacity of those U.S. domestic trading vessels to VISA Stages I and II. Overall VISA commitment requirements are based on annual enrollment.

In order to protect a U.S.-flag vessel operator's market share during contingency activation, VISA allows participants to join with other vessel operators in Carrier Coordination

Agreements (CCA's) to satisfy commercial or DOD requirements. VISA provides a defense against antitrust laws in accordance with the DPA. CCA's must be submitted to MARAD for coordination with the Department of Justice for approval, before they can be utilized.

Compensation

In addition to receiving priority in the award of DOD peacetime cargo, a participant will receive compensation during contingency activation. During enrollment, each participant may choose a compensation methodology which is commensurate with risk and service provided. The compensation methodology selection will be completed with the appropriate DOD agency.

Enrollment

New applicants may enroll by obtaining a VISA application package (Form MA–1020 (OMB Approval No. 2133–0532)) from the Director, Office of Sealift Support, at the address indicated below. Form MA–1020 includes instructions for completing and submitting the application, blank VISA Application forms and a request for information regarding the operations and U.S. citizenship of the applicant company. A copy of the February 18, 1999 VISA will also be provided with the package. This information is needed in order to assist MARAD in making a determination of the applicant's eligibility. An applicant company must be able to provide an affidavit that demonstrates that the company is a citizen of the United States, at least for purposes of vessel documentation, within the meaning of 46 U.S.C., section 12102, and that it owns, or bareboat charters and controls, oceangoing, militarily useful vessel(s) for purposes of committing assets to VISA. As previously mentioned, VISA applicants must return the completed VISA application documents to MARAD not later than August 31, 2000. Once MARAD has reviewed the application and determined VISA eligibility, MARAD will sign the VISA application document which completes the eligibility phase of the VISA enrollment process.

In addition, the applicant will be required to enter into a contingency contract with the DOD. For the FY 2001 VISA open season, and prior to being enrolled in VISA, eligible VISA applicants will be required to execute a joint VISA Enrollment Contract (VEC) with the DOD [Military Traffic Management Command (MTMC) and Military Sealift Command (MSC)] which will specify the participant's Stage III commitment for FY 2001. Once the VEC is completed, the applicant completes the DOD contracting process by executing a Drytime Contingency Contract (DCC) with MSC (for Charter Operators) and/or as applicable, a VISA Contingency Contract (VCC) with MTMC (for Liner Operators). Upon completion of the DOD contingency contract(s), the Maritime Administrator will confirm the participant's enrollment by letter agreement, with a copy to all appropriate parties.

For Additional Information and Applications Contact: Raymond Barberesi, Director, Office of Sealift Support, U.S. Maritime Administration, Room 7307, 400 Seventh Street, SW, Washington, DC 20590. Telephone (202) 366–2323. Fax (202) 493–2180. The full text of this **Federal Register** Notice and other information about the VISA can be found on MARAD's Internet Web Page at http://www.marad.dot.gov.

By Order of the Maritime Administrator.

Dated: July 24, 2000.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 00–19076 Filed 7–27–00; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. MC–F–20969; MC–F–20970] [1]

Stagecoach Holdings PLC and Coach USA, Inc., et al.—Control—B&A Charter Tours, Inc., Dillon's Bus Service, Inc., and The McMahon Transportation Co.; Stagecoach Holdings PLC and Coach USA, Inc., et al.—Control—Express Shuttle, Inc.

AGENCY: Surface Transportation Board.

ACTION: Notice tentatively approving finance transactions.

SUMMARY: Stagecoach Holdings PLC (Stagecoach) and its subsidiary, Coach USA, Inc. (Coach), noncarriers, and various subsidiaries of each (collectively, applicants) have filed an application under 49 U.S.C. 14303 in STB Docket No. MC–F–20969 to acquire control of motor passenger carriers B&A Charter Tours, Inc. (B&A), Dillon's Bus Service, Inc. (Dillon's), and The McMahon Transportation Co. (McMahon) (collectively, Maryland Carriers); and in STB Docket No. MC–F–20970 to acquire control of motor passenger carrier Express Shuttle, Inc., (Express). Persons wishing to oppose this application must follow the rules under 49 CFR part 1182.5 and 1182.8. The Board has tentatively approved the transactions, and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments must be filed by September 11, 2000. Applicants may file a reply by September 26, 2000. If no comments are filed by September 11, 2000, this notice is effective on that date.

ADDRESSES: Send an original and 10 copies of any comments referring to STB Docket Nos. MC–F–20969 and MC–F–20970 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, send one copy of any comments to applicants' representative: Betty Jo Christian, Steptoe & Johnson LLP, 1330 Connecticut Avenue, NW, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 565–1600. [TDD for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: Stagecoach is a public limited corporation organized under the laws of Scotland. With operations in several countries, Stagecoach is one of the world's largest providers of passenger transportation services. Stagecoach had annual revenues for the fiscal year ending April 30, 2000, of over $3.29 billion. Coach is a Delaware corporation that currently controls over 80 motor passenger carriers.

Stagecoach and its subsidiaries currently control Coach,[2] its noncarrier regional management subsidiaries, and the motor passenger carriers jointly controlled by Coach and the management subsidiaries.[3] In previous Board decisions, Coach management subsidiaries, including Coach USA Northeast, Inc. and Coach USA North Central, Inc., have obtained authority to control motor passenger carriers jointly with Coach.[4]

Applicants state that Coach purchased all of the outstanding stock of the Maryland Carriers, which had been

[1] These proceedings are not consolidated. A single decision is being issued for administrative convenience.

[2] Stagecoach controls Coach through various subsidiaries, namely, SUS 1 Limited, SUS 2 Limited, Stagecoach General Partnership, and SCH US Holdings Corp.

[3] *See Stagecoach Holdings PLC—Control—Coach USA, Inc., et al.,* STB Docket No. MC–F–20948 (STB served July 22, 1999).

[4] *See Coach USA, Inc. and Coach USA North Central, Inc.—Control—Nine Motor Carriers of Passengers,* STB Docket No. MC–F–20931, *et al.* (STB served July 14, 1999).

commonly owned, in May 2000 and placed the stock of each into separate, independent voting trusts.[5] Applicants further state that Coach also purchased all of the outstanding stock of Express in April 2000 and placed that stock into an independent voting trust.[6] According to applicants, these transactions did not involve any transfer of the federal or state operating authorities held by any of these carriers and will not entail any change in their operations.

Applicants have submitted information, as required by 49 CFR 1182.2(a)(7), to demonstrate that the proposed transactions are consistent with the public interest under 49 U.S.C. 14303(b). Applicants state that the proposed transactions will not reduce competitive transportation options, adversely impact fixed charges, or adversely impact the interests of the employees of the acquired carriers. In addition, applicants have submitted all of the other statements and certifications required by 49 CFR 1182.2. Additional information, including a copy of the application, may be obtained from applicants' representative.

Under 49 U.S.C. 14303(b), we must approve and authorize a transaction we find consistent with the public interest, taking into consideration at least: (1) The effect of the transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees.

On the basis of the application, we find that the proposed transactions are consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding will be deemed vacated and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. *See* 49 CFR 1182.6(c). If no opposing comments are filed by the expiration of the comment period, this decision will take effect automatically and will be the final Board action.

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This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The proposed acquisitions of control are approved and authorized, subject to the filing of opposing comments.

2. If timely opposing comments are filed, the findings made in this decision will be deemed as having been vacated.

3. This decision will be effective on September 11, 2000, unless timely opposing comments are filed.

4. A copy of this notice will be served on: (1) The U.S. Department of Transportation, Federal Motor Carrier Safety Administration—HMCE–20, 400 Virginia Avenue, SW, Suite 600, Washington, DC 20024; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, NW., Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 400 7th Street, SW, Washington, DC 20590.

Decided: July 24, 2000.

By the Board, Chairman Morgan, Vice Chairman Burkes, and Commissioner Clyburn.

Vernon A. Williams,

Secretary.

[FR Doc. 00–19168 Filed 7–27–00; 8:45 am]

BILLING CODE 4915–00–P

[5] B&A, Dillon's, and McMahon are Maryland corporations with integrated operations involving a fleet of approximately 28 buses and employing approximately 80 persons. B&A holds federally-issued operating authority in Docket No. MC–170895, authorizing it to provide charter and special services between points in the United States. Its revenues for the 12-month period ended December 31, 1999, were $98,641. Dillon's holds federally-issued operating authority in Docket No. MC–36788, authorizing it to provide regular route services between points in Maryland and Washington, DC, as well as charter and special services between points in the United States. For the twelve month period ended December 31, 1999, Dillon's operating revenues were approximately $5.1 million. McMahon holds federally-issued operating authority in Docket No. MC–788, authorizing it to provide regular route service between points in Maryland and nearby states. It also holds authority to provide charter and special services between points in the United States. McMahon's operating revenues for the twelve months ended December 31, 1999, were $117,911.

[6] Express is a North Dakota corporation that operates a fleet of approximately 20 vehicles and employs 73 persons. Its operations consist of the contract transportation of railroad crews between points in North Dakota or other nearby states pursuant to an ICC permit issued in Docket No. MC–254884. Express also holds a federally-issued certificate authorizing the transportation of property between points in the United States as a common carrier. For the fiscal year ended December 31, 1999, Express (together with Bismark Transportation, a related non-federally regulated carrier) had annual revenues in excess of $2 million.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33905]

Lackawanna County Railroad Authority—Acquisition Exemption—F&L Realty, Inc.

Lackawanna County Railroad Authority (LCRA), a political subdivision and nonoperating Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire 4.96 route miles of track (track) in Lackawanna County, PA, from F&L Realty, Inc. (F&L). The track consists of two small segments described as follows: (1) The Diamond Branch, of the former Delaware, Lackawanna & Western Railroad (DL&W), extending 0.85 miles from milepost 144.75 to milepost 145.6, in Scranton; and (2) the Laurel Line, of the former DL&W, extending 4.11 miles from LC 6253 milepost 0.7 (South Abutment of Roaring Brook Bridge) to milepost 4.81, at Montage Road, in the Borough of Moosic.[1] Delaware-Lackawanna Railroad Co., Inc. (D–L) will be the operator of the track.

This transaction is related to a simultaneously filed verified notice of exemption in STB Finance Docket No. 33906, *Delaware-Lackawanna Railroad Co., Inc.—Operation Exemption—Lackawanna County Railroad Authority,* wherein D–L seeks to operate the track being acquired by LCRA.

The parties report that they intend to consummate the transaction on or about July 28, 2000. The earliest the transaction can be consummated is July 24, 2000, the effective date of the exemption (7 days after the exemption was filed).

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33905, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Keith G. O'Brien, Esq., Rea, Cross & Auchincloss, 1707 L Street, NW., Suite 570, Washington, DC 20036.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: July 21, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 00–19167 Filed 7–27–00; 8:45 am]

BILLING CODE 4915–00–P

[1] According to the verified notice of exemption, Pocono Northeast Railway, a now defunct corporate affiliate of F&L, formerly provided service over the track but stopped providing that service some years ago without obtaining any regulatory approval.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33906]

Delaware-Lackawanna Railroad Co., Inc.—Operation Exemption—Lackawanna County Railroad Authority

Delaware-Lackawanna Railroad Co., Inc (D–L), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to operate 4.96 route miles of track (track) in Lackawanna County, PA, under contract with Lackawanna County Railroad Authority (LCRA). The track consists of two small segments described as follows: (1) The Diamond Branch, of the former Delaware, Lackawanna & Western Railroad (DL&W), extending 0.85 miles from milepost 144.75 to milepost 145.6, in Scranton; and (2) the Laurel Line, of the former DL&W, extending 4.11 miles from LC 6253 milepost 0.7 (South Abutment of Roaring Brook Bridge) to milepost 4.81, at Montage Road, in the Borough of Moosic.[1]

This transaction is related to a simultaneously filed verified notice of exemption in STB Finance Docket No. 33905, *Lackawanna County Railroad Authority—Acquisition Exemption—F&L Realty, Inc.,* wherein LCRA seeks to acquire the track being operated by D–L.

The parties report that they intend to consummate the transaction on or about July 28, 2000. The earliest the transaction can be consummated is July 24, 2000, the effective date of the exemption (7 days after the exemption was filed).

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33906, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Keith G. O'Brien, Esq., Rea, Cross & Auchincloss, 1707 L Street, NW., Suite 570, Washington, DC 20036.

[1] According to the verified notice of exemption, Pocono Northeast Railway, a now defunct corporate affiliate of F&L Realty, Inc., formerly provided service over the track but stopped providing that service some years ago without obtaining any regulatory approval.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Dated: Decided: July 21, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 00–19166 Filed 7–27–00; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF VETERANS AFFAIRS

Disciplinary Appeals Board Panel

AGENCY: Department of Veterans Affairs.

ACTION: Notice with request for comments.

SUMMARY: Section 203 of the Department of Veterans Affairs Health Care Personnel Act of 1991 (Pub. L. 102–40), dated May 7, 1991, revised the disciplinary, grievance and appeal procedures for employees appointed under 38 U.S.C. 7401(1). It also required the periodic designation of employees of the Department who are qualified to serve on Disciplinary Appeals Board. These employees constitute the Disciplinary Appeals Board Panel from which Board members in a case are appointed. This notice announces that the roster of employees on the panel is available for review and comment. Employees, employee organizations, and other interested parties shall be provided (without charge) a list of the names of employees on the panel upon request and may submit comments concerning the suitability for service on the panel of any employee whose name is on the list.

DATES: Names that appear on the panel may be selected to serve on a Board or as a grievance examiner after August 28, 2000.

ADDRESSES: Send requests for the list of the names of employees on the panel and written comments to: The Secretary of Veterans Affairs (051), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or fax your request to (202) 273–9776.

FOR FURTHER INFORMATION CONTACT: Larry Ables or Douglas Katcher, Employee Relations Specialists (051), Office of Human Resources Management, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–9816.

SUPPLEMENTARY INFORMATION: Pub. L. 102–40 requires that the availability of the roster be posted in the **Federal Register** periodically, and not less than annually.

Approved: July 13, 2000.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

[FR Doc. 00–19081 Filed 7–27–00; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; Computer Matching Program Between the Department of Veterans Affairs and the Internal Revenue Service, Department of the Treasury

AGENCY: Department of Veterans Affairs.

ACTION: Notice of computer matching program.

Notice is hereby given that the Department of Veterans Affairs (VA) and the Internal Revenue Service (IRS) propose to conduct a computer matching program. The purpose of the program is to locate taxpayers who owe delinquent debts to the Federal Government as a result of their participation in benefit programs (including health care) administered by VA. Once located, VA will pursue collection of debts through voluntary payments. If such payments are not forthcoming, VA may seek involuntary collection under the provisions of the Debt Collection Act of 1982, as amended.

The legal authority for undertaking this matching program is contained in the Internal Revenue Code at 26 U.S.C. 6103(m)(2)(A). VA and IRS have concluded an agreement to conduct the matching program pursuant to provisions of the Privacy Act of 1974, as amended [5 U.S.C. 552a(o)]. IRS will act as recipient (*i.e.,* matching) agency. VA will provide a tape extract to IRS that contains the Name Control (the first four characters of the surname) and social security number (SSN) of each record subject. IRS will compare the tape extract against its databases of taxpayers who have filed Federal individual income tax returns, establishing ''hits'' (*i.e.,* individuals common to both tapes) on the basis of matched SSNs and Name Controls. For each hit, IRS will disclose to VA the following information: Name Control, SSN and latest street address, P.O. Box or other address furnished by the taxpayer.

Records to be Matched: The systems of records maintained by the respective agencies from which records will be disclosed for the purpose of this computer match are as follows:

IRS: Individual Master File (IMF), Treasury/IRS 24.030, containing millions of records of taxpayers who

have filed Federal individual income tax returns. A full description of the system of records was last published at 63 FR 42908 (August 11, 1998).

VA: Accounts Receivable Records-VA (88VA244) containing records of approximately 200,000 debtors. Disclosure will be made under routine use No. 18 of that system, a full description of which was last published at 63 FR 16864 on April 6, 1998.

The matching program is expected to begin on or about August 28, 2000, and continue in effect for 18 months. The agreement governing the matching program may be extended an additional 12 months with the respective approval of VA's and the Department of the Treasury's Data Integrity Boards. Such extension must occur within 3 months prior to expiration of the 18-month period set forth above and under the terms set forth in 5 U.S.C. 552a(o)(2)(D).

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to conduct the matching program to the Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, N.W., Room 1154, Washington, D.C. 20420. All relevant material received before August 28, 2000 will be considered. All written comments received will be available for public inspection in the Office of Regulations Management, Room 1158, 810 Vermont Avenue, N.W., Washington, D.C. 20420, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mark Gottsacker, Debt Management Center (389/00A), Department of Veterans Affairs, Bishop Henry Whipple Federal Building, 1 Federal Drive, Ft. Snelling, Minnesota 55111, (612) 970–5700.

SUPPLEMENTARY INFORMATION: This information is required by the Privacy Act of 1974, as amended [(5 U.S.C. 552a(e)(12)]. A copy of this notice has been provided to both Houses of Congress and OMB.

Approved: July 12, 2000.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

[FR Doc. 00–19082 Filed 7–27–00; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; Computer Matching Program Between the Department of Veterans Affairs and the United States Postal Service

AGENCY: Department of Veterans Affairs.

ACTION: Notice of computer matching program.

Notice is hereby given that the Department of Veterans Affairs (VA) and the United States Postal Service (USPS) propose to conduct a computer matching program. The purpose of the match is to identify and locate USPS employees who owe delinquent debts to the Federal Government as a result of their participation in benefit programs administered by VA. Once identified and located, VA will pursue collection of debts through voluntary payments. If such payments are not forthcoming, VA may request USPS to offset up to 15 percent of the employees' disposable pay as authorized under the provisions of the Debt Collection Act of 1982.

The Debt Collection Improvement Act of 1996 [as codified at 5 U.S.C. 5514(a)] requires Federal creditor agencies to participate in computer matching to identify Federal employees who are delinquent in repayment of debts owed those agencies. VA and USPS have conducted an agreement to conduct the matching program pursuant to provisions to the Privacy Act of 1974, as amended (5 U.S.C. 552a(o)). USPS will act as recipient (*i.e.,* matching) agency. VA will provide a tape extract to USPS containing the name and social security number (SSN) of each record subject. USPS will compare the tape extract against its database of employee records, establishing ''hits'' (*i.e.,* individuals common to both tapes) on the basis of matched SSNs. For each hit, USPS will disclose to VA the following information: Name, SSN, home address, and employee type (permanent or temporary).

Records to be Matched: The systems of records maintained by the respective agencies from which records will be disclosed for this computer match are as follows:

USPS: Finance Records-Payroll System (USPS 050.020) containing records of approximately 800,000 employees. Disclosure will be made under routine use 24 of that system, a full description of which was last published at 57 FR 57515 (December 4, 1992).

VA: Accounts Receivable Records-VA (88VA244) containing records of approximately 200,000 debtors. Disclosure will be made under routine use No. 7 of that system, a full description of which was last published in 63 FR 16864 on April 6, 1998.

The matching program is expected to begin on or about August 28, 2000, and continue in effect for 18 months. The agreement governing the matching program may be extended an additional 12 months with the respective approval of VA's and USPS' Data Integrity Boards. Such extension must occur within 3 months prior to expiration of the 18-month period set forth above and under the terms set forth in 5 U.S.C. 552a(o)(2)(D).

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to conduct the matching program to the Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW., Room 1154, Washington, DC 20420. All relevant material received before August 28, 2000 will be considered. All written comments received will be available for public inspection in the Office of Regulations Management, Room 1158, 810 Vermont Avenue, NW., Washington, DC 20420, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Patricia Schultz, Debt Management Center (389), Department of Veterans Affairs, Bishop Henry Whipple Federal Building, 1 Federal Drive, Ft. Snelling, Minnesota 55111, (612) 970–5700.

SUPPLEMENTARY INFORMATION: This information is required by the Privacy Act of 1974, as amended (5 U.S.C. 552a(e)(12)). A copy of this notice has been provided to both Houses of Congress and OMB.

Approved: July 17, 2000.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

[FR Doc. 00–19170 Filed 7–27–00; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974, New System of Records: Agency-Initiated Personnel Actions (Title 38)—VA (102VA05)

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of Veterans Affairs (VA) is proposing a new system of records entitled Agency-Initiated Personnel Actions (Title 38)—VA (102VA05). VA

is simultaneously altering and reissuing the system of records entitled General Personnel Records (Title 38)—VA (76VA05). The alteration removes from 76VA05 information associated with processing disciplinary and adverse actions, disqualification during probation, physical disqualification, agency-initiated disability retirements, and suitability determinations. A new system of records is proposed because the purposes of the records in this system differ from the records in 76VA05. The employees covered, the types of records, purposes of the records systems, legal authority for maintenance of the systems, and routine uses associated with each of these record systems are different. The physical location of these records may also differ from the records covered by 76VA05.

DATES: Submit comments on or before August 28, 2000.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding this system of records to the Director, Office of Regulations Management (02D), 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection in the Office of Regulations Management, Room 1154, 810 Vermont Avenue, NW., Washington, DC 20420 only between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. If no public comment is received during the 30-day review period allowed for public comment, or unless otherwise published in the **Federal Register** by VA, the reissued system of records is effective August 28, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Brian McVeigh, Department of Veterans Affairs (051A), 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–9821.

SUPPLEMENTARY INFORMATION: VA issued a system of records entitled General Personnel Records (Title 38)—VA (76VA05) in the **Federal Register** 53 FR 40852 (7/19/88) and amended that system in 55 FR 42534 (10/19/90), 58 FR 40852 (7/30/93), and 61 FR 14853 (4/3/96). This system included all personnel records other than medical records for most Veterans Health Administration employees appointed under Title 38, United States Code.

This system of records would include information removed from 76VA05 concerning processing disciplinary and adverse actions, disqualification during probation, physical disqualification, agency-initiated disability retirements, and suitability determinations. This includes copies of any notice of proposed action, materials relied on by VA to support the reason(s) for the action, replies by employees, statements of witnesses, hearing notices, as well as reports and other correspondence or documents related to these actions. A new system of records is proposed because the purposes of the records in this system differ from the records in 76VA05. The employees covered, the types of records, purposes of the systems, legal authority for maintenance of the systems, and routine uses associated with each of these systems of records are different. The physical location of these records may also differ from the records covered by 76VA05.

Further, 76VA05 had 40 routine uses. Only 23 routine uses were determined to be appropriate for the records contained in this new records system. The changes to the routine uses formerly in 76VA05 are as follows:

a. Routine use 1 relating to disclosures to the Office of Personnel Management has been deleted. Such disclosures are only made from the system of records entitled Personnel and Accounting Pay System-VA (27VA047).

b. Routine uses 2 through 9 have been deleted. Disclosures of such information would come from other records systems (*e.g.*, 76VA05).

c. Routine use 10 (now 1) is being modified to clarify the conditions under which data is disclosed to officials of labor organizations recognized under 5 U.S.C., chapter 71. The clarification ties such disclosures to the law authorizing the disclosures, *i.e.*, 5 U.S.C. 7114(b)(4). The former version authorized disclosures to officials of labor organizations ''when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.''

d. Routine use 11 is modified. VA is prohibited from promulgating routine uses that would permit disclosures in response to request for information for civil or law enforcement purposes or in response to court orders. Such requests must be submitted under the provisions of 5 U.S.C. 552a(b)(7) or (b)(11), as applicable. See *Doe* v. *DiGenova,* 779 F. 2d 74 (D.C. Cir. 1985) and *Doe* v. *Stephens,* 851 F. 2d 1457 (D.C. Cir. 1988), and an August 28, 1989, opinion from the Office of Legal Counsel, Department of Justice. Routine use 11 (now 2) no longer includes such disclosures; however, it has been modified to permit VA to disclose, on its own initiative, relevant information if there is reason to believe that a violation of statute, rule or regulation has occurred.

e. Routine use 14 (now 5) no longer permits disclosures at the request of agencies in the executive, legislative or judicial branch of the Federal government, or to the government of the District of Columbia for investigative purposes. Such requests must be submitted under the provisions of U.S.C. 552a(b)(7). That portion of the routine use has been deleted.

f. Routine use 15 (now 6) has been modified to limit the reason for such disclosures to obtaining accreditation or other approval ratings. It also now permits disclosures to other Federal agencies for this purpose. The former version of this routine use was overly broad.

g. Routine use 16 has been deleted. Disclosures of such information would come from other records systems (e.g., 76VA05).

h. Routine use 18 (now 8) has been modified so that it no longer permits disclosures in response to subpoenas or court orders. Applicable case law (see paragraph d above) prohibits disclosures in response to subpoenas. Court orders directing the production of information must also meet the requirements of 5 U.S.C. 552a(b)(11). The revised routine use would permit VA to disclose relevant information on its own initiative in certain legal proceedings if VA is party to those proceedings and disclosure is necessary to protect its interests.

i. Routine use 19, relating to requests for discovery or for the appearance of witnesses, has been deleted, since it is no longer consistent with applicable case law (see paragraph d above).

j. Routine use 24 (now 13) related to disclosures to VA-appointed representatives concerning fitness for duty examinations and disability retirement procedures has been moved from 76VA05, as it applies to actions covered by this system of records.

k. Routine use 25, concerning disclosures because an individual may have contracted an illness, been exposed to, or suffered from a health hazard while employed by the Federal government, is being deleted. This subject is addressed in 5 U.S.C. 552a(b)(8).

l. Routine uses 26 and 27 have been deleted. This information is disclosed from another system of records (76VA05).

m. Routine use 29 (now 15), is being changed to delete the language concerning disclosures to the Equal Employment Opportunity Commission to ensure compliance with the Uniform Guidelines on Employee Selection Procedures, since VA has not been chosen to adopt the Uniform Guidelines for use in its Title 38 employment procedures.

n. Routine use 30 (now 16), is being clarified to indicate that disclosures to the Federal Labor Relations Authority and Federal Service Impasses Panel may only be made after appropriate jurisdiction has been established. Matters or questions concerning or arising out of (1) professional conduct or competence, (2) peer review, and (3) the establishment, determination or adjustment of compensation shall be decided by the Secretary of Veterans Affairs and is not itself subject to collective bargaining and may not be reviewed by another agency. See 38 U.S.C. 7422.

o. Routine use 31 has been deleted. This information is disclosed from another system of records (76VA05).

p. Routine use 32 (now 17) is being modified to include Federal agencies. For example, disclosures will be made to the Department of Health and Human Services Exclusionary Database as required by Pub. L. 105–53.

q. Routine use 33 regarding disclosures of information in response to requests from agencies responsible for the issuance, retention or revocation of licenses, certification or registrations required to practice a health care profession has been deleted. Such requests must conform to the requirements of 5 U.S.C. 552a(b)(7).

r. Routine uses 35 and 36, relating to disclosures of information through computer matching, have been deleted, as such disclosures are not made from this system of records.

s. Routine use 39 (now 21) concerning disclosures to license monitoring agencies is being modified to exclude language concerning computer matching. Such disclosures are not made from this system of records.

t. Routine use 40 concerning disclosures to a garnishing party were not included in this system of records. Such information would be disclosed from 76VA05.

u. A new routine use (number 22) permits disclosures to contractors, subcontractors, grantees, or volunteers performing or working on a contract, service, grant, cooperative agreement, or job for the Federal government. However, such disclosures must be in the interest of VA and compatible with the intended purposes for which the record was created.

v. A new routine use (number 23) permits disclosing information to the Department of Health and Human Services' Healthcare Integrity and Protection Data Base pursuant to Sec. 221(a), Pub. L. 104–191, and the associated Department of Health and Human Services regulations, 45 CFR part 61.

Approved: July 12, 2000.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

102VA05

SYSTEM NAME:

Agency-Initiated Personnel Actions (Title 38)–VA.

SYSTEM LOCATION:

All records related to Disciplinary Appeals Boards are maintained at VA Central Office, 810 Vermont Avenue, NW, Washington, DC 20420. All other records in this system are maintained at the Department of Veterans Affairs (VA) Central Office, 810 Vermont Avenue, NW, Washington, DC 20420 and/or VA field facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees appointed under 38 U.S.C. 7306, 7401(1), or 7405(a)(1)(A), except those appointed on a without compensation basis. This includes employees such as physicians, dentists, podiatrists, optometrists, nurses, nurse anesthetists, physician assistants and expanded-function dental auxiliaries.

CATEGORIES OF RECORDS IN THE SYSTEM:

All categories of records may include identifying information, such as name, address, Social Security number, current position title, employing facility, and the employee's current grade, level, or step rate. This system contains supporting documentation related to processing actions covered by this system of records. This includes, as appropriate, designations of board members and employee representative, copies of the notice of proposed action, materials relied on by the Agency to support the reasons in the notice, replies by the employee, statements of witnesses, hearing notices, reports, related correspondence, and Agency decisions.

AUTHORITY FOR MAINTENACE OF THE SYSTEM:

37 U.S.C. 501(a), 7304, and 7406(c)(1).

PURPOSE(S):

These records document the processing of disciplinary and adverse actions, disqualification during probation, physical disqualification, agency-initiated disability retirements, and proposed separations based on pre-employment suitability.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. To disclose the information listed in 5 U.S.C. 7114(b)(4) to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

2. VA may, on its own initiative, disclose relevant information to a Federal agency (including Offices of the Inspector General), State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation if there is reason to believe that a violation may have occurred. This routine use does not authorize disclosures in response to requests for information for civil or criminal law enforcement activity purposes, nor does it authorize disclosure of information in response to court orders. Such requests must meet the requirements of 5 U.S.C. 552a(b)(7) or (b)(11), as applicable.

3. To disclose pertinent information when necessary to obtain information relevant to a conflict-of-interest investigation or determination.

4. To disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purposes(s) of the request, and to identify the type of information requested), when necessary to obtain information relevant to any agency decision concerning the hiring or retention of an employee, the issuance of security clearance, the conducting of a security or suitability investigation of an individual, the letting of a contract, or the issuance of a license, grant, or other benefit.

5. To disclose to an agency in the executive, legislative, or judicial branch, or the District of Columbia's Government in response to its request, or at the initiation of VA, information in connection with the hiring of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the letting of a contract, the issuance of license, grant or other benefit by the requesting agency, or the lawful statutory or administrative purpose of the agency to the extent that the information is relevant and necessary to the requesting agency's decision.

6. To disclose relevant information to Federal and non-Federal agencies (*i.e.,* State or local governments), and private sector organizations, boards, bureaus, or commissions (*e.g.,* the Joint Commission on Accreditation of Healthcare Organizations) when such disclosures are required to obtain accreditation or other approval ratings.

7. To provide information to a congressional office from the records of

an individual in response to an inquiry from the congressional office made at the request of the individual.

8. VA may, on its own initiative, disclose information to another Federal agency, court, or party in litigation before a court or other administrative proceeding conducted by a Federal agency, if VA is a party to the proceeding and VA needs to disclose such information to protect its interests.

9. To disclose information to the National Archives and Records Administration (NARA) for records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

10. To disclose to persons engaged in research and survey projects information necessary to locate individuals for personnel research or survey response, and to produces summary descriptive statistics and analytical studies in support to the function for which the records are collected and maintained, or for related workforce studies. While published statistics and studies do not contain individual identifiers, in some instances, the selection of elements of data included in the study may be structured in such a way as to make the date individually identifiable by inference.

11. To provide an official of another Federal agency information needed in the performance of official duties related to reconciling or reconstructing data files in support of the functions for which the records were collected and maintained.

12. When an individual to whom records pertain is mentally incompetent or under other legal disability, information in the individual's records may be disclosed to any person of entity responsible for managing the individual finances to the extent necessary to ensure payment of benefits to which the individual is entitled.

13. To disclose to the VA-appointed representative of an employee all notices, determination, decisions, or other written communications issues to the employee in connection with an examination ordered by the VA under fitness-for-duty examination procedures or Agency-filed disability retirement procedures.

14. To disclose information to officials of the Merit Systems Protection Board or the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions, promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

15. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs, or for other functions of the Commission as authorized by law.

16. To disclose information to the Federal Labor Relations Authority (including its General Counsel) when appropriate jurisdiction has been established and the information has been requested in connection with the investigation and resolution of allegations of unfair labor practices, in connection with the resolution of exceptions to arbitration awards when a question of material fact is raised; to disclose information in matters properly before the Federal Service Impasses Panel.

17. Records from this system or records may be disclosed to a Federal, State, or local government agency or licensing board and/or to the Federation of State Medical Boards or a similar non-government entity which maintains records concerning individuals' employment or practice histories or concerning the issuance, retention, or revocation of licenses or registration necessary to practice and occupation, profession or specialty, in order for the Agency to obtain information determined relevant to an Agency decision concerning the hiring, retention or termination of an employee or to inform licensing boards or the appropriate non-governmental entities about the health care practices of a terminated, resigned, or retired health care employee whose professional health care activity so significantly failed to conform to generally accepted standards of professional practice as to raise reasonable concern for the health and safety of private section patients.

18. To disclose relevant information to the Department of Justice and United States Attorneys in defense or prosecution of litigation involving the United States and to Federal agencies upon their request in connection with review of administrative tort claims filed under the Federal Tort Claims Act, 28 U.S.C. 2672.

19. To disclose hiring, performance, or other personnel-related information to any facility with which there is, or there is proposed to be, and affiliation, sharing agreement, contract, or similar arrangement, for purposes of establishing maintaining, or expanding any such relationship.

20. Identifying information in this system, including name, address, Social Security number, and other information as is reasonably necessary to identify such individual, may be disclosed to the Department of Health and Human Services or the National Practitioner Data Bank at the time of hiring and/or clinical privileging/reprivileging of health care practitioners, and other times as deemed necessary by VA, in order the VA to obtain information relevant to a Department decision concerning the hiring, privileging/reprivileging, retention, or termination of the applicant or employee.

21. Relevant information from this system of records may be disclosed to the National Practitioner Data Bank or to a State or local government licensing board which maintains records concerning the issuance, retention, or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession, or specialty when under the following circumstances, through peer review process that is undertaken pursuant to VA policy, negligence, professional incompetence, responsibility for improper care, and/or professional misconduct has been assigned to a physician or licenses or certified health care practitioner: (1) On any payment in settlement (or partial settlement of, or in satisfaction of a judgement) in a medical malpractice action or claim; or, (2) on any final decision that adversely affects the clinical privileges of a physician or practitioner for a period or more than 30 days.

22. To disclose information to contractors, subcontractors, grantees, or others performing or working on a contract, grant, or cooperative agreement for the Federal government, provided disclosure is in the interest of the Government and the information to be disclosed is relevant and necessary for accomplishing the intended uses of the information and necessary to perform services under the contract, grant or cooperative agreement.

23. Information from this system of records will be disclosed to the Healthcare Integrity and Protection Data Base as required by section 1122E of the Social Security Act (as addeded by Sec. 221(a) of Pub. L. 104–191) and the associated implementing regulations issued by the Department of Health and Human Services, 45 CFR part 61. For example, VA is required to report adjudicated adverse personnel actiosn based on acts or omissions that either affected or could have affected the delivery of healthcare services.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records may be maintained in file folders and computer processable storage media. The records may also be maintained on lists, forms, microfilm, microfiche, or audio-tape.

RETRIEVABILITY:

These records may be retrieved using various combinations of name, birth date, or identification number of the individual on whom they are maintained.

SAFEGUARDS:

Access to areas where these records are maintained is restricted to VA employees, contractors, or subcontractors on a ''need to know'' basis; strict control measures are enforced to ensure that disclosure to these individuals is also based on the same principle. File areas are locked after normal duty hours and are protected from outside access by VA police officers or other types of alarm systems.

RETENTION AND DISPOSAL:

Records in this system are disposed of no sooner than 6 years after the closing of the case. Disposal is by shredding and erasure of tapes or disks.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Secretary for Human Resources Management (05), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420.

NOTIFICATION PROCEDURE:

Except as indicated below (see Record Access Procedures), individuals receiving notice of a proposed action must be provided access to all documents supporting the notice. At any time thereafter, individuals subject to the action will be provided access to the record (see Record Access Procedures). Individuals should contact the human resources manager for the location where the action was processed regarding the existence of such records on them. However, all inquiries related to Disciplinary Appeals Boards should be directed to the Deputy Assistant Secretary for Human Resources Management (see System Manager). Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate date of closing of the case and kind of action taken.

d. If not the employee's current organization, the organizational component involved.

Requests for access must be consistent with the Privacy act and VA regulations concerning the release of information from Department of Veterans Affairs records other than claimant records. See 38 CFR 1.550, et seq.

RECORD ACCESS PROCEDURES:

Individuals against whom such actions are taken must be provided access to the record. However, after the action has been closed, individuals may request access to the official file by contacting the human resources manager for the location where the action was processed. If the action relates to a Disciplinary Appeals Board, the individual must request access from the Deputy Assistant Secretary for Human Resources Management (see System Manager). Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate date of closing of the case and kind of action taken.

d. If not the employee's current organization, the organizational component involved.

Requests for access must be consistent with the Privacy Act and VA regulations concerning the release of information from Department of Veterans Affairs records other than claimant records. See 38 CFR 1.550, *et seq.* Note 1: When a request for access involves medical or psychological records that the responsible individual believes require special handling, the requester should be advised that the material will be provided only to a physician designated by the data subject. Upon receipt of the designation and upon verification of the physician's identity, the records will be made available to the physician, who will have full authority to disclose those records to the data subject when appropriate.

CONTESTING RECORD PROCEDURES:

Review of requests from individuals seeking amendment of their records that have or could have been the subject of a judicial, quasi-judicial, or administrative action will be limited in scope. Review of amendment request of these records will be restricted to determining if the records accurately document the action on the case and will not include a review of the merits of the action, determination, or finding. Individuals wishing to request amendment of their records to correct factual errors should contact the human resources manager for the VA office where the action was processed. In cases concerning Disciplinary Appeals Boards, individuals should contact the Deputy Assistant Secretary for Human Resources Management (see System Manager) to request the amendment. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate date of closing of the case and kind of action taken.

d. If not the individual's current organization, the organizational component involved.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided:

a. By supervisors and managers.

b. By individual on whom the record is maintained.

c. By Professional Standards Boards and Disciplinary Appeals Boards.

d. By testimony of witnesses.

e. By other agency officials.

f. By other agency records.

g. From related correspondence or persons.

[FR Doc. 00–19169 Filed 7–27–00; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Friday,
July 28, 2000

Part II

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 2, 4, 14, and 32
Federal Acquisition Regulation; Definitions for Classified Acquisitions; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 4, 14, and 32

[FAR Case 2000–404]

RIN 9000–AI81

Federal Acquisition Regulation; Definitions for Classified Acquisitions

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquistion Regulation (FAR) to provide consistent definitions for classified acquisitions. This case is one of a series of cases in response to the White House memorandum, Plain Language in Government Writing, dated June 1, 1999.

The Councils' proposed amendments are intended only to reorganize, simplify, and clarify the FAR. The Councils do not intend to make any substantive changes to the FAR by these amendments. Comments should address any potential unintended substantive changes to the FAR resulting from the proposed amendments.

DATES: Submit comments on or before September 26, 2000 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to: General Services Administration, FAR Secretariat (MVR), Attn: Ms. Laurie Duarte, 1800 F Street, NW, Room 4035; Washington, DC 20405.

Submit electronic comments via the Internet to: farcase.2000–404@gsa.gov.

Please submit comments only and cite FAR case 2000–404 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Mr. Ralph De Stefano, Procurement Analyst, at (202) 501–1758. Please cite FAR case 2000–404.

SUPPLEMENTARY INFORMATION:

A. Background

The rule amends the Federal Acquisition Regulation (FAR) to address perceived inconsistencies in definitions that are used for classified acquisitions. The rule moves the definitions of ''classified acquisition,'' ''classified contract,'' and ''classified information'' from FAR 4.401 to FAR 2.101 because the definitions apply to more than one FAR part. Those definitions also have been amended in accordance with plain language guidelines. We have also amended the policy regarding bid openings for classified acquisitions at FAR 14.402–2 to conform to plain language guidelines.

This rule was not subject to Office of Management and Budget review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Councils do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because while we have made changes in accordance with plain language guidelines, we have not substantively changed procedures for award and administration of contracts. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR Parts 2, 4, 14, and 32 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 2000–404), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 2, 4, 14, and 32

Government procurement.

Dated: July 24, 2000.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose that 48 CFR parts 2, 4, 14, and 32 be amended as set forth below:

1. The authority citation for 48 CFR parts 2, 4, 14, and 32 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 2—DEFINITIONS OF WORDS AND TERMS

2. Section 2.101 is amended by adding, in alphabetical order, the definitions ''classified acquisition'', ''classified contract'', and ''classified information'' to read as follows:

2.101 Definitions.

* * * * *

Classified acquisition means an acquisition in which offerors must have access to classified information to properly submit an offer or quotation, to understand the performance requirements, or to perform the contract.

Classified contract means any contract in which the contractor or its employee must have access to classified information during contract performance. A contract may be a classified contract even though the contract document itself is unclassified.

Classified information means any knowledge that can be communicated or documentary material, regardless of its physical form or characteristics, that—

(1) Is owned by, produced by or for, or is under the control of the United States Government; and

(2) Must be protected against unauthorized disclosure according to Executive Order 12958, Classified National Security Information, April 17, 1995, as amended, or classified in accordance with the Atomic Energy Act of 1954, as amended.

* * * * *

PART 4—ADMINISTRATIVE MATTERS

4.401 [Reserved]

3. Section 4.401 is removed and reserved.

PART 14—SEALED BIDDING

14.103–1 [Amended]

4. Amend section 14.103–1 in paragraph (c) by removing ''(see 4.401)''.

5. Section 14.402–2 is revised to read as follows:

14.402–2 Classified bids.

The general public may not attend bid openings for classified acquisitions. A bidder or its representative may attend and record the results if the individual has the appropriate security clearance. The contracting officer may also make the bids available at a later time to properly cleared bidders or their properly cleared representatives. The contracting officer must not make a public record of the bids or the bid prices.

PART 32—CONTRACT FINANCING

32.1103 [Amended]

6. Amend section 32.1103 in paragraph (d) by removing ''(see 4.401)''.

[FR Doc. 00–19077 Filed 7–27–00; 8:45 am]

BILLING CODE 6820–EP–M

Federal Register

Friday,
July 28, 2000

Part III

The President

Executive Order 13163—Increasing the Opportunity for Individuals With Disabilities To Be Employed in the Federal Government

Executive Order 13164—Requiring Federal Agencies To Establish Procedures To Facilitate the Provision of Reasonable Accommodation

Federal Register
Vol. 65, No. 146
Friday, July 28, 2000

Presidential Documents

Title 3—

The President

Executive Order 13163 of July 26, 2000

Increasing the Opportunity for Individuals With Disabilities To Be Employed in the Federal Government

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to promote an increase in the opportunities for individuals with disabilities to be employed at all levels and occupations of the Federal Government, and to support the goals articulated in section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), it is hereby ordered as follows:

Section 1. *Increasing the Federal Employment Opportunities for Individuals with Disabilities.* (a) Recent evidence demonstrates that, throughout the United States, qualified persons with disabilities have been refused employment despite their availability and qualifications, and many qualified persons with disabilities are never made aware of available employment opportunities. Evidence also suggests that increased efforts at outreach, and increased understanding of the reasonable accommodations available for persons with disabilities, will permit persons with disabilities to compete for employment on a more level playing field.

(b) Based on current hiring patterns and anticipated increases from expanded outreach efforts and appropriate accommodations, the Federal Government, over the next 5 years, will be able to hire 100,000 qualified individuals with disabilities. In furtherance of such efforts, Federal agencies shall:

(1) Use available hiring authorities, consistent with statutes, regulations, and prior Executive orders and Presidential Memoranda;

(2) Expand their outreach efforts, using both traditional and nontraditional methods; and

(3) Increase their efforts to accommodate individuals with disabilities.

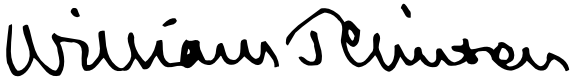
(c) As a model employer, the Federal Government will take the lead in educating the public about employment opportunities available for individuals with disabilities.

(d) This order does not require agencies to create new positions or to change existing qualification standards for any position.

Sec. 2. *Implementation.* Each Federal agency shall prepare a plan to increase the opportunities for individuals with disabilities to be employed in the agency. Each agency shall submit that plan to the Office of Personnel Management within 60 days from the date of this order.

Sec. 3. *Authority to Develop Guidance.* The Office of Personnel Management shall develop guidance on the provisions of this order to increase the opportunities for individuals with disabilities employed in the Federal Government.

Sec. 4. *Judicial Review.* This order is intended only to improve the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, its employees, or any person.



THE WHITE HOUSE,
July 26, 2000.

[FR Doc. 00–19322
Filed 7–27–00; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Executive Order 13164 of July 26, 2000

Requiring Federal Agencies To Establish Procedures To Facilitate the Provision of Reasonable Accommodation

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Rehabilitation Act of 1973 (29 U.S.C. 701 *et seq.*), as amended, and in order to promote a model Federal workplace that provides reasonable accommodation for (1) individuals with disabilities in the application process for Federal employment; (2) Federal employees with disabilities to perform the essential functions of a position; and (3) Federal employees with disabilities to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities, it is hereby ordered as follows:

Section 1. *Establishment of Effective Written Procedures to Facilitate the Provision of Reasonable Accommodation.* (a) Each Federal agency shall establish effective written procedures for processing requests for reasonable accommodation by employees and applicants with disabilities. The written procedures may allow different components of an agency to tailor their procedures as necessary to ensure the expeditious processing of requests.

(b) As set forth in *Re-charting the Course: The First Report of the Presidential Task Force on Employment of Adults with Disabilities* (1998), effective written procedures for processing requests for reasonable accommodation should include the following:

(1) Explain that an employee or job applicant may initiate a request for reasonable accommodation orally or in writing. If the agency requires an applicant or employee to complete a reasonable accommodation request form for recordkeeping purposes, the form must be provided as an attachment to the agency's written procedures;

(2) Explain how the agency will process a request for reasonable accommodation, and from whom the individual will receive a final decision;

(3) Designate a time period during which reasonable accommodation requests will be granted or denied, absent extenuating circumstances. Time limits for decision making should be as short as reasonably possible;

(4) Explain the responsibility of the employee or applicant to provide appropriate medical information related to the functional impairment at issue and the requested accommodation where the disability and/or need for accommodation is not obvious;

(5) Explain the agency's right to request relevant supplemental medical information if the information submitted does not clearly explain the nature of the disability, or the need for the reasonable accommodation, or does not otherwise clarify how the requested accommodation will assist the employee to perform the essential functions of the job or to enjoy the benefits and privileges of the workplace;

(6) Explain the agency's right to have medical information reviewed by a medical expert of the agency's choosing at the agency's expense;

(7) Provide that reassignment will be considered as a reasonable accommodation if the agency determines that no other reasonable accommodation will permit the employee with a disability to perform the essential functions of his or her current position;

(8) Provide that reasonable accommodation denials be in writing and specify the reasons for denial;

(9) Ensure that agencies' systems of recordkeeping track the processing of requests for reasonable accommodation and maintain the confidentiality of medical information received in accordance with applicable law and regulations; and

(10) Encourage the use of informal dispute resolution processes to allow individuals with disabilities to obtain prompt reconsideration of denials of reasonable accommodation. Agencies must also inform individuals with disabilities that they have the right to file complaints in the Equal Employment Opportunity process and other statutory processes, as appropriate, if their requests for reasonable accommodation are denied.

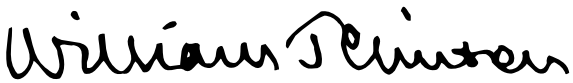
Sec. 2. *Submission of Agency Reasonable Accommodation Procedures to the Equal Employment Opportunity Commission (EEOC).* Within 1 year from the date of this order, each agency shall submit its procedures to the EEOC. Each agency shall also submit to the EEOC any modifications to its reasonable accommodation procedures at the time that those modifications are adopted.

Sec. 3. *Collective Bargaining Obligations.* In adopting their reasonable accommodation procedures, agencies must honor their obligations to notify their collective bargaining representatives and bargain over such procedures to the extent required by law.

Sec. 4. *Implementation.* The EEOC shall issue guidance for the implementation of this order within 90 days from the date of this order.

Sec. 5. *Construction and Judicial Review.* (a) Nothing in this order limits the rights that individuals with disabilities may have under the Rehabilitation Act of 1973, as amended.

(b) This order is intended only to improve the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, its employees, or any person.



THE WHITE HOUSE,
July 26, 2000.

[FR Doc. 00–19323
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660 ....41424, 41426
679 ....41044, 44018, 45579

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT JULY 28, 2000

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
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Flue-cured tobacco; published 7-27-00

COMMERCE DEPARTMENT
National Institute of Standards and Technology
Fastener Quality Act; implementation; published 6-28-00

DEFENSE DEPARTMENT
Civilian health and medical program of uniformed services (CHAMPUS):
TRICARE program—
Automatic enrollment of families of E-4 and below in TRICARE Prime; published 6-28-00
Automatic enrollment of families of E-4 and below in TRICARE Prime; correction; published 7-21-00

ENVIRONMENTAL PROTECTION AGENCY
Air programs; approval and promulgation; State plans for designated facilities and pollutants:
West Virginia; published 6-13-00
Air programs; State authority delegations:
North Carolina; published 7-28-00
Various States; published 7-28-00
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update; published 7-28-00

INTERIOR DEPARTMENT
Freedom of Information Act; implementation:
Legal process; employee testimony and records production; policy statement; published 7-28-00

ARTS AND HUMANITIES, NATIONAL FOUNDATION
National Foundation on the Arts and the Humanities
Privacy Act; implementation; published 7-28-00

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Airbus; published 6-23-00
Boeing; published 6-23-00
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TRANSPORTATION DEPARTMENT
National Highway Traffic Safety Administration
Alcohol-impaired driving prevention programs; incentive grants; published 7-28-00¶

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Michigan et al.; comments due by 8-1-00; published 6-2-00
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National Peanut Board; membership; comments due by 8-1-00; published 6-2-00

AGRICULTURE DEPARTMENT
Animal and Plant Health Inspection Service
Plant-related quarantine, domestic:
Plum pox disease; interstate movement of articles from Adams County, PA restricted; comments due by 8-1-00; published 6-2-00

COMMERCE DEPARTMENT
Census Bureau
Decennial population information:
State and local tabulations reports pursuant to 13 U.S.C. 141(c); comments due by 8-4-00; published 6-20-00

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Alaska; fisheries of Exclusive Economic Zone—
Western Alaska Community Development Quota Program; comments due by 7-31-00; published 5-30-00
Caribbean, Gulf of Mexico, and South Atlantic fisheries
South Atlantic snapper-grouper; comments due by 8-2-00; published 7-3-00
Caribbean, Gulf, and South Atlantic fisheries—
Caribbean Fishery Management Council; meetings; comments due by 7-31-00; published 6-30-00
West Coast State and Western Pacific fisheries—
Pacific Coast groundfish; comments due by 8-3-00; published 7-5-00
West Coast States and Western Pacific fisheries—
Pacific Coast groundfish; comments due by 8-2-00; published 7-21-00
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Marine sanctuaries—
Florida Keys National Marine Sanctuary; boundary expansion; comments due by 7-31-00; published 5-18-00
Florida Keys National Marine Sanctuary; boundary expansion; correction; comments due by 7-31-00; published 6-6-00

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TRICARE program—
Professional services in low-access locations; payments; comments due by 7-31-00; published 5-30-00
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Contract action and contracting action definitions; comments due by 7-31-00; published 5-31-00
Transactions other than contracts, grants, or cooperative agreements for prototype projects; comments due by 8-4-00; published 6-5-00

ENERGY DEPARTMENT
Energy Efficiency and Renewable Energy Office
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Commercial heating, air conditioning, and water heating equipment; workshop; comments due by 7-31-00; published 5-15-00

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Florida; comments due by 8-4-00; published 6-20-00
Indiana; comments due by 8-4-00; published 7-5-00
Massachusetts; comments due by 8-4-00; published 7-5-00
Oregon; comments due by 8-4-00; published 7-5-00
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Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Methyl parathion; comments due by 8-1-00; published 6-2-00
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National priorities list update; comments due by 8-4-00; published 7-5-00
National oil and hazardous substances contingency plan-
National priorities list update; comments due by 8-4-00; published 7-5-00
Water pollution; effluent guidelines for point source categories:
Centralized waste treatment and landfills; comments due by 8-4-00; published 7-5-00

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due by 7-31-00; published 6-30-00

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Oklahoma; comments due by 7-31-00; published 6-16-00

Texas; comments due by 7-31-00; published 6-16-00

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Standard Flood Insurance Policy; changes; comments due by 7-31-00; published 5-31-00

GENERAL SERVICES ADMINISTRATION

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Medicare Program:

State health insurance assistance program; terms and conditions; comments due by 7-31-00; published 6-1-00

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Buena Vista Lake shrew; comments due by 7-31-00; published 6-1-00

Critical habitat designations—

Coastal California gnatcatcher; comments due by 7-31-00; published 6-29-00

Nesogenes rotensis, etc.; comments due by 7-31-00; published 6-1-00

Importation, exportation, and transportation of wildlife:

Injurious wildlife—

Black carp; information review; comments due by 8-1-00; published 6-2-00

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Immigration and Naturalization Service

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

S. 986/P.L. 106–249

Griffith Project Prepayment and Conveyance Act (July 26, 2000; 114 Stat. 619)

Last List July 27, 2000

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